United States
*of* America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 105th CONGRESS, SECOND SESSION

*Vol. 144* WASHINGTON, WEDNESDAY, JANUARY 28, 1998 *No. 2*

# *Senate*

The Senate met at 10:30 a.m., and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, we praise You in advance for Your presence to strengthen us, Your truth to guide us, and Your courage to inspire us throughout this day. Thank You for the gift of trust. Our trust in You enables us to trust one another as women and men of both parties. But today, Father, we want to thank You especially for the trust of taxpayers throughout our Nation who faithfully support the work of government. Give the Senators a renewed recognition of their accountability to You and to the citizens of States who have elected them and entrusted them with the sacred privilege of leadership. We are so grateful for the millions of Americans who work hard for their income and willingly support the ongoing costs of Government. It is so easy for us to get our priorities mixed up and think that taxpayers exist for us who work in government rather than thinking of our role to serve them. May the Senators and all of us who are privileged to work with them recommit ourselves to be servant-leaders. In the Name of our Lord and Savior. Amen.

## RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

Mr. HATCH. Thank you, Mr. President.

## SCHEDULE

Mr. HATCH. Mr. President, this morning the Senate will proceed to executive session to begin 2 hours of debate on the nomination of three judges on the Executive Calendar: Ann L. Aiken to be United States District Judge for the District of Oregon, Barry G. Silverman to be United States District Judge for the Ninth Circuit, and Richard W. Story to be United States District Judge for the Northern District of Georgia.

Following that debate, as previously ordered, the Senate will recess from 12:30 p.m. to 2:15 p.m. for the weekly policy luncheons to meet.

As ordered, at 2:15 p.m. the Senate will begin a series of rollcall votes on the aforementioned judicial nominations.

Following those votes, the Senate will be in a period for the transaction of morning business with Senator COVERDELL or his designee in control of the first 90 minutes, and Senator DASCHLE or his designee in control of the next 90 minutes.

As a reminder to all Members, the Senate will not be in session on Friday, and no rollcall votes will occur on Monday, February 2nd.

So I thank my colleagues for their attention.

## MEASURE PLACED ON THE CALENDAR—S. 1575

Mr. HATCH. Mr. President, I understand that there is a bill at the desk that is due for its second reading.

The PRESIDING OFFICER (Mr. HAGEL). The clerk will report.

The legislative clerk read as follows:

A bill (S. 1575) to rename the Washington National Airport in the District of Columbia and Virginia as the ''Ronald Reagan National Airport.''

Mr. HATCH. Mr. President, I object to further proceedings on this bill at this point.

The PRESIDING OFFICER. The bill will be placed directly on the calendar.

## EXECUTIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session to consider en bloc Executive Calendar Order Nos. 454, 486, 488, which the clerk will now report.

## THE JUDICIARY

The legislative clerk read the nomination of Ann L. Aiken, of Oregon, to be United States District Judge for the District of Oregon, the nomination of Barry G. Silverman, of Arizona, to be United States Circuit Judge for the Ninth Circuit, and the nomination of Richard W. Story, of Georgia, to be United States District Judge for the Northern District of Georgia.

The Senate proceeded to consider the nominations.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I rise today to support the nomination of Ann Aiken to the federal district bench in Oregon. I know too that my distinguished colleagues from that State, Senators SMITH and WYDEN, wholeheartedly support this nominee.

And it is no wonder that Judge Aiken enjoys their support. She has served as a state district and circuit court judge for nearly a decade. Before that, she worked in private practice and had extensive involvement in Oregon statehouse politics. Perhaps most significantly, she is the mother of 5 children. As the father of 6 myself, I can think of no better preparation for the bench than first having served as the referee of a large family.

I plan to discuss in greater detail why I intend to support Judge Aiken's nomination, but first, I would like to address some of the concerns that have been expressed with respect to the Senate's role in the confirmation of federal judges. As Chairman of the Senate Judiciary Committee, one of the most important duties I fulfill is in screening judicial nominees. Indeed, the Constitution itself obligates the Senate to

provide the President with advice concerning his nominees and to consent to their ultimate confirmation. Although some have complained about the pace at which the Senate has moved on judicial nominees, I would note that this body has undertaken its constitutional obligation in a wholly appropriate fashion. Indeed, the first matter to come before the Senate this session are the confirmation of three of President Clinton's judicial nominees. Senator LOTT is to be commended for giving these nominees early attention. As well, the Judiciary Committee has already announced judicial confirmation hearings for February 4 and February 25.

In 1997, the first session of the 105th Congress, the Senate confirmed 36 judges. This is only slightly behind the historical average of 41 judges confirmed during the first sessions in each of the last five Congresses. And, I would note, the Judiciary Committee itself processed 47 nominees—including the three judges we will be considering today.

Keep in mind that the Clinton Administration is on record as having stated that 63 vacancies—a vacancy rate just over 7%—is considered virtual full employment of the federal judiciary. The current vacancy rate—88 vacancies—is a vacancy rate of approximately 10%. Some of those vacancies occurred after the Senate recess last year, however. How can a rise in the vacancy rate—from 7% to 10%—convert ''full employment'' into a ''crisis''? Although we can always do better, this is a record of which I am proud.

I would further add that there are currently 32 vacancies for which the Committee has yet to receive a nomination. As hard as I work, I have never been able to confirm a person that has not yet been nominated. And I have to say that there were more vacancies just up until a few days ago.

This is a point, gone largely unnoticed by the popular press, that Chief Justice Rehnquist recently made in his Annual Report on the Judiciary. In that report he urged, among other things, that certain judicial vacancies be filled. I would ask you to compare today's 88 judicial vacancies with the record of a Democratic Senate during President Bush's presidency. In May 1992 there were 117 vacancies on the federal bench. And, interestingly enough, the Chief Justice made basically the same remarks back in 1992 that he did this past month. The only real difference that I can see, however, is that in the days immediately following the Chief Justice's remarks we have a plethora of media acting as though there were some big crisis developing basically fomented by the White House and some down at the Justice Department. I might say that in the days immediately following Chief Justice Rehnquist's criticism back in 1992 when there was a Democrat Congress, there were only a handful of newspapers who even bothered to report on the judicial vacancy issue even though there were 117 vacancies during that period of time, and even more. At one time in 1991 there were 148 vacancies, and hardly a peep out of the media, or hardly a peep out of any of the so-called ''critics'' of today. So it seems that when a Republican President confronted a Democrat Senate on the issue of judicial vacancies the press seemed to be considerably less interested.

That I think is the state of affairs in Washington. We are all used to it. But I just wanted to point that out because I think it is pretty fallacious to blame the Senate when in many instances we don't have any nominees to fill the position, especially when some of the nominees who came over had problems from the last Congress as well.

And the number of vacancies is not nearly as problematic as it might appear, at first blush. In fact, there are more sitting federal judges today than there were throughout virtually all of the Reagan and Bush administrations. As of today, there are 756 active federal judges. In addition, there are 432 senior judges who must, by law, hear cases, albeit with a reduced load but nevertheless taking the burden off of the sitting full-time judges. Ordinarily, when a judge decides to leave the bench, she does not completely retire, but instead takes senior status. A judge who takes senior status, as opposed to a judge who completely retires, must hear a certain number of cases each year. Thus, when a judge leaves the bench, she does not stop working altogether, she merely takes a somewhat reduced caseload. Even in the ninth circuit, which has ten vacancies, only one judge has actually stopped hearing cases; the other have taken senior status and are still hearing cases. The total pool of federal judges available to hear cases is 1,188—a record number of federal judges. So this so-called ''crisis'' has been fomented, frankly, by partisan people at the White House and some at the Justice Department, and, frankly, it is beneath their dignity to do this. I will say that there is room for improvement, and certainly we on the Judiciary Committee want to do everything we can to improve it. I hope that those who manage the floor will feel the same way and do the same thing.

And some in the media have failed to read completely the Chief Justice's report, or, if they ignored all of the other aspects of the report.

In fact, his report centered on the problem of judicial workload—not judicial vacancies. He went on to compliment the Senate for enacting habeas corpus and prison litigation reform, two of the bills that I have pushed hard for. The Chief observed that these two vital reforms, which I sponsored, will greatly reduce the federal courts' workload. He also asked Congress to curb federal jurisdiction and to provide better pay for federal judges. I think we may be able to make progress on both those fronts this session in addition to moving qualified judicial nominees.

I was disappointed to read in the Washington Post a week or so ago that the Clinton White House, ''galvanized by the critique by Chief Justice Rehnquist,'' has tapped communications director Ann Lewis to head a ''fullscale political confrontation'' over judicial appointments. [Washington Post, Jan. 16, 1998]. According to the Post, part of the so-called ''campaign'' plan is to paint Republicans as anti-women and anti-minority.

There is no depth to which they will stoop in trying to win political points down there. Frankly, I don't think the American people buy that.

This is certainly a poor way to begin what I hope will turn out to be a cooperative effort to confirm federal judges. We should not play race or gender politics with judges, and I personally resent that. I have never considered, much less kept track of, the race or gender of the nominees that have been submitted for the Committee's approval. And I don't think anyone else does. I oppose, and support, nominees on the basis of their professional qualifications and their commitment to uphold the rule of law—their commitment or lack of commitment. In the final analysis, all that matters is whether a nominee will make a good judge. I hope this is the standard the White House uses as well.

Nor will the Judiciary Committee, under my stewardship, push nominees through just for the sake of filling vacancies. Only recently, after the Judiciary Committee had expeditiously reviewed and held hearings on two nominees, did information surface that caused one of those nominees to withdraw and that places the other nominee's confirmation prospects in jeopardy. There is a good deal of background research that must be done by the Judiciary Committee before we can send a nominee to the floor. If the Committee fails to do the groundwork, it fails the Senate, and prevents this body from fulfilling its constitutional duty.

And it is no secret that Senators rely on us doing this duty in a bipartisan way, and I believe for the most part we have.

The reality, of course, is that the Republican Senate has confirmed the vast majority of President Clinton's judicial nominees. Even the Washington Post expressed dismay over the administration's efforts to politicize the nominations process, writing on its editorial page that the campaign could ''grind the nominations process to a halt.''

So I urge the White House to reconsider their plans to politicize the Federal judiciary and the process because, if they do, I think they are going to have nothing but problems up here. I would like to help them. I would like to be cooperative. I would like to make sure that good nominees get through expeditiously and in the best way.

Last year I sought to steer the confirmation process in a way that kept it a fair and principled one and exercised what I felt was the appropriate degree of deference to the President's judicial selections and appointees. It is in this spirit of fairness that I will vote to confirm Judge Aiken.

Conducting a fair confirmation process, however, does not mean granting the President carte blanche in filling the Federal judiciary. It means assuring that those who are confirmed will uphold the Constitution and abide by the rule of law.

Based upon the committee's review of her record, I believe Ann Aiken to be such a person. Now, Judge Aiken likely would not be my choice if I were sitting in the Oval Office, but the President has seen fit to nominate her. She has the bipartisan support of both Senators from Oregon, and the review conducted by my committee suggests that she understands the proper role of a judge in our Federal system and will abide by the rule of law. She has personally assured me that she will, which goes a long way towards obtaining my vote here today.

I will also state that both Senators have actively advocated in her behalf, especially the distinguished junior Senator from Oregon, Mr. SMITH. He has continuously fought for her—fought for her right to have her nomination hearing, fought for her right to be heard in that hearing, and fought for her right to be passed out of the committee and on to the floor. I notice that he is here today to fight for her confirmation on the floor.

Based on the committee's review of the record, I believe that Judge Aiken is a good choice. In fact, when asked whether there were any so-called constitutional rights that existed independent of the Constitution itself, Judge Aiken replied ''No, sir. The Constitution is one of the most elegantly written documents. The words of the Constitution are clear. It expresses the rights that are given. I find no need to look beyond those express words and the document itself.''

This is precisely the type of answer I would expect of any Federal judicial nominee. Of course, sometimes people say things they do not mean. But I am willing to give this nominee as well as any nominee the benefit of the doubt unless the evidence is overwhelmingly to the contrary.

It is also significant to me that when asked what judge or justice has most influenced her thinking, she replied, ''Justice Felix Frankfurter, because of his staunch adherence to the principle of judicial restraint and his reluctance to substitute the inclinations of the court for the express will of the legislature.''

She has demonstrated to me that she understands the proper role of a Federal judge in our constitutional system. But more than that, it is important that a judge give more than lip service to principles of judicial restraint. Rather, a good judge will internalize and abide by those principles. I have no reason to believe that Judge Aiken will not do precisely that.

Moreover, I do not think anyone seriously believes that Judge Aiken is not qualified to sit on the Federal bench. She is currently a judge on the Oregon circuit court. She attended the University of Oregon both for her undergraduate and juris doctorate degrees, and she received a master's degree from Rutgers University. Prior to her appointment to the bench, Judge Aiken practiced largely in the area of domestic relations law. She focused on child custody, foster care and family preservation cases. As anyone who has ever engaged in the practice of law knows, domestic disputes of this type truly require the wisdom of Solomon.

In sum, I join Senators SMITH and WYDEN in supporting this nominee and once again ask the White House to work with, not against, the Senate in seeking out qualified individuals to serve on the Federal bench.

With that, I notice my colleague, the ranking member on the committee, is here, and I will yield the floor.

Mr. LEAHY. I suggest the absence of a quorum.

Mr. SMITH of Oregon addressed the Chair.

Mr. LEAHY. Mr. President, I do want to respond. If the Senator from Oregon could withhold and let me put this quorum call in for just a moment, I am then going to call it off.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, the Chief Justice of the U.S. Supreme Court has spoken out forcefully on the judicial vacancy crisis that is plaguing our Federal courts. He is correct that: ''Vacancies cannot remain at such high levels indefinitely without eroding the quality of justice that traditionally has been associated with the Federal judiciary.''

Partisan and narrow ideological efforts to impose political litmus tests on judicial nominees and shut down the judiciary have to stop. They hold no place, whether you have a Democrat as President or a Republican as President. The judiciary should not be part of a partisan or ideological power struggle. And I think that all of us as Senators in the most powerful democracy history has ever known have a stake in keeping an independent judiciary.

Now, we begin 1998 still facing vacancies of about one out of every 10 judgeships. More than a third of these are what are called judicial emergencies. They have been empty for more than a year and a half. Unfortunately, during the last 3 years in the Senate, under the control of my friends across the aisle, the Senate has barely matched the 1-year total of judges confirmed in 1994 when we were on course to end the vacancy gap.

In the 1996 session, the Senate confirmed only 17 judges, none for the Federal courts of appeals. We began last year with the Chief Justice of the United States Supreme Court expressing in the year-end 1996 report on the Federal judiciary his ''hope'' that the Senate would ''recognize that filling judicial vacancies is crucial to the fair and effective administration of justice.''

Through the course of last year, at virtually each meeting of the Judiciary Committee, certainly at each confirmation hearing, and in a number of statements on the Senate floor, I urged the Senate and the Republican leadership and those responsible for holding up much-needed judges to abandon what I saw as ill-advised efforts.

In July, seven national lawyer organizations spoke out. In August, the Attorney General spoke about the ''vacancy crisis that has left so many Americans waiting for justice,'' and ''the unprecedented slowdown of the confirmation process'' and its ''very real and very detrimental impacts on all parts of our justice system.''

Last September, the President of the United States pointed out the dangers of partisan politics infecting the confirmation process. He called upon the Senate to fulfill its constitutional duty and end ''the intimidation, the delay, the shrill voices.''

In his 1997 year-end report, Chief Justice Rehnquist focused again on the problems of ''too few judges and too much work.'' He noted the vacancy crisis and the persistence of 26 judiciary emergency vacancies, and he observed: ''Some current nominees have been waiting a considerable time for a Senate Judiciary Committee vote or a final floor vote. The Senate confirmed only 17 judges in 1996 and 36 in 1997, well under the 101 judges it confirmed in 1994.''

Last night in his State of the Union Address the President of the United States again returned to the matter of the vacancy crisis and the need to provide the courts with the judges and other resources they need effectively to administer Federal criminal and civil justice across the country. The President did more than talk yesterday. He also sent us another dozen judicial nominees to help fill the vacancies. That brings to 54 the number of judicial nominees that are pending currently before the Senate.

The Senate still has pending before it 11 nominees who were first nominated 2 years ago, including five who have been pending since 1995. We are finally going to vote on one of them this afternoon, Judge Ann L. Aiken.

I see my good friend, the Senator from Oregon, Mr. WYDEN, in the Chamber. I must say, Mr. President, as much as I like Senator WYDEN, it got to the point that I almost hated to see him

coming down the hall because he pounded so often on me: ''Let's get this fine woman confirmed.'' He has been doing this year after year. He has expressed to me and to other Senators and to the leadership of the Judiciary Committee: ''Let's get this woman confirmed.'' And he has expressed to me how well qualified she is, how superbly qualified she is. He has made his case with passion and with integrity, which is his nature. I say to him, while I am always hesitant to predict any vote, I suspect that she is going to be confirmed overwhelmingly today, and I applaud the Senator for not giving up, I applaud the Senator from Oregon for not giving up all those years that he fought so hard to get her here. I know that both he and the other Senator from Oregon, who is also in the Chamber, Mr. SMITH, will be voting for her with great enthusiasm.

But there remains no excuse for the Senate's delay in considering the nominations of such outstanding individuals as Prof. William A. Fletcher, Judge James A. Beaty, Jr., Judge Richard A. Paez, M. Margaret McKeown, Susan Oki Mollway, Margaret M. Morrow, Clarence J. Sundram, Anabelle Rodriguez, Michael D. Schattman, and Hilda G. Tagle.

I mention these people because all of these nominees have been waiting at least 18 months, some more than 2 years, for Senate action.

Last year the Senate confirmed 36 judges, but that has to be seen in relation to the 120 vacancies through the course of the year and the 55 judgeships in addition to the current vacancies that the Judicial Conference urged Congress to authorize in order to meet the workload demand of all of the new laws that we have passed and, of course, a growing country.

Last year's confirmations did not approach the 58 judges confirmed in the 1995 session or even keep up with the vacancies that came from normal attrition.

Last year the President sent us 79 judicial nominations. The Senate completed action on fewer than half of them. The percentage of judicial nominees confirmed over the course of last year was lower than for any Congress over the last three decades, possibly any time in our history. Left pending were 42 judicial nominees, including 21 to fill judicial emergencies.

Last year the Senate never reduced its backlog of pending judicial nominees below 20 and at the end of the year had a backlog of over 40 nominees. With the dozen additional nominees received yesterday, the Senate's backlog of nominees as we begin the year has topped 50. The Administration is demonstrating its resolve to nominate good people to fill these vacancies. They are doing their job.

It is up to the Senate now to do its job. Have the hearings. Vote them up or vote them down. Just don't leave them in limbo. If we don't like the nominee that the President has sent up, then vote him or her down. We are used to voting around here. We can do that very easily. But don't leave them sitting there never knowing what is going to happen.

In connection with the President's national radio address last September 27, we finally quickened the pace of judicial confirmations, and during the last 9 weeks of the Senate's last session the Senate held five confirmation hearings and confirmed 27 judges. I compliment the chairman of the Senate Judiciary Committee for making that possible.

In response to the criticism of the Chief Justice, though, the chairman has argued that the Senate is on a steady course and making steady progress. But it was only in the last 9 weeks of the last session that we were able to achieve a pace that can make a difference. I urge my good friend, the chairman—and he is my good friend—to help the Senate maintain that pace this year.

If we can maintain the same pace we had in the last 9 weeks of the last session, we can end the judicial vacancy crisis that now threatens the administration of justice by our Federal courts. I will commit myself to work with him in any way he wants to do that—have hearings on weekends, hearings in the evening, whatever he chooses—so that we can go forward and maintain the same pace. I compliment the chairman for the pace of those last few weeks. I urge him to do the same for this year. That is the challenge that lies before us as Congress begins anew.

The Chief Justice compared the past 2 years of Senate inaction to the record of the 1994 session. That was a Democrat-controlled Senate. We worked hard to consider and confirm 101 judges, including a Supreme Court Justice. To make a difference, however, the Senate this year, 1998, need only maintain the pace it reached last fall, 27 judges every 9 weeks. That really should be the measure of the Senate's effort this year. Do what we did at the end of the session last year, do it throughout this year, and we in the Senate can make a difference for the judicial system.

It will be easy to monitor our progress. Any week in which the Senate does not confirm three judges is a week in which the Senate is failing to address the vacancy crisis. Any fortnight in which we have gone without a judicial confirmation hearing marks 2 weeks in which we are falling farther behind.

I am delighted that the majority leader and the chairman of the Judiciary Committee have scheduled three nominees for consideration by the Senate today. I thank the majority leader and thank the Senator from Utah for their cooperation and attention to these matters. I look forward to prompt Senate consideration of the other five nominees if they are still pending on the Senate calendar. I would also be willing to bet that most of these nominees would not get even a tiny handful of votes against them and that they are going to pass overwhelmingly.

I note that the chairman of the Judiciary Committee has noticed a judiciary hearing for next week. This notice, and what is happening today, are positive developments. They are signs that the Senate is taking to heart its constitutional duty to consider judicial nominees without further delay. While I hope it does not hurt him on his side of the aisle, I want to commend the Senator from Utah for his actions. I suspect if the two of us were allowed, without any of the political pressures on either side, to work this out, we could probably move ahead more quickly.

But the warning from the Chief Justice in his year-end report is more than a question of numbers. This is the responsibility every Senator has, Republican or Democrat. Our responsibility first and foremost is to the country, not to individual parties. Our solemn oath is to uphold the Constitution of the United States. That is what should motivate every one of us here. We have to look at this country, the greatest exercise of democracy history has ever seen, the most powerful democracy history has ever known, and recognize that it stays that way because of the checks and balances between the legislative, judiciary and executive branches. A hallmark of that has been the independence, throughout our 200-plus year history, of the Federal judiciary. If we allow this to become a partisan football, this confirmation of judges, then the independence and the integrity of the Federal judiciary is being threatened.

The nominations backlog that perpetuates a judicial vacancies crisis is a function of the targeting of the judicial branch. It was the executive branch that was targeted and shut down 2 years ago. Pressure groups—and it is a fact—within the right wing of the Republican Party have been formed and money has been raised to the cry of ''killing'' Clinton judicial nominations. That would be just as wrong if the same thing was being done by ideological groups seeking to kill a Republican President's nominations. Constitutional amendments to undercut the independence of the judiciary have been introduced. Ideological impeachments have been threatened. The Republican leadership in the House speaks openly about seeking to ''intimidate'' Federal judges.

The confirmation process is not immune from politics, but a particularly virulent strain has now infected this body and has politicized the process to the point of paralysis, and this threatens the integrity and the independence of the judiciary. It encumbers the judicial confirmation process. In too many courts, judges delayed means justice denied. Without judges, courts cannot try cases, they cannot sentence the guilty or cannot resolve civil disputes.

For more than 200 years a strong and independent Federal judiciary has served as a bulwark against overreaching by the political branches of the Government. It has been the protector of our constitutional rights and liberties. True conservatives should want nothing more than a truly independent judiciary, because it is the bulwark of our individual freedoms.

I hope this new year will bring the realization by those who have started down this destructive path of attacking the judiciary and stalling the confirmation of qualified nominees to the Federal bench that those efforts do not serve the national interest. I hope we can remove these important matters from partisan, ideological politics. I hope today will move us forward in the interests of the fair administration of justice.

I yield the floor.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from Oregon.

Mr. HATCH. Will the Senator yield to me for just a couple of additional remarks, and then I will yield to the distinguished Senator?

Mr. SMITH of Oregon. I will.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I feel I should make a few more remarks here, because I would not want this day to pass without mentioning Barry Silverman, who is one of the judges nominated for the Ninth Circuit Court of Appeals, and, of course, Richard Wayne Story, who was nominated for the Northern District of Georgia. Each of these nominees has the support of his home State Senators and each is well qualified for the Federal bench. So I want our colleagues to know that.

Barry Glen Silverman was nominated for United States Court of Appeals for the Ninth Circuit. He graduated summa cum laude in 1973 and got his J.D. in 1976 from Arizona State University. He is currently a U.S. Magistrate Judge in the U.S. District Court for the District of Arizona. He has served as a Superior Court Judge both in Phoenix and Maricopa Counties, and he has also served as a prosecutor in Phoenix.

He is the recipient of numerous awards including the 1991 Henry Stevens Award, which recognizes trial judges who represent the finer qualities of the judiciary.

His nomination is not the least bit controversial, and he is supported by Senators KYL and MCCAIN.

Richard Wayne Story has been nominated for United States District Court for the Northern District of Georgia. He received his B.A. in English from LaGrange College in 1975, and his J.D. from the University of Georgia in 1978. He is presently a sitting judge on the Superior Court bench in the Northeastern Circuit of Dawson and Hall Counties of Georgia. Prior to that he served as Juvenile Court Judge and as a part-time Special Assistant Attorney General for the State of Georgia. He was also a member of the firm of Kenyon, Hulsey, and Oliver for eight years.

His nomination is not controversial, and he is supported by Senator COVERDELL and Senator CLELAND.

So I hope that our colleagues will vote for all three of these judges. I think all three of them deserve support. We will move on from there.

I yield to my colleague from Oregon.

The PRESIDING OFFICER. How much time does the Senator yield to the Senator from Oregon?

Mr. HATCH. I yield 10 minutes. How much time is remaining to both Senators?

The PRESIDING OFFICER. Each side has approximately 40 minutes.

Mr. HATCH. I yield such time as the Senator needs, but at least 10 minutes.

Mr. SMITH of Oregon. Mr. President, colleagues, I rise today in support of the nomination of Judge Ann Aiken to the Federal district bench in Oregon.

Before I comment on her nomination, though, I would like to thank and compliment my friend, the distinguished chairman of the Judiciary Committee, Senator HATCH. I have gone to him repeatedly about the three vacancies in the State of Oregon and the challenges they create in our judicial process. Since my time here, against some opposition, Senator HATCH has in every instance acted responsibly, and helped me to move the Oregon nominees along so we can fill these vacancies and get rid of a considerable backlog that we have in our State.

I would also like to thank the majority leader for scheduling a vote today so we can vote up or down on this and other nominations. And I would like to thank my colleague, RON WYDEN, who, before my admission to this body, was laboring here on behalf of Judge Aiken.

To my colleagues on the Republican side, those who may have a question about the qualifications or the decisions or the political leanings of Judge Aiken, I would like to point out to you the impressive list of letters and phone calls I have received from both Democrats and Republicans on her behalf. They include Senator Mark O. Hatfield; Senator WYDEN; Deanna Smith, chair of the Oregon Republican Party; Mark Abrams, the chairman of the Oregon Democratic Party; John Kitzhaber, the Governor of Oregon; Hardy Meyers, Oregon Attorney General; Jack Roberts, Oregon Republican State Labor Commissioner; five former Governors of both parties; 20 former presidents of the Oregon Bar Association; the Oregon Association of District Attorneys; the Oregon State Police Officers Association; the Lane County Peace Officers Association; the Eugene Police Employees' Association; and all the presiding judges under whom Judge Aiken has served. It is an impressive list of people, all attesting to her worthiness and qualification to be a Federal judge.

I believe that they based their decision to support Judge Aiken for the very reason I based mine—on her very impressive record of public service. She has served the people of Oregon both on and off the bench through her dedication to the health and safety of children in Oregon and throughout our country. She has served on numerous councils and boards of directors. To note a few, she was recently elected to the board of the National Network of Child Advocacy Centers. She is a current member of the National Council of Juvenile and Family Court Judges. She is a current member of the Relief Nursery board of directors. This charitable institution is particularly near and dear to my heart and is a private organization that provides preschool classes, parent education and respite care for families at risk for child abuse. This organization reaches out to all at risk children and families in our communities, and Judge Ann Aiken is a champion of this private-public partnership.

In addition, since 1993 she has been a member of the Task Force on Child Fatalities and Critical Injuries, and a member of the Lane County Domestic Violence Council.

While I have not served on these councils with Judge Aiken, I would like to take a moment to explain why I believe that she is an excellent nominee for the U.S. District Court for Oregon.

I first came to know Judge Aiken in 1994. We were both appointed by a Democratic Governor to serve on the Governor's Commission on Juvenile Justice when I was the Senate Minority Leader in our State legislature. I worked with her on this commission to address the issue of juvenile crime. Among a handful of appointees, she stood out as a superstar. I was impressed with her fairness, her experience, and her insight as to how we can work to help the people of our state, particularly our young children.

Over the course of the next election cycle, I became the Oregon State Senate President. And with her involvement, and the work of this commission, we produced a bill called Senate bill 1. It produced some of the toughest juvenile crime laws in this country.

Since that time, Oregon has revisited the whole issue of crime in a dramatic way through a number of ballot initiatives and legislative actions—and crime is falling in my State. Although these initiatives occurred after 1995, Judge Aiken has been tough on crime throughout her career, and I would encourage my colleagues to review her record of strict sentencing practices.

In 1993, Judge Aiken sentenced a 28-year-old woman who was involved with a brutal beating and murder of a 70-year-old man to 20 years in prison—twice the amount of time as was called for by the Oregon state sentencing guidelines.

In 1995, Judge Aiken sentenced a repeat child molester to the maximum sentence of 58 years in prison.

In 1995, Judge Aiken sentenced a 43-year-old man to 31 years for felony sex

abuse crimes involving two girls aged 7 and 9, invoking a law that permits judges to double the prison term normally afforded by State sentencing guidelines in cases with aggravating circumstances.

Before our recess, my friend and colleague from Wyoming, Senator ENZI, raised some concern about one particular case that troubled him. I will admit to you that it troubles me. But I want Senator ENZI and all of my colleagues to know that their criticism of Judge Aiken in this case should not be of her but of the Oregon law that applied at that time, because she followed the law. And some of my colleagues, frankly, appropriately, criticize judges who become frustrated legislators and use their judicial robes to write new law. Judge Aiken simply did not do that. She followed the Oregon law.

It involved a very horrible case. It involved a circumstance where a man, 26 years old, Ronny Lee Dye, was convicted of first-degree rape of a 5-year-old child and was sentenced to 90 days in jail and 5 years of probation plus the payment of a $2,000 fine.

With the judicial guidelines that she had to operate within, she had a choice to make. She could send him directly to prison to serve out a 5-year sentence or she could put him in a county facility where he would receive sex-offender treatment. She made a judgment. Her judgment was that the society of Oregon would be better served if this man had treatment. You can call that into question now, but she followed the law.

Later, this man was arrested for drunk driving and ultimately served a 5-year term in prison.

I ask myself in this case, however, would I have made that call? Maybe not. But she did. And she did it according to the direction of the Oregon guidelines that were given to her. But my complaint was with the law that allowed that, not with her discretion in trying to establish what was in the best interests of society and justice.

Finally, Mr. President, I note that one of the reasons that Judge Aiken appeals to me as a person and as a judge is a reason very personal. As I have come to know this woman, I have come to know this mother of five sons, and she is a good mother.

I am one of 10 children. My mother has five sons. And while my mother did not always act perfectly on the issues of justice and mercy, she acted nearly so. And it seems to me that what I see in her are some of the qualities that I would want on the Federal bench. Because a mother of five sons knows how to arbitrate family difficulties and what it means to raise honorable citizens to serve in our society.

So I ask my colleagues to see this woman's record in its totality—-not by the outcome of one case. I would never come to this floor and advocate for anyone who was soft on crime. And if this woman's record indicated that, I would not support her in this effort today. But it does not. It represents a person who is tough on crime, who has served to make her State's laws tougher and who has a record of putting away violent people for a long time.

I wish that one case were different, but it is not. But the man has served prison time and has received sex-offender treatment. And now the issue is, should we confirm Ann L. Aiken to the United States district court? I say affirmatively and with conviction, yes.

I ask for your support of her and thank the President for this time.

I yield the floor.

Mr. WYDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, from the time controlled by Senator LEAHY, I yield myself up to 15 minutes.

The PRESIDING OFFICER. The Senator is recognized for 15 minutes.

Mr. WYDEN. Thank you very much, Mr. President.

Mr. President, I come to the floor today to speak in support of a superb State judge, a pillar in her community, a devoted mother of five wonderful sons and a personal friend, an individual who I believe will make an outstanding Federal district judge, Judge Ann L. Aiken.

Let me begin by expressing my thanks and gratitude to the Senate Judiciary Committee and particularly to Chairman HATCH and the ranking Democrat, Senator LEAHY. Both Chairman HATCH and Senator LEAHY carry an enormous workload, and I want to express my appreciation to both of them for all the time and good counsel that they have given Senator SMITH and myself with respect to Oregon's needs on the Federal bench.

I especially want to thank at this time my colleague from Oregon, Senator SMITH, for his truly extraordinary efforts on behalf of Judge Aiken. I think this Senate can see from Senator SMITH's eloquence and his commitment to Judge Aiken how strongly he feels about this appointment. He has made extensive efforts with our colleagues to ensure that Judge Aiken would be before the U.S. Senate.

I want to express my appreciation to Senator SMITH for all of those efforts on Judge Aiken's behalf and to join Chairman HATCH in saying that I do not believe we could be here today without the extraordinary work of Senator SMITH. I want him to know how much I appreciate those efforts. He knows Judge Aiken extremely well. Those joint efforts date back for years, as Senator SMITH has stated, and it has been a pleasure to work with him on this, dating back to the days when he was president of the Oregon State Senate.

Also at this time, I want to thank Congressman PETER DEFAZIO, a personal friend of Judge Aiken's who has worked with her on many important community activities. Congressman DEFAZIO has been a vociferous advocate of Judge Aiken's candidacy, and he has done a good job of keeping the debate focused on getting Judge Aiken to this point. And I want to express my appreciation to him.

Mr. President, Judge Aiken's journey to be considered on the floor of the Senate has been a long one, and not just in terms of the 3,000 miles she traveled from Oregon for those confirmation hearings.

Her journey formally began in 1994, when I put together a bipartisan group of Oregonians to review her qualifications.

In January of 1995, I recommended to President Clinton, with the strong bipartisan support of the Oregon congressional delegation, that Ann Aiken be named to the Federal bench.

As Senator SMITH has noted, Judge Aiken's support for this nomination spans the political spectrum. Liberals are for Judge Aiken, conservatives are for Judge Aiken, moderates are for Judge Aiken, Democrats, Republicans; across all political boundaries, Oregonians have lined up behind this outstanding judge.

It is my view that these many endorsements are pouring in because of the hard work and thoroughness that has marked Ann Aiken's career to date. And I would especially like to reference her work on crime.

Mr. President, and colleagues, this is an especially important issue to me. Before I came to the U.S. Congress, first as a Member of the House, I was co-director of the Oregon Gray Panthers, a senior citizens group. And I found that many of these older folks were afraid to have meetings after 4 or 5 at night because of their fear of crime. And so I vowed, as a Member of Congress, that I would put a specific focus on law-enforcement issues in my service in the Congress.

As a Member of the House, I joined Senator SPECTER in authoring the career criminal law, a law which prescribes tough punishments and no parole sentences for career criminals.

Last Congress, I joined Senator HATCH in his efforts, his yeoman's work, to deal with the scourge of methamphetamines. And I have repeatedly—repeatedly—voted to impose the death penalty on heinous crimes in our society.

So I take a back seat to no individual with respect to support for tough law enforcement. And I want to tell my colleagues in the U.S. Senate that Judge Aiken did not win all that support from law-enforcement groups in Oregon by accident. She won the support of the Association of District Attorneys and the Police Officers' Association because of her toughness on crime.

As my colleague, Senator SMITH, has noted this morning, repeatedly she has sought to impose the toughest possible sentences. And because Judge Aiken has a true mastery of the Oregon sentencing guidelines, she frequently is able to impose sentences that are significantly longer than any other judge on the bench.

She has worked for a new approach to juvenile justice that ensures that young people who commit crimes have to face consequences. It would change the juvenile justice system as we know it. Youngsters would understand that the justice system is based on personal responsibility and individual accountability when they perpetrate those offenses. And the changes that have been made came about because Judge Aiken worked on a bipartisan basis with leaders of our State like Senator SMITH to get that done.

So she did not win all that support from law enforcement by accident. And she would not have the bipartisan support of her two U.S. Senators today were it not for the fact that she took a tough and fair approach with respect to law enforcement.

Judge Aiken is also a person who knows how to squeeze an hour out of a minute. Not only does she maintain a rigorous judicial schedule, but the list of task forces that she has chaired and the boards on which she has served number in the dozens. She has been on the board of directors of Court-Appointed Special Advocates (CASA), a program in which we take special pride in our State because it allows us to advocate for young people in our society and focus on trying to help them get their lives on track.

On top of all this, somehow she finds time to be a caring and involved mother for her five boys. How she manages to juggle all these activities is beyond my comprehension, but the fact that she can serve as a judge, a community leader, and a devoted mom all simultaneously is yet more evidence of her fitness and her ability to serve as an outstanding Federal district judge.

Ann Aiken is also an expert on family law. She has been a leader in the founding of a model program for youngsters known as the Relief Nursery. In that effort, she has brought together leaders from across her community to help families that were about to crack apart. Recently in fact, the successes of the Relief Nursery in keeping families together were profiled by Peter Jennings on World News Tonight.

I am certain that Judge Aiken will bring to the Federal bench the same fairness, toughness and integrity that she has brought to her work as a State judge and a specialist in family law. And I am certain that Judge Aiken will bring to the Federal court the intellect, intensity and drive that has made her one of our State's most respected jurists.

Let me wrap up by saying, as Senator SMITH has touched on as well, this nomination is particularly important since Oregon already has two vacancies on the district bench and will be facing a third in April of this year. Failure to fill these openings in a timely manner is going to put an enormous strain on the Federal courts in Oregon. It is time to act and time to act swiftly.

My colleagues, you have before you a tough judge and a fair one, one committed to seeing that justice is carried out in an impartial way no matter what the accusation is. She is going to make an exceptional Federal judge. She will bring honor to her community and her country. Therefore I urge you, as Senator SMITH has, that the Senate move today on the candidacy of Judge Ann Aiken. She is a judge of extraordinary ability. She has earned this post.

I yield the floor.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator from Wyoming.

Mr. ENZI. Mr. President, I yield myself up to 10 minutes.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

Mr. ENZI. Mr. President, I rise to oppose the nomination of Judge Ann Aiken as the district court judge for the district of Oregon. I asked for a rollcall vote because I want to be on record as opposing this nominee. I put a hold on this nominee before we left on recess, with adequate time, I assure, for a rollcall vote. I made that a public, not a secret, hold. I wanted anyone interested in the case to know that I wanted a rollcall vote. I know that message got out. I was told that a rollcall vote would be OK, and I am sorry that there was not time or sufficient people around to have a rollcall vote prior to the time that we left.

I did make a statement on the judge, and I want to reiterate some of my concerns. While I do not question Judge Aiken's experience or academic qualification to sit on the Federal bench, I do have serious concerns about her judicial philosophy as she applied it as a State trial judge in Oregon.

One particular case has been mentioned this morning, and I appreciate the extra information that has been passed out at this time. That particularly tragic case perhaps best illustrates my concern, and I have looked at five other cases as well that I don't have more information on. In the case of the State v. Ronny Lee Dye, a 26-year-old man was convicted, convicted, of first-degree rape—first-degree rape—of a young 5-year-old girl. Instead of sentencing this convicted rapist to State prison, Judge Aiken sentenced him to 90 days in jail and 5 years probation, plus a $2,000 fine. The other option was 5 years in prison.

There was concern about whether there would be enough rehabilitation in prison. The option was there for 5 years in prison and the effort to get a rehabilitation program in that prison. If I were the parents of a 5-year-old child that was raped and knew the convicted rapist could receive between 90 days and 5 years, I would have serious concerns about anybody who voted for that judge. Out of a concern for those parents, I am opposed to this nomination. According to the local papers, Judge Aiken did not want to sentence Dye to State prison because the prison did not have a sex-offender rehabilitation program. There are folks out in my part of the country that would insist on some other kind of rehabilitation. Moreover, she believed that probation following the jail term provided a stricter supervision than the parole that would have followed a prison sentence. Less than 1 year after his conviction for rape, Dye violated his parole by driving under the influence of alcohol and having contact with minor children without permission of his probation officer. I believe Judge Aiken's handling of this case and others illustrates an inclination towards an unjustified leniency for convicted criminals.

Mr. President, I do not pretend to be able to predict with any degree of accuracy how this nominee or any other will rule while on the Federal bench. In exercising our solemn constitutional duty to advise and consent on the President's nominations for the Federal courts, we have only the past action, statements and writings to guide our deliberations. Moreover—and this is one of my big concerns—since Federal judges have life tenure and salary protection for the rest of their lives while they are in office, we have but one opportunity to voice our concerns and disapproval of a judge's record.

Now, I understand that she has been repentant of what she did at an early time in her judgeship. But I have got to tell you that I think that we give out Federal judgeships for service, not for repentance. We talk about law and order. We have to back up that law and order through the court system as well, not just with words in this Chamber.

I, for one, cannot vote to confirm a nominee to the Federal court who I believe is inclined to substitute his or her personal policy preferences to those of the U.S. Congress or any other State legislature. I have strong concerns that Judge Aiken, if confirmed, would be inclined to this type of judicial activism. For this reason, I asked for a rollcall vote.

I appreciate the opportunity for me to go on record as being against the confirmation of Judge Aiken.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. SMITH of Oregon. I thank my colleague from Wyoming for this exchange this morning, and appreciate the genuineness of his concern.

I simply rise to say that Judge Aiken has admitted that early in her career that was a judgment she made, under the statute and within the guidelines, and that in hindsight she would have made a different decision. I simply say that to judge her entire career on the basis of this one case would not be fair. It would not be fair to her, would not be fair to my State, and I think would not be fair to the judicial system of the United States.

I think Caren Tracy, who has served as a local prosecutor in many cases in Judge Aiken's courtroom best describes her strict sentencing practices by stating, ''With regard to crimes of

violence, violations of trust relationships, and crimes against children, Judge Aiken delivers sentences that include periods of incarceration that are significantly longer than any other judge on the Lane County Circuit Court Bench. She has a mastery of the Oregon sentencing guidelines which enables her to ensure maximum incarceration for individuals deserving of such sentence. Sentences of thirty to forty years for child sex offenders and criminals who commit acts of violence are the norm for her courtroom. I never have any concerns, as a prosecutor, coming before her for sentencings on significant crimes. The bottom line is she is not a light hitter.''

I believe that statement reflects Judge Aiken's career in its totality and reflects her commitment to serving justice. I encourage my colleagues to support her nomination and am confident that she will reflect credit upon this country and reflect credit on the criminal justice system.

I yield the floor.

Mr. WYDEN. Mr. President, I ask unanimous consent to speak up to 10 additional minutes on Senator LEAHY's time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WYDEN. Let me also join in the remarks expressed by my colleague, Senator SMITH, with respect to our colleague from Wyoming. I know he is sincere in his views.

I will talk about what Judge Aiken faced with respect to that Dye case. Judge Aiken had two choices in front of her. Neither were ideal. She chose the one that in hindsight would be different than the one that Senator SMITH and I would have chosen. Both of us have been concerned about the case. To her credit—in my view, to her great credit—Judge Aiken has indicated to Senator SMITH and me that she would have handled that case differently. Her commitment to tough law enforcement has been proven because since that case she has been a tough judge. She has often exceeded the sentencing guidelines, and she has shown that she is going to be capable of great growth as a judge.

I say to our friend from Wyoming, who among us as new Members of the U.S. Senate would not possibly take back a vote early in our career? We are constantly faced with tough decisions in the U.S. Senate, decisions where you have before you a couple of choices, neither of them being ideal. Judge Ann Aiken, in the Dye case, tried to make the call to the best of her ability. In my view, even more importantly, she showed great growth, she showed a willingness to evaluate the facts in light of additional time and additional opportunities to consider her decision.

So we are then faced with the question: Do you throw out the prospect of an outstanding career on the Federal bench because of one case, one case where an individual has said, ''If I could do it again, I would have done it differently''? We wouldn't say a Member of this body should be excluded from the possibility of further service in the Senate because they would have cast one vote differently had they had the choice. We evaluate Members of the U.S. Senate on the totality of their records. On the totality of her record, Judge Aiken is an outstanding individual, an individual who will be tough on crime when she serves on the Federal bench.

Mr. President, I see Chairman HATCH is on the floor. I know he had to leave the floor during our earlier remarks. I express to him my personal gratitude for all of the help and effort he has given Senator SMITH and me on this matter again and again. Chairman HATCH has about as hefty a workload as you can imagine for a human being, but he has made time to assist Senator SMITH and me. We are very appreciative of all the good counsel and help you have given us as new Members of the U.S. Senate.

In closing, I especially want to express my appreciation to him for that help and counsel.

Mr. President, I yield the floor.

Mr. HATCH. Mr. President, I thank my colleague for his kind remarks. They mean a lot to me because this job of being Judiciary chairman isn't all a piece of cake, as anybody can see. I personally appreciate those kind remarks.

I want to compliment both of the Senators from Oregon for their active work on behalf of Judge Aiken. Without their work, I don't think Judge Aiken would be here today. I personally express that so that she will fully appreciate how hard the Senators from Oregon have worked. They have certainly, along with Judge Aiken, convinced me that she will make an excellent judge. I intend to fully support her. I hope my colleagues will also.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. ASHCROFT. I rise today to state my opposition to the nomination of Ann Aiken to be United States District Judge for the District of Oregon, and to note my support for the other two judges the Senate will consider today.

My principal basis for opposition to Judge Aiken's nomination is her sentencing decision in *State* v. *Ronny Lee Dye*. After finding defendant, 26, guilty of raping a 5-year-old girl, Aiken sentenced defendant to 90 days in jail, rather than substantial prison time, which was also an option under Oregon law.

As troubling as this sentencing decision is, her explanation of the decision is worse. She has explained that with a jail sentence she could ensure that Dye would receive psychological counseling, but she could not guarantee counseling if he went to prison. I find this type of social engineering from the bench troubling. The focus on what best serves the convicted rapist's needs should not be the basis of a sentencing decision. I doubt that this is the kind of decision the people of Oregon want to leave to judges.

This decision is not ancient history or a rookie mistake. Judge Aiken made this unjustifiable sentencing decision in 1993, in the middle of her fifth year on the bench.

Let me be clear about one thing: This is not the worst nominee the President has sent to the Senate. There have been other nominees that pose even greater problems. The Senate will likely consider one in just a few weeks, Judge Frederica Massiah-Jackson of Philadelphia.

Judge Massiah-Jackson has used the language's worst profanity in open court, she has demonstrated leniency in sentencing and hostility to law enforcement, and in recent weeks, she has drawn the opposition of important local law enforcement officers of the Democratic Party, like Lynne Abraham, the Philadelphia District Attorney.

Ann Aiken is not as troubling a nominee as Frederica Massiah-Jackson. But that should not be the standard. We need to raise the bar on the President's judicial nominees. America deserves better. The Constitution vests the Senate with the critical responsibility to advise the President with respect to his judicial nominees and in appropriate cases to give its consent. I take that responsibility seriously.

The President is capable of making quality judicial appointments and, when he does so, he deserves the Senate's consent. The two other nominees we will vote on today—Richard Story (for the Northern District of Georgia) and Barry Silverman (for the 9th Circuit Court of Appeals)—both appear to be well-qualified nominees, and I plan to vote in favor of both.

However, I will vote against the Aiken nomination. For me, the bottom line is this: As we embark on a congressional session in which we plan to put the emphasis on protecting families and cracking down on violent crime, we should not begin the year by confirming a judge who sentenced a child rapist to 90 days in jail. We can demand more of the President's judicial nominees. The people of this country deserve better.

Mr. HATCH. Mr. President, I would like to respond briefly to the comments of Senator ASHCROFT on Judge Aiken's record. Senator SMITH, I believe, has already amply defended Judge Aiken's record. I want to add a few comments of my own here, if I can. My colleagues, Senators ENZI and ASHCROFT, have rightly criticized Judge Aiken for her ruling in the Dye case, in which during her first month on the circuit court bench, she gave the defendant what appears to be a fairly light sentence for the molestation of a 5-year-old girl. I agree with the criticisms of Judge Aiken's decision. She did indicate that she imposed the sentence in order for the defendant to receive treatment. In her opinion,

treatment was the only way she could prevent this individual from repeating his heinous crimes.

I seriously question the wisdom of her decision. But to her credit, Judge Aiken stated that if she had to do it all over again, she would have imposed a lengthy prison term. She recognized her mistake and she learned from it, and it was made in the early tenure of her judgeship.

A review of her record since the Dye case suggests that she has more than learned from this original error. I know, too, that some are troubled by Judge Aiken's comment to a young, violent criminal that he was ''a victim of the community's lack of intervention.'' Well, what often gets lost in this criticism is that Judge Aiken also sentenced this defendant who had robbed people and threatened to kill them to the maximum range of penalties allowed under the Oregon guidelines. Given Judge Aiken's background in family law, her comment was not as unreasonable as some might think it seems.

So the question for the Senate is whether, in the face of a relatively clear record as a State judge and the overwhelming bipartisan support of the Oregon delegation, the Oregon bar, her colleagues on the bench, and the people of Oregon, the Senate should defeat this nominee because of one or two errant cases. I have to say, I think not. I hope none of us are going to be judged on one or two mistakes we might have made in our lifetimes. To the extent that these cases raise questions—and they do raise serious questions—I do not believe a strong case can be made that Judge Aiken has a record of exceeding the proper bounds of judicial authority or that she will attempt to legislate from the bench or act otherwise as an activist judge. Accordingly, I will vote to confirm Judge Aiken, and I urge all of my colleagues to do the same.

Now, in addition, I have had personal conversations with Judge Aiken, and I have to say she has impressed me greatly as someone who I think will act very properly on the Federal district bench. I agree with both Senators that she is going to be a very strong anticrime judge. I think her record shows that, in spite of these what some call ''discrepancies,'' to which I think legitimate criticism can be lodged, I don't know of many judges who have been on the bench very long that somebody can't find some criticism to lodge against them, because judges sit in judgment. They have to ''split the baby,'' so to speak, and make some decisions. In almost every case, somebody is going to be unhappy with their decision. If a judge ever shows leniency in this day and age, they are going to be subject to criticism by some. If the judge is too tough, that judge is going to get criticism from others. One side or the other is always going to find some fault.

But in this particular case, she more than adequately explains the situation. In the first case, the Dye case, she admitted that if she had to do it all over again, she would have decided the case differently. Keep in mind that all people in the early tenures of their work life generally stumble and make a few mistakes. That is what happened here. But you have to judge these judges, and all nominees who may not be judges, on the totality of their lives' work and the totality of what they have done and not just defeat judges on the basis of one or two things with which we might legitimately disagree, especially when the judge has indicated a willingness to change and do things differently in the future.

There is no doubt that the judge erred in the Dye case. It was wrong to sentence the criminal to only 3 months in prison. But you have to Judge Aiken on her whole record. She has more than adequately explained that, as far as I am concerned.

We are definitely going to have some votes on judges this year where there will be real, legitimate reasons to oppose them, and the administration knows that. They understand that when they send some of these folks up, there might be opposition. But I don't think the opposition is justified against this judge. On the other hand, I respect my colleagues who feel otherwise, but I hope that our fellow Senators will vote for Judge Aiken.

UNANIMOUS CONSENT AGREEMENT

Mr. HATCH. Mr. President, I ask unanimous consent that at 2:15 p.m. today, the Senate proceed to executive session and a vote on the confirmation of the nomination of Calendar No. 454, Ann Aiken. I further ask consent that immediately following that vote, Executive Calendar Nos. 486 and 488 be confirmed and the motions to reconsider be laid upon the table and the President be notified of the Senate's action and the Senate then return to legislative session.

The PRESIDING OFFICER (Mr. GREGG). Without objection, it is so ordered.

Mr. HATCH. All Senators should now be aware that there will be one rollcall vote beginning at 2:15 this afternoon. In order to accommodate a number of Senators' schedules, the remaining nominations will be confirmed without a rollcall vote. I thank all Members for their cooperation in this matter.

With that, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I ask for the yeas and nays on the Aikens nomination.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. Mr. President, there has not been much conversation about one of the judicial nominees pending before us. I did want to make a few comments on his behalf. The reason for the lack of comments is that I believe he has the unanimous, bipartisan support of everyone here in the body. And I appreciate that because I, too, enthusiastically endorse the nomination of U.S. Magistrate Judge Barry Silverman of the State of Arizona to the Ninth Circuit Court of Appeals, and I would like to make a few comments on his behalf at this point.

Judge Silverman brings a proven judicial track record to this position. For the past 2½ years he has served as a magistrate judge on the United States District Court for the District of Arizona, my home State. For over 10 years prior to that, he was a superior court judge in Maricopa County. While on the superior court bench, he rendered superior service in all aspects of his civil, criminal, juvenile and domestic relations assignments.

In addition to his time on the bench, Judge Silverman spent 5 years as court commissioner for the Superior Court of Arizona, Maricopa County.

Throughout his distinguished judicial career, Judge Silverman has earned the respect and admiration of fellow judges and the advocates who have appeared in his courtroom. For example, in 1991, Judge Silverman received the Henry Stevens Award, which is given annually by the Maricopa County Bar Association to the current or former Arizona trial judge ''who reflects the finest qualities of the judiciary.''

Similarly, in 1994, the Maricopa County Committee on Judicial Performance indicated that Judge Silverman received the highest percentage of superior ratings from lawyers, litigants, witnesses, and court staff in all categories of performance reviewed.

Also, in 1994, Judge Silverman's court division was honored as the judicial division of the year by the Maricopa County Superior Court Recognition Committee.

Incidentally, I should say that Maricopa County is the county in which Phoenix is located, the capital of our State.

In addition to his regular judicial duties, Judge Silverman has advanced the legal profession through service on the Supreme Court of Arizona Judicial Ethics and Advisory Committee, the Committee on Judicial Education and Training, and the Committee on Professionalism. He also chaired a Committee to Study the Criminal Justice

System in the Arizona Superior Court in 1993, and the Governor's Committee on Child Support Guidelines.

Judge Silverman has shown his commitment to the United States Constitution and the rule of law by cofounding the Sandra Day O'Connor Prize for Excellence in Constitutional Law at the Arizona State University College of Law.

Judge Silverman's academic credentials are equally impressive. He graduated summa cum laude from the Arizona State University College of Law in 1976 and was subsequently honored by his alma mater twice, once in 1994, when the college of law presented him with its ''Outstanding Alumnus Award,'' and again in 1997 when he received the prestigious ''Dean's Award.''

In short, Mr. President, I believe Judge Silverman meets the highest of standards required for our Federal judges, and I have been very privileged to support his nomination as it has proceeded through the process and come to the floor of the Senate. I urge all of my colleagues to support the nomination of Judge Barry Silverman for the Ninth Circuit Court of Appeals.

Allow me to conclude, Mr. President, with this observation. It has been a pleasure to work with the White House on this nomination. From the time that his name came forward, they worked diligently to conclude the FBI process, which does take some time. We received from the White House the Sunday before Congress adjourned in November the file for Judge Silverman and the committee was able to get that file in 1 day, the following Monday.

ORRIN HATCH, the chairman of the Judiciary Committee, who has been criticized for holding up some nominees, I must say, deserves a great deal of credit here for personally conducting the hearing for Judge Silverman. And then the following day—this is now 3 days after we received the file—scheduling an executive session of the committee so that we could send his nomination to the full Senate floor.

Chairman HATCH and I then requested the majority leader on the last day of the session in November to clear this nomination so that the ninth circuit could receive him and have his services. Unfortunately, the democratic leader was not able to clear Judge Silverman on the democratic side and therefore about 2½ months, unnecessarily, the ninth circuit was without a judge in this particular position. But I am particularly pleased that he is before us today and that we will very soon have an opportunity to vote and to confirm Judge Silverman for the Ninth Circuit Court of Appeals.

Mrs. BOXER. Mr. President, I am very glad that we are moving forward with judges today. We all hear, as we are growing up, that, ''Justice delayed is justice denied,'' and we have, in many of our courts, vacancies that have gone on for a year, 2 years, and in many cases it is getting to the crisis level. So I am pleased that we will be voting. I think, whether the delays are on the Republican side or the Democratic side, let these names come up, let us have debate, let us vote.

In that regard, I am looking forward to having our debate on the nominee I had recommended to President Clinton, Margaret Morrow, who has the strong support of Senator HATCH, many Republicans on the Judiciary Committee, and I am very hopeful we can get that nomination resolved.

I know that our leaders had agreed that vote would take place before the February recess and I will be speaking with both leaders to find out a date certain.

## ORDER OF PROCEDURE

Mr. KYL. Mr. President, at this time I ask unanimous consent that immediately following the vote at 2:15 and confirmation of the two additional nominations, there be a period of morning business with Senators permitted to speak for up to 5 minutes each. I further ask unanimous consent that at 3 o'clock p.m. today Senator COVERDELL be recognized as under the previous order for 90 minutes, to be followed by Senator DASCHLE or his designee for 90 minutes.

Mrs. BOXER. Reserving the right to object, will the Senator amend his request to give the Senator from California 5 minutes at this time?

Mr. KYL. Mr. President, I have no objection. If under the previous order that is permitted, it's fine with me.

The PRESIDING OFFICER. Without objection, it is so ordered.

## WITHDRAWAL OF COSPONSORSHIP—S. 1028

Mrs. BOXER. Mr. President, I ask unanimous consent that my name be removed from S. 1028 as a cosponsor of that legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. Thank you very much, Mr. President. This is a forest bill that is very controversial. After I placed my name on it a study came out that basically, in my opinion, led me to believe that the bill in its current form would not be good for the Nation's forests.

## STATE OF THE UNION—1998 AGENDA

Mrs. BOXER. Mr. President, last night we learned from our President that the state of the Union is the strongest it has been in decades. The ''misery index,'' that is inflation and interest rates combined, is at a 30-year low. Inflation is practically nonexistent. The Federal deficit is about to be eliminated. Over 14 million new jobs have been created in the last 7 years. We are seeing the lowest unemployment rate in a quarter of a century at 4.7 percent today. And we have seen the highest home ownership rate in history, nearly 6 million new homeowners since 1992.

The booming economy and the bright fiscal picture give us a wonderful opportunity to continue to support a balanced budget, but one with a heart and one that makes critical investments in important areas, many outlined by the President—education, health care, health research, the environment, anticrime efforts, child care and, of course, ensuring that Social Security will be fiscally sound well into the next century.

I am looking forward to working hard, on a bipartisan basis, with my colleagues as we write this budget. I am privileged to serve on the Budget Committee where we will take the first crack at crafting a Senate budget. I also sit on other committees that will carry through some of those priorities.

I want to point out just a couple of issues that the President talked about which are very near and dear, not only to my heart but, much more important, to the hearts of the people that I represent, the people of California.

This important issue is after-school care. It is a little-known fact that juvenile crime peaks up at 3 o'clock and begins to go down at 6 o'clock. So, between 3 and 6 our children need something to say ''yes'' to. They need mentoring. They need help with their homework. The after-school hours are an opportune time for business to come in and teach our young people about business, teach them computers and the many skills that they need to succeed.

I have written a bill that would set up some model after-school programs. I was debating, should I offer it in the context of education or should I offer it in the context of juvenile crime reduction. After-school programs both improve education and reduce juvenile crime.

The President is launching a huge initiative there. He is also calling for and end to social promotion, 100,000 new teachers to help our children, and something that is important, reducing class sizes in the early grades. We need to implement voluntary national standards and we must rebuild our crumbling schools and build the new schools of the 21st century. This President is on his way to being the true education President. I want us to be the true education Senate, and I very much look forward to the time we will spend on this Senate floor debating education.

The President is calling our attention to the current health care crisis. We took a giant step in helping our young people last year, by giving a block grant to the States. They are going to work on making sure our children are insured.

There is a big gap between the ages of 55 and 65, while people are waiting to get into Medicare, and the President proposes a pay-as-you-go system to handle some of those people, to allow

them to buy into Medicare. I want to emphasize this is a pay-as-you-go system. We have heard criticism that we can't do anything to expand Medicare without harming Medicare. I don't think there is anyone in the Senate who would do that. We want to make sure that anything that we put forward pays for itself.

The President also touched on the rights of health care consumers to get quality health care from HMOs. These health maintenance organizations often deliver care in a very efficient manner. The question is, is the quality there? I wrote a bill, the Health Care Consumers' Bill of Rights Act, which parallels a lot of what the President talked about. I hope we can enact a patient's bill of rights this year.

When I was in my State, I had the good fortune to meet with a gentleman named Harry Christie, who had a poignant story to tell. His daughter Carley at age 9 was diagnosed with a rare and aggressive form of kidney cancer. His HMO refused to allow him to take that child to a pediatric surgeon who specialized in this very delicate operation. So, Mr. Christie was faced with a terrible choice. What to do? He dug into his own pocket, he somehow got the thousands of dollars—$40,000 to be exact—to pay for Carley's operation. This story has a happy ending. Carley had the operation. She is 14 years old. She is cancer free. But only because her dad went against the HMO.

I don't want to see any other parent in America go through that torture. If there is a specialist available to handle a crisis, anyone in this country who has health insurance should be able to go to that specialist. That would be part of the patients' bill of rights.

I am ready to work with my colleagues to develop a consensus HMO reform bill that we can pass and send to the President for his signature. In the end, it doesn't matter whose name is on the bill. I do not care if it is a Democratic bill or a Republican bill. Our task is simply to get the job done. I look forward to working on this legislation and I hope the Majority Leader will schedule action on it this year. In my view, HMO reform must be a top priority of this session of Congress.

In the crime area, I will be urging my colleagues in the Senate to agree to legislation that will require all makers of handguns to include child safety locks in the weapons. The President proposed this last year, a number of manufacturers have voluntarily complied, but I want to ensure that all of them do.

I will also continue to make the case for my legislation to ban the manufacture and sale of ''junk guns'' or ''Saturday night specials'', which are cheap, poorly made guns that are so often used in the commission of crimes. I realize that the chances of such legislation passing are low, given the current makeup of the Congress, but I think that it is important to raise the issue, nevertheless.

As a member of the Environment and Public Works Committee, I will be working a number of bills that are of great importance to the people and communities of my state, including reforming the Superfund program to clean up contaminated sites across the country.

I will seek opportunities to enact my legislation, the ''Children's Environmental Protection Act'', which would require all of our environmental health and safety standards to be set at levels that would ensure protection of children, the elderly, and pregnant women, and other vulnerable groups. It would also require the EPA to establish a list of ''safer-for-children'' products such as pesticides and household cleaners, to give concerned consumers more information on the products found in all American households.

I also applaud and will work to enact the President's ''Clean Water Initiative'', which will provide substantial new resources to fulfill the promise of the Clean Water Act to give all Americans clean, safe lakes, rivers and coastal waters.

Sometime in the next few weeks, the Senate is expected to take up the transportation infrastructure bill—ISTEA—and I look forward to that debate. Californians are anxious to see quick action on that legislation, which provides funding for highway, transit, and other transportation projects throughout the state.

Last night, the President announced that his budget, which he will submit to Congress next week, will be in balance beginning in fiscal year 1999. The Budget Committee, of which I am a member, began its hearings on the state of the economy and the federal budget this morning. I believe that we can balance the budget next year, and I will work to ensure that it happens. Hopefully, we can start seeing budget surpluses in future years. But I want to be very clear about that: before we do anything else, we must ensure the integrity of the Social Security trust fund, so that baby boomers and future generations can count on getting the benefits for which they have contributed all their working lives.

Within the context of a balanced budget, I believe we have the resources for limited, targeted tax reduction. I will introduce a bill in the next few days to provide a tax deduction for the cost of buying health insurance to people whose employers do not provide health plans and for those who are unemployed.

There are many other issues I could go into. I see my friend Senator GRAMS is here. We just spent about an hour together in the Budget Committee. I am sure he has some valuable issues to lay out for the Senate. But I do think it is important to know—and I am putting it in very blunt terms—that although we celebrate a balanced budget, if it weren't for the surplus of Social Security that we are borrowing, we would still be in debt. It is time to pay back the Social Security trust fund. You know, there are many trust funds that we have, that we should pay back—they are much smaller than Social Security; we can do it easily—the Land and Water Conservation Fund, the Aviation Trust Fund, the Highway Trust Funds. Those are small. We can pay them back. But Social Security is large.

If you owe a debt to someone in life you have to pay him or her back. When I have young people standing up at my community meetings, looking me in the eye, who say, ''Can you tell me Social Security will be there when I need it? I'm 30 years old and I'm not sure.'' I tell them when I was 30 I wasn't sure Social Security would be there. But because of the policies of the Senators, the Congress, the Presidents of both parties, Social Security will be there for me and my family. ''I assure you,'' I said to this last gentleman that mentioned it, ''it will be there for you. But only if we heed what President Clinton said.''

We have to pay back the Social Security trust fund and then we will have something to be very proud of. We will look back at this time in our history and the people will say about us that we made the right investments in the right things. They paid dividends. They made our people strong and our country strong. And, yes, we saw a looming problem called Social Security and Medicare and we acted to shore up those funds to make sure that future generations will have what this generation has—peace and security.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. GRAMS. Mr. President, I ask unanimous consent to be allowed to speak as in morning business for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

## JUST FOUR DAYS FROM NOW: THE NUCLEAR WASTE STORAGE COUNTDOWN

Mr. GRAMS. Mr. President, the American taxpayers sat down last night to listen to their Chief Executive speak about the state of the union and the future of our country. Bill Clinton knows how to give a good speech, and as we have come to expect, last night's was filled with lots of proposals and promises and reminders of some of the successes of the past year.

It is true—our nation has seen some good times recently. By returning accountability to Washington, we have brought the Federal deficit under control and reduced unemployment to its lowest levels this decade. We have cut taxes for working families for the first time in 16 years. The markets have soared to all-time highs and the economy is churning out rewards for anyone willing to work. Americans are feeling good about their country and about their futures.

Unfortunately, their President failed to warn them last night—even once during his 75-minute speech—that many of the achievements he acknowledged are at risk, threatened by a Federal Government failure so massive that it may take the taxpayers years, even decades, to burrow out from underneath it. What could be so potentially devastating? The failure of the U.S. Department of Energy to begin accepting the Nation's spent commercial nuclear fuel.

And, Mr. President, the taxpayers will inherit the responsibility for that failure just 4 days from now.

After 16 years of denials, delays, and indifference on the part of the U.S. Department of Energy, combined with the politics of special interest groups, the American taxpayers are about to find themselves saddled with the liability for our Nation's nuclear waste. It is a liability they do not deserve, and one they most certainly cannot afford.

The clock has been ticking relentlessly for 16 years, and on Saturday night, at midnight, the clock will finally run out on the taxpayers on this issue. After a decade and a half of playing ''cat-and-mouse'' with the Congress and the courts, it appears as though the DOE may be successful in ducking out of its responsibility. But that can only happen if Congress allows this Administration to get away with it unchallenged.

Mr. President, I stand before you today to pledge that this Senator will not let that happen.

For 16 years, the public has been assured that by January 31st, 1998, just 4 days from now, the Federal Government would take responsibility for storage of the Nation's commercial spent nuclear fuel. Since enactment of the Nuclear Waste Policy Act of 1982, energy ratepayers have been charged a one-mill fee per kilowatt-hour in exchange for this ''promise.'' Each dollar collected is from a consumer located in one of the 34 States that benefit from nuclear energy. Only those who benefit from the lower-cost nuclear power—not the general public—would supposedly fund the waste storage.

Dutifully, ratepayers around the country have paid their fees—to the tune of some $13 billion. For Minnesota alone, this translates into more than $271 million. For 16 years, these fees have poured into the Nuclear Waste Fund based upon a legal—and contractual—obligation that the waste would be removed.

Today, with $7 billion of those ratepayer dollars already spent, the waste is piling up. Nobody at the DOE wants it, nobody at the DOE is prepared to claim it, and because there is no place to put it, nobody at the DOE would be ready to take it by January 31 anyway. Again, that is just 4 days from now.

At the same time, energy consumers are pouring billions into the waste fund, ratepayers and utilities are continuing to pay for on-site storage at more than 70 commercial nuclear plants throughout the country.

In other words, ratepayers are being forced to pay twice for nuclear waste storage, all because the Department of Energy has failed to meet its legal obligations to the American people.

As troubling as this expensive delay has been, that fact alone is not the greatest affront to the American public. What I find most troubling is the financial risk the DOE has dumped at the feet of the taxpayers, because suddenly, every one of them will soon be on the hook for the nuclear waste debacle.

Since coming to Congress in 1993, I have watched the Energy Department play a protracted game of ''would not, could not, should not'' with the States, the ratepayers, and the Congress. It is a bob-and-weave strategy the DOE has had 16 years to perfect.

In 1994, the DOE argued that it would not accept the nuclear waste by 1998 because the law did not require it to do so. At that time, Minnesota was threatened with a premature shutdown of its Prairie Island nuclear facility, again, due to a lack of on-site storage. The DOE's claim exacerbated an already difficult situation for the State legislature and Minnesota residents, as the State faced the very real possibility it would lose up to 30 percent of its energy resources.

But the Energy Department's flippant response at the time was, ''It's your problem, not ours.''

And so the States went to court. They sued and they won. In July of 1996, the DC Circuit Court of Appeals ruled that the nuclear waste was the DOE's problem and that the January 31st deadline did apply. When the DOE argued that they would not take the waste, the court told them, ''yes, you will.''

Over the next few months, the DOE was silent on the issue. And so the States wrote to the department asking of its plans to comply with the court decision. The following month, the Department of Energy responded by writing to utilities soliciting their ideas on how they would cope with a failure by the agency to meet the deadline. Having exhausted the ''would not'' argument, the DOE was now arguing in essence that they ''could not'' comply with the law.

In June of 1997, the DOE, in direct defiance of the 1996 court order, again asserted that delay was unavoidable due to ''acts of Government in its sovereign capacity,'' and once again made it the States' and utilities problem, not theirs.

So back to court went the States and utilities.

Last November, the DC Circuit Court of Appeals, the same court that ruled the year before, again affirmed that the Department of Energy's obligation to accept the nuclear waste. The panel stated explicitly that the federal government could not surrender its responsibility or liability, and alluded to whether the DOE was putting the taxpayers on the hook for its failure to comply.

Mr. President, the estimates of potential damages and awards have put the dollar figure as high as $80 billion, and some believe it could go significantly higher. That is a public bailout of immense proportions that would rival the savings and loan bailout.

It was never the intent of Congress to put the taxpayers at risk when it enacted the Nuclear Waste Policy Act of 1982. Nor is that the desire of the 34 States that have nuclear waste stored on-site; they would rather see the waste removed so the production of low-cost power can continue. Still, the Energy Department persists in opposing the people at every turn.

Mr. President, on December 29th, 1997, just a few weeks ago, the Department of Energy filed a ''Petition for Rehearing'' in an effort to nullify the earlier court rulings. This most recent stunt by the DOE reflects their new position that they ''should not'' be held responsible—technically or financially—primarily because these lawsuits have been heard in the wrong court.

After the DOE's cries of ''would not, could not, should not,'' it is now up to Congress to respond in the positive: we will protect the taxpayers; and we can develop a solution for resolving the nuclear waste storage crisis; and we must enact the Nuclear Waste Policy Act of 1997 as soon as possible, legislation I have coauthored with my friends and colleagues, Senators CRAIG and MURKOWSKI.

Mr. President, our legislation would set in motion the implementation of a timely and environmentally sound waste solution, and was adopted by overwhelming, bipartisan votes last year in the Senate and House. Nevertheless, with conferee appointments pending, a veto threat from the administration may yet derail the bill. So once again, the Department of Energy is blocking the will of the people.

The taxpayers have the most to lose if the Department of Energy prevails and we accept the status quo. These are hard-working Americans who have to keep a budget and account for their spending, and they expect the Federal Government to exercise that same accountability with their tax dollars as well. With so many Government agencies and programs fighting for limited funds, how can the taxpayers possibly afford a multi-billion-dollar bailout of the Energy Department? How can the Nation's energy consumers afford additional on-site storage, early decommissioning costs, alternative fuel purchases to compensate for lost power? How can they afford refinancing the billions wasted from the Nuclear Waste Fund? How will the economy handle the loss of jobs and productivity that will certainly follow when energy costs begin to soar and generating facilities begin to shut down?

How is it possible that all of this will be set into motion just 4 days from now, and yet it did not merit a single sentence in the President's State of the Union Address last night?

The President last night also failed to mention that these costs will be borne as much by grandma and grandpa as they will by any corporate executives or Members of Congress. He did not mention that nuclear power is a fuel that burns nothing, thereby helping us achieve cleaner air and a better environment. He failed to mention that the costs of his global warming treaty will be even higher for every American if we continue to shut down nuclear power plants in favor of coal-burning technologies. And most regrettably, he failed to offer any kind of explanation into why his administration supports the Department of Energy as they unlawfully stick it to the American taxpayers.

While the DOE waits, and hides behind courtroom appeals, and shirks its responsibilities that it is legally bound to accept, Americans across our country can expect yet more rate increases and yet higher taxes from a government that is either too afraid or too incompetent to act.

How can we face ourselves come Sunday morning—just 4 days from today—if we simply step back and quietly allow this to happen? We could not, we should not, and we will not.

So finally, Mr. President, I urge my colleagues to reassure their constituents that come midnight on Saturday, the people will not be forgotten, that they will return to Washington next week and fulfill their oath to protect the taxpayers and ensure that their Government fulfills its obligation to them, and that we will never allow such a failure to happen again.

Thank you very much, Mr. President. And I yield the floor.

## RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

There being no objection, at 12:51 p.m., the Senate recessed until 2:15; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. ROBERTS).

## EXECUTIVE SESSION

### THE JUDICIARY

VOTE ON NOMINATION OF ANN L. AIKEN

The PRESIDING OFFICER. Under the previous order, the question is, Will the Senate advise and consent to the nomination of Ann L. Aiken, of Oregon, to be United States District Judge for the District of Oregon? On this question, the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina [Mr. FAIRCLOTH] is necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina [Mr. FAIRCLOTH] would vote ''no.''

Mr. FORD. I announce that the Senator from Illinois [Mrs. DURBIN] and the Senator from Illinois [Ms. MOSELEY-BRAUN] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced— yeas 67, nays 30, as follows:

[Rollcall Vote No. 1 Ex.]

YEAS—67

| | | |
|---|---|---|
| Akaka | Feinstein | Mikulski |
| Baucus | Ford | Moynihan |
| Bennett | Glenn | Murray |
| Biden | Gorton | Reed |
| Bingaman | Graham | Reid |
| Boxer | Harkin | Robb |
| Breaux | Hatch | Rockefeller |
| Bryan | Hollings | Roth |
| Bumpers | Inouye | Santorum |
| Byrd | Jeffords | Sarbanes |
| Campbell | Johnson | Sessions |
| Chafee | Kempthorne | Shelby |
| Cleland | Kennedy | Smith (OR) |
| Coats | Kerrey | Specter |
| Cochran | Kerry | Stevens |
| Collins | Kohl | Thomas |
| Conrad | Landrieu | Thompson |
| Daschle | Lautenberg | Thurmond |
| DeWine | Leahy | Torricelli |
| Dodd | Levin | Wellstone |
| Domenici | Lieberman | Wyden |
| Dorgan | Lugar | |
| Feingold | Mack | |

NAYS—30

| | | |
|---|---|---|
| Abraham | Frist | Kyl |
| Allard | Gramm | Lott |
| Ashcroft | Grams | McCain |
| Bond | Grassley | McConnell |
| Brownback | Gregg | Murkowski |
| Burns | Hagel | Nickles |
| Coverdell | Helms | Roberts |
| Craig | Hutchinson | Smith (NH) |
| D'Amato | Hutchison | Snowe |
| Enzi | Inhofe | Warner |

NOT VOTING—3

| | | |
|---|---|---|
| Durbin | Faircloth | Moseley-Braun |

The nomination was confirmed.

Mr. WYDEN. Mr. President, I move to reconsider the vote.

Mr. SMITH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON NOMINATIONS OF BARRY G. SILVERMAN AND RICHARD W. STORY

The PRESIDING OFFICER. The question is on the confirmations, en bloc, of Barry G. Silverman, of Arizona, to be a circuit judge of the ninth circuit, and Richard W. Story, of Georgia, to be a district judge for the Northern District of Georgia.

The nominations were confirmed.

Mr. LEAHY. Mr. President, I am delighted that we have finally broken the logjam on Ninth Circuit vacancies. Judge Silverman is the first judge to be confirmed to this Court in two years. In the meantime, the Court has been suffering from vacancies amounting to more than one-third of the authorized judgeships for the court and had to cancel over 600 arguments last year.

I congratulate Judge Silverman and his family and thank Senator KYL for his cooperation in this effort. I hope that we will move forward promptly to consider the nominations of Judge Richard Paez, Professor William Fletcher, Margaret McKeown and the others needed to staff this important court.

## LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

## MORNING BUSINESS

The PRESIDING OFFICER. There will now be a period for the transaction of morning business.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

## JUDICIAL NOMINATIONS

Mr. KENNEDY. Mr. President, I was unable to make my comments earlier involving the consideration and approval of the various judges. I would like to address the Senate for a few moments on this particular issue and, most importantly, to express the strong support for the three nominations that have just been confirmed by the Senate.

Judge Silverman has served with distinction for the past three years on the federal district court in Arizona and will be an impressive member of the 9th Circuit Court of Appeals. Judge Richard Story, has served as a state court judge for many years, and will do an excellent job on the United States District Court in Northern Georgia.

I am particularly pleased that at long last the Senate is allowed to consider the nomination of Judge Ann Aiken. She is an outstanding choice for the federal district court in Oregon. For the past decade, she has served with distinction as a state court judge—first on the district court and, for the past five years on the circuit court. She is widely respected in Oregon for her service to her community. She received the Woman of Achievement award in 1993 from the Oregon Commission for Women. The U.S. Department of Justice honored her in 1994 for her leadership in helping victims of crime.

But despite her impressive qualifications, her nomination has been stonewalled by Republicans in the Senate for more than two years.

On the average, it is taking twice as long for Senate Republicans to confirm President Clinton's nominees as it took for Democrats to act on President Bush's nominations to the federal courts.

For women, the problem is especially serious. Women nominated to federal judgeships are being subjected to greater delays by Senate Republicans than men.

So far in this Republican Congress, women nominated to our federal courts are four times—four times—more likely than men to be held up by the Republican Senate for more than a year.

Last year, the Senate confirmed 30 men, but only 6 women. So only 17 percent of the nominees that the Republican leadership brought before the Senate were women—half as many as President Clinton nominated.

The country is paying a heavy price for this obstruction. Citizens can't get their day in court, because the Republican Senate is playing politics with the courts and preventing needed judicial positions from being filled.

When even a Republican Chief Justice criticizes the Republican Congress, you know something's wrong.

Chief Justice Rehnquist issued his annual year-end report on the State of the Judiciary last month, and he sharply criticized the Republican Senate for refusing to move more quickly to confirm judges.

The Chief Justice is deeply concerned about the high number of judicial vacancies on the federal courts. There are too few judges to handle the workload.

The Republican bottleneck in the Senate is jeopardizing the court system and undermining the quality of justice. Of the 77 judicial nominations pending last year, only 36 were confirmed—less than half. Eleven have been awaiting action for over 18 months.

That's a scandal. Nominees deserve a vote. If our Republican colleagues don't like them, vote against them. But don't just sit on them—that's obstruction of justice.

Free and full debate over judicial nominations is healthy. The Constitution is clear that only individuals acceptable to both the President and the Senate should be confirmed. The President and the Senate do not always agree. But we should resolve these disagreements by voting on these nominees—yes or no. As Chief Justice Rehnquist said in his annual report, ''The Senate is surely under no obligation to confirm any particular nominee, but after the necessary time it should vote'' up or down.

Some Republicans claim they are protecting the federal courts from ''judicial activism.'' But this argument is a smokescreen. If President Clinton is actually nominating judicial activists, then why is it that these nominees are approved almost unanimously when the Senate is finally allowed to vote on them?

Eric Clay's nomination to the Sixth Circuit Court of Appeals was held up in the Senate for more than 15 months. He was finally confirmed—unanimously—by voice vote.

Joseph Battalion—President Clinton's nominee to the District Court of Nebraska—was held up for 17 months. Then he, too, finally passed the Senate on a voice vote.

Other nominees were confirmed by overwhelming votes, but only after long delays. Katherine Sweeney Hayden was confirmed to the District Court in New Jersey by a vote of 97–0. Ronald L. Gilman's nomination to the Sixth Circuit Court of Appeals and Janet C. Hall's nomination to the District Court of Connecticut were each confirmed by a vote of 98–1.

The closest vote we have had on any of President Clinton's judicial nominees was 76 to 23 in favor of confirmation.

Clearly, the Republicans' claim that Clinton judges are activist judges is a transparent smokescreen being used to slow down the confirmation process. The reason is obvious. The Republican majority in Congress is doing all it can to prevent a Democratic President from naming judges to the federal courts. The courts are suffering and so is the nation.

In some areas of the country, people have to wait years to have their cases even heard in court. And then they have to wait years more for overburdened judges to find time to reach their decisions. Families, workers, small businesses, women and minorities have traditionally looked to the courts to resolve disputes. The lack of federal judges makes the swift resolution of their cases impossible.

The number of cases filed in the federal appeals courts has grown by 11 percent over the last six years. The average time between filing and disposition has also increased. Courts with long-standing vacancies are in even worse shape.

In the District Court in Oregon, the court to which Ann Aiken has been nominated, the number of case filings has risen by nearly a third since 1990.

Another nominee, Margaret Morrow has been nominated to the federal district court in Los Angeles, and I hope we will consider her nomination next week. Since 1994, the caseload in that court has grown by 15 percent. The time people have to wait for their civil cases to be resolved has increased by 11 percent. In that district, over 300 pending civil cases are more than three years old.

Real people are being hurt. Consider the case of Rudy Boerseker, a 40-year-old mine worker in Illinois who was injured by poor maintenance of equipment. The facts of the case made clear that the accident resulted from the mining company's negligence. Yet Mr. Boerseker was finally forced to accept a settlement for less than half of what he would probably have received if the case had gone to trial.

He agreed to an unfair settlement, because he could not afford to wait the three or four years it would take for the case to be decided.

In the Southern District of Texas, 4,000 victims of a student loan scam are waiting for the outcome of a class action suit that has been pending for almost eight years.

In South Carolina, there is still no decision in a suit filed more than six years ago against the state's apportionment laws. The outcome of this case will affect hundreds of thousands of citizens. It goes to the heart of whether the basic constitutional principle of ''one person, one vote'' is being fairly applied.

In Southern Florida, Julio Vasquez—a U.S. citizen migrant worker—broke his leg in 1989 in a boarding house provided by his employer. To this day, nearly nine years later, Mr. Vasquez has never received sufficient medical attention, and his injury affects his ability to work. He is still waiting for the judge's ruling in his case.

In the District Court of Oregon, a five-million dollar judgment in favor a family business in a patent dispute with a Fortune 500 firm was tied up for more than a year because of the delays caused by two vacancies on the court.

These examples are typical victims of the vacancy crisis in the federal courts.

They are hard-working Americans injured on the job—citizens seeking to exercise their right to vote—students trying to get an education—small businesses denied their rights by large corporations.

It is time to end these delays and end these industries. It's a new year, and a new session, and I hope very much that our colleagues will turn over a new leaf and end these unreasonable, unacceptable, and unconscionable delays.

## NOTICE OF PROPOSED RULEMAKING

Mr. THURMOND. Mr. President, pursuant to Section 303 of the Congressional Accountability Act of 1995 (2 U.S.C. sec. 1383), a Supplementary Notice of Proposed Rulemaking was submitted by the Office of Compliance, U.S. Congress. This Supplementary Notice requests further comment on proposed amendments to procedural rules previously adopted implementing various labor and employment and public access laws to covered employees within the Legislative Branch.

Section 304(b) requires this Notice to be printed in the CONGRESSIONAL RECORD, therefore I ask unanimous consent that the notice be printed in the RECORD.

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

OFFICE OF COMPLIANCE—THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995: AMENDMENTS TO PROCEDURAL RULES

SUPPLEMENTARY NOTICE OF PROPOSED RULEMAKING

*Summary:* On October 1, 1997, the Executive Director of the Office of Compliance (''Office'') published a Notice of Proposed Rulemaking (''NPRM'') to amend the Procedural Rules of the Office of Compliance to cover the General Accounting Office (''GAO'') and the Library of Congress (''Library'') and their employees. 143 Cong. Rec. S10291 (daily ed. Oct. 1, 1997). The Congressional Accountability Act of 1995 (''CAA'') applies rights and protections of eleven labor, employment, and public access laws to the Legislative Branch. Sections 204–206 and 215 of the CAA, which apply rights and protections of the Employee Polygraph Protection Act of 1988 (''EPPA''), the Worker Adjustment and Retraining Notification Act (''WARN Act''), the Uniformed Services Employment and Reemployment Act of 1994 (''USERRA''), and the Occupational Safety and Health Act of 1970 (''OSHAct''), became effective with respect to GAO and the Library on December 30, 1997. The NPRM proposed to extend the Procedural Rules to cover GAO and the Library and their employees for purposes of: (1) proceedings relating to these sections 204–206 and 215, (2) proceedings relating to section

207 of the CAA, which prohibits intimidation and reprisal for the exercise of rights under the CAA, and (3) regulating ex parte communications.

In the only comments received in response to the NPRM, the Library questioned whether the CAA authorizes employees of the Library to initiate proceedings under the administrative and judicial procedures of the CAA alleging violations of sections 204–207 of the Act. The Office is publishing this Supplementary Notice of Proposed Rulemaking (this ''Notice'') to give the regulated community an opportunity to provide further comment on the questions raised by the Library's submission.

With respect to proceedings relating to section 215 of the CAA (OSHAct) and with respect to ex parte communications, a separate Notice of Adoption of Amendments is being prepared to extend the Procedural Rules to cover GAO and the Library and their employees and to respond to relevant portions of the Library's comments, and will be published shortly.

*Dates:* Comments are due within 30 days after the date of publication of this Notice.

*Addresses:* Submit comments in writing (an original and 10 copies) to the Executive Director, Office of Compliance, Room LA 200, John Adams Building, 110 Second Street, S.E., Washington, D.C. 20540–1999. Those wishing to receive notification of receipt of comments are requested to include a self-addressed, stamped post card. Comments may also be transmitted by facsimile (''FAX'') machine to (202) 426–1913. This is not a toll-free call.

*Availability of comments for public review:* Copies of comments received by the Office will be available for public review at the Law Library Reading Room, Room LM–201, Law Library of Congress, James Madison Memorial Building, Washington, D.C., Monday through Friday, between the hours of 9:30 a.m. and 4:00 p.m.

*For further information contact:* Executive Director, Office of Compliance, at (202) 724–9250 (voice), (202) 426–1912 (TTY). This Notice will be made available in large print or braille or on computer disk upon request to the Office of Compliance.

SUPPLEMENTARY INFORMATION

The Congressional Accountability Act of 1995 (''CAA'' or the ''Act''), Pub. L. 104–1, 2 U.S.C. §§ 1301–1438, applies the rights and protections of eleven labor, employment, and public access laws to certain defined ''covered employees'' and ''employing offices'' in the Legislative Branch. The CAA expressly provides that GAO and the Library and their employees are included within the definitions of ''covered employees'' and ''employing offices'' for purposes of four sections of the Act:

*(a) EPPA.* Section 204, making applicable the rights and protections of the Employee Polygraph Protection Act of 1988 (''EPPA'')—in which subsection (a) generally prohibits an employing office from requiring a covered employee to take a lie detector test, regardless of whether the covered employee works in that employing office; and subsection (b) provides that the remedy for a violation shall be such legal and equitable relief as may be appropriate, including employment, reinstatement, promotion, and payment of lost wages and benefits.

*(b) WARN Act.* Section 205, making applicable the rights and protections of the Worker Adjustment and Retraining Notification Act (''WARN Act'')—in which subsection (a) prohibits the closure of an employing office or a mass layoff until 60 days after the employing office has served written notice on the covered employees or their representatives; and subsection (b) provides that the remedy for a violation shall generally be back pay and benefits for up to 60 days of violation.

*(c) USERRA.* Section 206, making applicable the rights and protections of section 2 of the Uniformed Services Employment and Reemployment Rights Act of 1994 (''USERRA'')—in which subsection (a) protects covered employees who serve in the military and other uniformed services against discrimination, denial of reemployment rights, and denial of benefits by employing offices; and subsection (b) provides that the remedy for a violation shall include requiring compliance, requiring compensation for lost wages or benefits and, in case of a willful violation, an equal amount as liquidated damages, and the use of the ''full equity powers'' of ''[t]he court'' to fully vindicate rights and benefits.

*(d) OSHAct.* Section 215, making applicable the rights and protections of the Occupational Safety and Health Act of 1970 (''OSHAct'')—in which subsection (a) protects the safety and health of covered employees from hazards in their places of employment; subsection (b) provides that the remedy for a violation shall be an order to correct the violation; and subsection (c) specifies procedures by which the Office of Compliance conducts inspections, issues and enforces citations, and grants variances.

Sections 204–206 and 215 go into effect by their own terms with respect to GAO and the Library one year after transmission to Congress of the study under section 230 of the CAA. The Board of Directors of the Office (''Board'') transmitted its study (the ''Section 230 Study'') to Congress on December 30, 1996, and sections 204–206 and 215 therefore went into effect at GAO and the Library on December 30, 1997.

The NPRM proposed to extend the Procedural Rules of the Office, which govern the consideration and resolution of alleged violations of the CAA, to cover GAO and the Library and their employees in four respects:

*(1)* Sections 401–408 of the CAA establish administrative and judicial procedures for considering alleged violations of part A of Title II of the CAA, which includes sections 204–206, and the Procedural Rules detail the procedures administered by the Office under sections 401–406. On the premise that GAO and the Library and their employees are covered by the statutory procedures of sections 401–408 when there is an allegation that sections 204–206 have been violated, the NPRM proposed to extend the Procedural Rules to include GAO and the Library and their employees for the purpose of resolving any allegation of a violation of these sections.

*(2)* Section 207 prohibits employing offices from intimidating or taking reprisal against any covered employee for exercising rights under the CAA. On the premise that GAO and the Library and their employees are covered under section 207, as well as under the statutory procedures of sections 401–408 when there is an allegation that section 207 has been violated, the NPRM proposed to extend the Procedural Rules to include GAO and the Library and their employees for the purpose of resolving any allegation of intimidation or reprisal prohibited under section 207.

*(3)* Section 215 specifies the procedures by which the Office conducts inspections, issues citations, grants variances, and otherwise enforces section 215, and the Procedural Rules detail the procedures administered by the Office under that section. As these statutory procedures are part of section 215, which expressly covers GAO and the Library and their employees, the NPRM proposed to extend the Procedural Rules to cover these instrumentalities and employees for purposes of proceedings under section 215.

*(4)* Section 9.04 of the Procedural Rules, which regulates ex parte communications, includes within its coverage any covered employee and employing office ''who is or may reasonably be expected to be involved in a proceeding or rulemaking.'' As GAO and the Library and their employees may reasonably be expected to be involved in proceedings and rulemakings, the NPRM proposed to extend the Procedural Rules to cover these instrumentalities and employees for purposes of section 9.04.

As to proceedings under section 215 of the CAA (OSHAct) and *ex parte* communications, the Library's comments argue that the Library should not now come under the Office's Procedural Rules generally or under the Rules relating to section 215 proceedings specifically. After considering those arguments, the Executive Director, with the approval of the Board, has decided to amend the Procedural Rules to cover GAO and the Library and their employees with respect to proceedings under section 215 and *ex parte* communications, and a NOTICE OF ADOPTION OF AMENDMENTS to accomplish this and to respond to relevant portions of the Library's comments is being prepared and will be published shortly.

However, as to whether CAA procedures cover GAO and the Library and their employees for purposes of resolving disputes under sections 204–207, the Library's comments raise issues of statutory interpretation upon which the Office seeks comment. The Library argues that Congress ''expressly excluded'' the Library and other instrumentalities from the application of all procedural and other provisions of the CAA other than the substantive provisions in Title II. The Library states: ''A fair reading of the CAA is that Congress intended to ensure that the Library's employees were covered by the substantive protections of the law, but that no procedural regulations should affect the Library's employees until the Office of Compliance completed its study [under section 230], made its legislative recommendations, and Congress acted on those recommendations.'' (The Office of Compliance had made the Library's entire submission available for public review in the Law Library Reading Room of the Law Library of Congress, at the address and times stated at the beginning of this Notice.) The Office hereby invites the views of the entire regulated community on the issues raised by the Library, including the following specific questions:

SUPPLEMENTAL REQUEST FOR COMMENTS

*1. Can GAO and Library employees use the administrative and judicial procedures of sections 401–408 of the CAA when a violation of sections 204–206 (EPPA, WARN Act, USERRA) is alleged?*

As noted above, the NPRM was premised on the view that the administrative and judicial procedures of sections 401–408 cover GAO and the Library and their employees with respect to proceedings where violations of sections 204–206 are alleged. Because the procedures in sections 401–408 can only be invoked upon an allegation that substantive rights granted in Title II have been violated, the procedures arguably derive their scope from the substantive provisions involved in a particular proceeding. Sections 204–206 expressly cover GAO and the Library and their employees, and, if the premise of the NPRM is correct, proceedings under sections 401–408 that involve alleged violations of sections 204–206 may likewise cover those instrumentalities and employees. However, the Library's comment challenged this premise, arguing that Congress ''expressly excluded'' the Library and other instrumentalities from the application of all portions of the CAA except the substantive provisions of Title II.

Commenters are asked to provide their views as to whether the statutory procedures

under sections 401–408 should be construed as covering GAO and the Library and their employees where violations of sections 204–206 are alleged, and are requested to present the legal rationales that may bear on this inquiry. Commenters should address:

The relationship, if any, between the substantive requirements and remedies granted in part A of Title II and the procedures established in Title IV of the CAA.

The definitions and usage of the defined terms ''covered employees'' and ''employing office'' in various portions of the Act.

Whether the statute can be read to provide substantive rights and remedies but not procedures.

The provision in section 415 of the CAA prohibiting the use of the Office's awards-and-settlements account for awards and settlements involving GAO and the Library.

The effect that section 225(d) of the CAA should have in determining this issue.

The canons of construction requiring that statutes in derogation of sovereign immunity must be construed strictly in favor of the sovereign and that a statutory construction which raises constitutional questions such as separation-of-powers may be adopted only if clearly required by the statutory text.

*2. Notwithstanding whether the procedures established under the CAA apply, are other procedures, whether internal or external to GAO and the Library, available for considering alleged violations of sections 204–206 and for imposing the remedies available under those sections?*

In considering the *Section 230 Study*, The Board received information from GAO and the Library and their employees indicating that a variety of internal and external venues are available for consideration of employee allegations of violations of workplace rights and protections. Commenters are invited to provide their views on the extent to which procedures other than those established by the CAA are available to GAO and the Library and their employees where a violation of sections 204–206 is alleged and the monetary and equitable remedies specified in those sections are sought. Furthermore, insofar as existing procedures may not comprehensively cover any dispute or provide any remedy afforded under the CAA, do GAO, the Library, and other employing offices have the authority to craft new procedures and, through such procedures, to grant whatever monetary and non-monetary remedies the CAA provides?

In responding to this inquiry, commenters are also asked to consider the implications of several provisions in the CAA. Do the following provisions limit the availability to GAO and the Library and their employees of the administrative, judicial, and negotiated procedures and might otherwise be available to them where violations of sections 204–206 are alleged and remedies granted under those sections are sought:

Section 225(d) and (e) and 401 contain provisions specifying, in general terms, what procedures must be used to consider a CAA violation and to seek a CAA remedy.

Sections 409 and 410 allow judicial review of CAA regulations and of CAA compliance only pursuant to the procedures of section 407, which provides for judicial review of Board decisions, and section 408, which provides a private right of action.

Commenters are also requested to be clear as to whether procedures available outside of the CAA cover claims by applicants for employment, former employees, and temporary and intermittent employees, and whether these procedures cover allegations by GAO or Library employees that their rights granted under the CAA were violated by other employing offices and allegations by employees of other employing offices that their CAA rights were violated by GAO or the Library.

*3. Does section 207 of the CAA cover GAO and the Library and their employees with respect to sections 204–206 and 215? If not, do other laws, regulations, and procedures covering GAO and the Library and their employees afford similar protection against intimidation and reprisal for exercising CAA rights?*

The NPRM proposed to amend the Procedural Rules to cover GAO and the Library and their employees with respect to ''any allegation of intimidation or reprisal prohibited under section 207 of the Act.'' While the Library did not object to this proposal, section 207 does not expressly cover GAO and the Library and their employees. Comment is therefore invited on whether the prohibition against intimidation and reprisal established by section 207 should be construed as covering GAO and the Library and their employees.

If section 207 is construed not to apply, would other laws and regulations covering GAO and the Library and their employees afford protection against intimidation and reprisal for exercising rights under the CAA? Would these laws and regulations afford the same substantive rights and remedies as section 207? What procedures would be available to consider violations and to impose such remedies? Commenters are requested to be clear as to whether such laws, regulations, and procedures outside of the CAA cover applicants for employment, former employees, and temporary and intermittent employees, and whether these laws, regulations, and procedures cover allegations that GAO or the Library intimidated or took reprisal against employees of other employing offices and allegations that other employing offices intimidated or took reprisal against GAO or Library employees for exercising rights granted under the CAA.

No decision will be made as to whether the Procedural Rules will be amended to cover GAO and the Library and their employees for purposes of alleged violations of sections 204–207 until after the comments requested in this Notice have been received and considered. During this interim period, the office will accept requests for counseling under section 402, requests for mediation under section 403, and complaints under section 405 filed by GAO or Library employees and/or alleging violations by GAO or the Library where violations of sections 204–207 of the CAA are alleged. Any objections to jurisdiction may be made to the hearing officer or the Board under sections 405–406 or to the court during proceedings under sections 407–408. The Office will counsel any employees who initiate such proceedings that a question has been raised as to the Office's jurisdiction and that the employees may wish to preserve their rights under any other available procedural avenues.

Signed at Washington, D.C., on this 26th day of January, 1998.

RICKY SILBERMAN,
*Exective Director, Office of Compliance.*

## THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, January 27, 1998, the Federal debt stood at $5,490,127,380,051.53 (Five trillion, four hundred ninety billion, one hundred twenty-seven million, three hundred eighty thousand, fifty-one dollars and fifty-three cents).

One year ago, January 27, 1997, the Federal debt stood at $5,312,990,000,000 (Five trillion, three hundred twelve billion, nine hundred ninety million).

Five years ago, January 27, 1993, the Federal debt stood at $4,174,096,000,000 (Four trillion, one hundred seventy-four billion, ninety-six million).

Ten years ago, January 27, 1988, the Federal debt stood at $2,448,164,000,000 (Two trillion, four hundred forty-eight billion, one hundred sixty-four million).

Fifteen years ago, January 27, 1983, the Federal debt stood at $1,196,387,000,000 (One trillion, one hundred ninety-six billion, three hundred eighty-seven million) which reflects a debt increase of more than $4 trillion—$4,293,740,380,051.53 (Four trillion, two hundred ninety-three billion, seven hundred forty million, three hundred eighty thousand, fifty-one dollars and fifty-three cents) during the past 15 years.

## CLIMATE-RELATED CHANGES

Mr. GRAMM. Mr. President, with the administration expected to seek eventual Senate approval of the recent Kyoto Protocols on ''global warming,'' I would like to enter into the RECORD an excellent article on the subject by the noted author and historian T.R. Fehrenbach. It is a timely reminder of the many climate-related changes our planet has experienced and places the current debate in much needed historical context. I commend this article to my Senate colleagues and ask unanimous consent that it be printed in the RECORD.

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

[From the San Antonio Express-News, Jan. 4, 1998]

WHO'S REALLY FULL OF HOT AIR?

The most cursory study of geology, archaeology and history shows that Earth has undergone vast climatic changes throughout its existence. The oil and gas under Texas soil come from natural decay when this land was a hot, fetid, fern-filled swamp. Later Texas was covered by sea, emerging again as geological ''new land.''

When the first human beings arrived, it was much cooler and wetter than today, supporting very different life forms from those Indians hunted in historic times.

Archaeology shows that Saudi Arabia was once a well-watered, populated plain, while Greece and Italy were heavily forested. Yes, people cut down those trees, some to make the ships that Helen launched, but man had nothing to do with the enormous climatic changes around the Mediterranean during our own geologic age, the decaying Pleistocene.

The world has grown steadily warmer and drier, the reason Spanish forests, once cut, never resprouted. Conversely, today in Alaska cut-over forests regrow within a few years without replanting.

The evidence of repeated glaciations—they seem to come about every 20,000 solar years—lies all over North America, the most obvious being our Great Lakes. During these repeated Ice Ages, Earth's water supply being constant, the oceans shrink, falling as much as 200 feet. The first Americans got here across a land bridge now sunk beneath

the Bering Sea. But as glaciation recedes the seas rise, which they have been doing for thousands of years.

In recorded history, we can trace a warming trend interspersed with ''little Ice Ages'' or irregular cold periods within the cycle. The Rhine and Danube froze over in late Roman times; wine-growing in those regions was impossible. With warming, olive orchards grew in France, only to be destroyed by horrendous cold in the late 16th and early 17th centuries, the same change that killed off Norse settlers in Greenland.

Climatology, a still-rudimentary science, attributes these cycles to sunspots, changes in the sun's energy output, or to slight tilts in the Earth's axis. A wobble can make a difference of a degree or two in average temperature, and that much difference can make seas recede or flood and huge areas unfit for agriculture.

Then there's El Niño, killing off marine life and raising hob on both sides of the Pacific Rim. It was around for thousands of years before the media discovered it.

Archeologists believe El Niños in A.D. 546 and 576 destroyed an early Indian civilization in Peru with floods, soil erosion and destruction of irrigation systems, followed by a 32-year-long drought.

And, of course, there's vulcanism, very active in our age. The bubbling up of Earth's molten core causes volcanic eruptions, earthquakes, and vanishing islands. Everybody knows about Pompeii; few know about the many thousands killed in this century, or the eruption of a Pacific crater that, by smoke and dust hurled into the atmosphere, caused crop failures across America in the early 1800s.

And, friends, the tectonic plates, which once separated continents, are still shifting ever so slightly. One day California may join Japan, if it doesn't join Atlantis first.

Climatic disasters occurred before man, and most have happened when there weren't enough wood-burning people around to create atmospheric pollution or much other kind. This is why I suspect the recent Kyoto Protocols on global warming (though it exists and governments should study it) are an exercise in human arrogance.

The Kyoto pontificators were mostly politicians, social scientists (which the media accept as ''scientists'') and bureaucrats, while climatologists, weathermen, and true ''hard'' scientists remain divided as to the causes of global warming and whether it's good or bad. They agree, meanwhile, that nothing disastrous in any case will happen for 100 years, when we may be in a new Ice Age.

Listening to the rhetoric makes me wonder if we've advanced all that far from the days of the Aztecs, when priest-rulers ordered sacrifices to propiate nature, in their case tossing virgins down wells to bring rain and cardiectomies to make the sun rise. We understand the forces of nature better—but we have no more control over them than ancient peoples praying to the moon.

Without more proof—of the scientific, not the ideological kind—I'm not prepared to sacrifice my Grand Cherokee to the current shamans' gods.

## MEDICARE, FREEDOM, AND PRIVATE CONTRACTS

Mr. GRAMM. Mr. President, one of the most important pieces of legislation that will be considered by the Senate this year is Senator JON KYL's bill, S. 1194, the ''Medicare Beneficiary Freedom to Contract Act''. I am proud to be an original co-sponsor of this bill.

Enactment of this legislation will insure that our senior citizens who participate in the Medicare program will retain the right to pay for the treatment or services they want from the doctor of their choice.

The Clinton administration has sought to restrict such a fundamental freedom but I do not believe that the American people will support that position once we have had a chance to bring the matter to their attention.

Mr. Kent Masterson Brown, writing in the Washington Times on January 25, 1998 has provided a succinct analysis of this issue and I commend his article to my colleagues. I ask unanimous consent that the article be printed in the RECORD.

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

MEDICARE'S ASSAULT AGAINST THE ELDERLY

Throughout my 23-year career as a litigator of constitutional issues, principally in the health care arena, I have witnessed the growth of Medicare with a sense of alarm.

From what was designed by Congress to be a ''voluntary'' health benefits program for the elderly, it has mutated into a bureaucratic leviathan that controls who provides health care services, and how those health care services are delivered—despite absolutely explicit, statutory guarantees to the contrary. We now have a federal agency—the Health Care Financing Administration (HCFA)—involved in a relentless effort to totally control the delivery of health care to the elderly by deciding, without legal authority, what services a physician will provide even though Medicare will not pay for them. Those controls now manifest themselves in the denial of basic health care services to the elderly, as well as denying the elderly access to the most innovative and cost-effective health care technologies.

HCFA has exercised its power to control the delivery of health care by steadily racheting down payment for health care services, and, at the same time, stepping up its threats against providers who deliver health care services which HCFA, for purely fiscal reasons, deems ''unnecessary'' even though those services might be life-saving and even though the federal government does not pay for them. Recent changes in law which we are challenging in court, will make the situation even worse.

To understand what is taking place, we need to start with the basic Medicare law. Nowhere in the Medicare Act is a beneficiary required to file a claim for payment for health care services each and every time he or she sees a physician. Yet, those in charge of HCFA threaten physicians with severe sanctions ''even criminal prosecution'' if they do not file such claims. Why make such a demand, which only adds to costs? If a car insurance company made such demands on its policyholders everytime a door was dinged it would go bankrupt.

In 1992, I had to file a lawsuit in federal court in Newark, N.J., in order to allow five patients to contract privately with their personal physician. All those patients wanted was the opportunity to see their physician in the nursing home more than once a month and to protect the privacy of their medical records, nothing more. The federal government, however, threatened the physician with sanctions if she complied with the patients' wishes and did not file a claim. HCFA entered the courtroom declaring that the physician could not contract privately with her Medicare patients because she is required to file a claim with Medicare each and every time she sees her Medicare patients. If those patients wanted to pay privately, HCFA declared, they could write a check to the federal government.

The federal court disagreed with HCFA in Stewart vs. Sullivan. The court found there were no statutory prohibitions against private contracting for Medicare beneficiaries and that HCFA had developed no ''clearly articulated'' policies against it. The threats were just that: threats. They were made without any statutory or even regulatory authority.

Last summer, all this sparring took a drastic turn for the worse. Congress, under pressure and threats from the Clinton administration, enacted Section 4507 of the Balanced Budget Act of 1997. This provision makes it unlawful for a physician to contract privately with a Medicare-eligible patient unless the physician agrees, in writing, not to bill Medicare for any services delivered to any Medicare patient for two years.

The practical consequences of Section 4507 ''which amounts to a de facto ban on private contracting'' are not difficult to foresee. We know, for example, more than 96 percent of the nation's physicians see Medicare patients. We know the vast majority of these physicians will not abandon all their current Medicare patients in return for entering into private contracts with a few. And we know many of the less than 4 percent of physicians not directly affected by the de facto ban already, for one reason or another, have been excluded from the Medicare program. Thus, no senior citizen will be able to contract privately for any meaningful health care services even if he or she could find a physician who was willing.

Seniors are thus left with a ''take it or leave it'' system that denies and rations health care. They will get only those services the federal government says they should get Nothing more can be provided—even if they wish to pay for it themselves.

What does this mean in real life terms? The answer is simple. For everyday, inexpensive screening and diagnostic laboratory services, our seniors will receive one, unless there is an ''approved'' diagnosis accompanying a claim for payment filed with HCFA. Because all laboratory services claims must be filed on an ''assignment'' basis, if HCFA will not pay, the services will not be provided unless the physician pays for them and exposes himself/herself to severe sanctions.

Thus, the elderly will be denied asymptomatic prostate-specific antigen (PSA) tests to detect prostate cancer, asymptomatic serum glucose tests to detect diabetes, and thyroid tests to detect hypothyroidism and hyperthyroidism, to name a few.

What is alarming is that senior citizens, more than most, need to have such tests available because as a group they are the most vulnerable to a variety of life-threatening diseases. To detect these diseases (all of which have long asymptomatic periods) early is to control or to cure them. That saves lives and money. If HCFA get its way, seniors will only get those important diagnostic tests after the symptoms have appeared—either too late for much help, or when intervention becomes expensive. That is how the federal government has determined to control health care for what it calls our ''frail elderly.''

This is Medicare's brave new world. It is a world that offers the minimum at best. It allows for no decision-making on the part of the Medicare beneficiary.

It is incredible that in this country—supposedly the freest on Earth—the government prohibits a senior citizen from paying for his

or her own health care. Even in the British National Health Service, a citizen can privately contract. But not here.

If the U.S. Constitution protects a pregnant teen-ager when she seeks an abortion, even one so young the law considers her lacking the capacity to vote, it must protect senior citizens who seek only to receive the health care they want and for which they are willing to personally pay. If the Constitution protects the medical records of those with deadly diseases about which we know very little, it surely protects the medical records of seniors who seek privacy. If the Constitution protects citizens against discrimination, it surely protects seniors from being singled out and denied the opportunity to make decisions regarding their personal health just because they are 65 years of age or older.

On Dec. 30, the members of the United Seniors Association, including Tony Parsons, Peggy Sanborn, Ray Perry and Margaret Perry filed a lawsuit in federal court asking that Section 4507 of the Balanced Budget Act of 1997 be declared unconstitutional as violative of Article I, Section 8, of the Constitution and the First, Fourth, Fifth, Ninth, 10th and 14th Amendments of the Constitution. They have asked the court for an injunction to stop the Clinton administration from enforcing Section 4507, and to block any attempts to interfere in the private contracting of America's elderly.

Until this unconstitutional provision is eradicated by Congress, the freedom and safety of America's senior citizens will be severely jeopardized.

Mr. GRAMM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COVERDELL. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. COLLINS). Without objection, it is so ordered.

Mr. COVERDELL. Madam President, parliamentary inquiry: It is my understanding that for the next hour and a half the control of the time is under the direction of the Senator from Georgia or others he may designate.

The PRESIDING OFFICER. The Senator is correct. Under the previous order, the Senator from Georgia or his designee is recognized for 90 minutes.

Mr. COVERDELL. Thank you, Madam President.

## STATE OF THE UNION RESPONSE

Mr. COVERDELL. Madam President, last night President Clinton delivered some good news and some bad news for those who, like me, want to address the crisis in American education. And Madam President, that crisis exists in grades kindergarten through high school. I repeat, kindergarten through high school. The good news is that President Clinton has finally joined the Republicans in recognizing that we must address this crisis.

It is bad enough that our Nation's schoolchildren have to run a gauntlet of drugs and violence just to sit in class, but when they get to the classroom they are not learning the basics. Just recently, a study published in Education Week showed that only 4 in 10 urban school students could master basic math and reading skills. Four in 10. It does not get much better when we move to the suburban schools. There it is only 6 in 10 who can master these basic skills when tested.

Madam President, we are failing our students, and we clearly are not preparing America for the new century that the President spoke of last evening. Republicans first attacked this problem with a comprehensive proposal over 1 year ago, S. 1, that addressed how to help children in unsafe schools, how to increase literacy, and how to give new authority to parents and communities to improve their local schools.

Regrettably, although we were able to reach common ground on making college more accessible and affordable, President Clinton fought real education reform for the kindergarten through high school grades every step of the way.

Most notably and unforgettably, he threatened to veto the entire tax relief bill last year unless we dropped one single provision, one that provided education savings accounts to parents for use for their child's specific educational needs.

Madam President, if there was ever a proposal that was win-win in this city, the education savings account was it. The President said he would veto the entire tax relief proposal if that remained. The bad news in President Clinton's speech last night is that he still does not understand what needs to occur and where it needs to occur for grades kindergarten through high school. President Clinton last night repeated his belief that politics should stop at the schoolhouse door. I agree. I do not know anybody who does not agree. President Clinton should get out of the schoolhouse doorway and allow real education and reform to help the kids inside those schools.

What we saw last night was education proposals that ignored giving parents and local communities real power and real choices; ignored real reform in favor of business as usual—we call it the status quo around here—spending increases, and paying for all these new programs with money the Government does not even have and may not ever have. I repeat, paying for all these new programs in the State of the Union with money the Government does not have and may never have.

We have a better way. It is called BOOKS, the Better Opportunities for Our Kids and Schools Act.

Madam President, BOOKS has several very powerful provisions that do exactly what I just alluded to—give new authority and choice to parents, give new authority and choice to States and local school districts that move decisionmaking capability to the people on the frontline and away from the Washington bureaucrat who could not associate a single face with a single name.

Title I. A-plus accounts, education savings accounts. Parents can contribute $2,500 a year for a child's K through 12 education—public, private, religious or home schools. Everybody wins no matter where their children are in school. I might add that if they chose, they could keep those savings accounts on through higher education as well.

Dollars could be used for a home computer, the tutor that is needed for a math deficiency, tuition or the expenses of home schooling; 75 percent of these massive new resources would be used by those in public schools. They would be a major winner. And 70 percent of the people taking advantage of the savings account earn less than $75,000 per year. The Joint Tax Committee is the source of this estimate. The cost would be $2.6 billion over the next 5 years. Basically, what we are saying is that we are going to leave $2.6 billion in the checking accounts of parents trying to help their children.

Title II. Dollars to the classroom. Dollars to the classroom would block grant about $3 billion to States and continue to send $7 billion in title I, part A funds to the States with only one requirement—that 95 percent of those Federal dollars go to the classroom to where the kids are, not where the bureaucracy offices are. So the money to the disadvantaged children stays the same with the exception we want it in the classroom, and we free $3 billion a year so that those local school districts can do what they need to do. Do they need to hire teachers? Then they hire the teachers. Do they need to build schools? Then they build schools. Whatever it is they need—not what we envision they may need—could be done through dollars to the classroom. Bureaucracy eats up scarce dollars as State and local governments comply with Washington's strings. This is not new. It has become endemic in our Government.

Even in title I, the moneys that go to the disadvantaged, 99 percent reaches the school district but 4 to 13 percent is eaten up by administrative costs—4 to 13 percent. That is big dollars. The $3 billion block grant could pay for as many as 50,000 teachers a year and 1 million new computers every year or it could pay for building up to 500 elementary schools. The key point here it is their choice—their choice.

Title III. Opportunity and safety for low-income children. This is a 5-year pilot choice program at 20 to 30 sites to allow low-income children to attend a safe school through a choice system. We would invest $75 million for 1 year on this project.

I do want to point out, Madam President, that this is voluntary. This is not imposed on anyone. In fact, with the exception of requiring that Federal dollars go to the classroom at the 95 percent level, there is nothing in the BOOKS Act that is mandatory. It defines, under this title, low income as 185 percent of the poverty line. Unsafe schools are those with high crime

rates, serious drug problems and disciplinary problems. This gives kids at risk a chance to attend a public, charter, private, or sectarian school where the emphasis is on learning, not survival.

Madam President, I just think it is unconscionable policy to order children to go to schools that are certifiably unsafe and drug ridden.

Title IV. Testing and merit pay for teachers. It allows States to use Federal funds to reward good teachers and weed out the bad, and it will make it easier for States to carry out performance assessments of teachers and establish merit pay programs. Americans across the board agree with these concepts. Reward good teachers, weed out the bad, and make it easier for States to carry out performance assessment of teachers.

Title V. Reading excellence. This is similar to Chairman BILL GOODLING's bill in the House which passed the House by a voice vote on November 8, 1997.

Madam President, it would provide $210 million for teacher training and individual grants for K through 12 reading instruction. It requires funds to be spent on programs demonstrated by scientific research to be effective, like phonics. It gives parents of kids at risk the ability to purchase additional tutoring assistance through grants.

President Clinton's America Reads program which cost $2.7 billion over 5 years proposed sending semitrained volunteers into the classroom. This is a flawed concept, when you would send a semitrained volunteer into a classroom that has already demonstrated that it is not teaching a student to read. So you would send an unprofessional volunteer to help the student read better—that is not logical. The reading excellence title requires funds to be spent on programs proven effective by scientific research to enable the teacher to improve his or her skills so that she or he can teach the student to read.

Title VI is the teacher and student safety title. This title allows the use of Federal funds to move victims of violence to safe schools. They could be a public, private or sectarian schools. The key here is if the student has become a victim, there should be nothing in the way of that school board's ability to move the student to a safe place. It allows use of noneducational funds—Victims of Crime Act administered by the Department of Justice—for innovative programs to help victims and witnesses of crime on school property. And it encourages the use of immediate notification and annual report cards to parents and teachers about incidents of violence and drugs at schools.

Title VII is the Charter Schools Expansion Act title. This is similar to Congressman RIGGS' bill which passed the House 367 to 57 on November 7. This provision of the legislation ensures charter schools are eligible for their fair share of Federal funding, whether it is title I, IDEA, or title VI block grants. Charter schools are public schools freed of many of the regulations in turn for increased accountability in terms of student outcomes. Without excessive regulation these schools are better able to design programs tailored to the needs of students and communities.

Madam President, I see we have been joined by my good colleague from Nebraska. I am going to turn to the Senator in just a minute or so here.

Under title VIII, the last title, we say the Federal Government should honor its agreement, which it made when it imposed special education requirements on local education, to fund a sizable portion of it. We agreed to fund up to 40 percent but we have never done it. You know, it's one of those stories, ''The check is in the mail.'' It never quite gets there.

Senator GREGG deserves a lot of credit for this. He started the process last year but this would finish it with $9.3 billion over the next 6 years to fully honor our commitment to fund special ed, which we call IDEA. That would free up $9.3 billion for local communities to assess and take care of their own specific needs. That is the general description of the proposal our conference announced on January 20.

I now turn to my colleague and good friend from Nebraska, Senator HAGEL, for up to 7 minutes.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. HAGEL. Madam President, I would like to make a couple of observations about last night, the agenda for the second session of this 105th Congress; what is ahead of us, what is ahead for the American people, the challenges that lie ahead for the world.

As I listened intently and seriously last night, as I am sure all my colleagues did, to the President's message, questions came to me like, ''Isn't the definition of the debate for this year and the defining of the debate that the Congress will have into the next century about the role of Government?'' That is the issue. What is the role of Government in our lives? How much Government do we want? How much Government can we afford? What do we want Government to do for us? And how much are we willing to pay for Government?

The President—and I have all eight single-spaced pages of the text of his speech last night—gave a good speech. But the speech was about new programs, the federalization of America. This is the same President who said 2 years ago in a State of the Union Message that the era of big Government is gone. No more big Government. And then the President said last night, early on in his text, that we, today, have, ''the smallest Government in 35 years.'' I don't know how the President measures that, but this body is going to debate this year a $1.7 trillion Federal budget to keep this small little Government going.

He talks about federalizing education. I don't find the responsibility of the Federal Government to be education anywhere in the Constitution. I don't find it in any document that education is in the purview and the province of the Federal Government. Yet this President says we, the Federal Government, representing the people who pay the taxes, are going to hire 100,000 new teachers. We are going to federalize new teachers. We are going to build new schools across America, federalize our schools. But yet, of course, he fails to tell us how he intends to do that. Where are those resources coming from?

At the same time he boasts, rightfully so, that we in fact have moved toward balancing our budget. So he takes credit for that on this side. And then on this side we have page after page, line after line, of new Government spending proposals.

Medicare has been running a deficit the last couple of years. Yet this President is proposing that we add more people onto Medicare. This is at the same time the President and the Congress have come together and said we need a Medicare commission, a bipartisan Medicare commission to take a look at the seriousness of the problem, of the issue, of the challenge, and report back to the President next year. But, no, he decides not to wait for that.

Child care—we are going to federalize child care? These are all important, critical issues for our country, for our people. Of course they are. But I think we might be better off if we would essentially continue this effort to cut Government, cut spending, cut programs, cut taxes, and take the responsibility of governing ourselves back to where it should be; back to the cities, the school boards, the counties. Who best understands the problem? I trust school boards. I trust teachers. I trust parents. I don't trust bureaucrats. We are rapidly developing into this monolithic centralization of bureaucratic rule. People in the Department of Education and all these areas are good people, family people, but we just, year after year, load more on them.

I ask this question when I hear a retort from my friends on the other side, or from the President, that Medicare, for example, and all these new programs, will pay for themselves; there will not be an increase in spending; we don't need to find more taxpayers' money: Is there anyone out there who can show me any time we have had a Federal program that has gotten smaller? Do Federal programs and agencies and bureaucracies and departments vanish after a few years? Oh, no, no; they get bigger. And who has to pay for it? My children and your children. And it gets bigger and bigger. Where have we cut Government in the 1990s? We have cut it in one department. What department? Defense. Our national security has been cut over the last 10 years in real dollars by 40 percent. How many other departments and agencies have been cut? None.

So my point is this. Before we rush into all these new programs and new

Government and new federalization, we better sober up for a moment. This is not a time for campaign rhetoric. This is not a time for campaign speeches. This is a time for clear-headed, strong, dynamic, smart, realistic leadership, gutsy leadership. That is what America demands. That is what America will get.

I say these things not because I am opposed to the President or trying to complicate the President's life. But we, too, have a constitutional responsibility in this body. We have accountability to the people we represent. And this is one U.S. Senator who is going to ask some very tough questions about every one of these new programs.

I yield the floor.

Mr. COVERDELL. Madam President, I thank the Senator from Nebraska for his remarks and the contribution he made here this afternoon. I am going to now turn to our distinguished colleague, Senator HUTCHINSON from Arkansas, and yield up to 10 minutes to the Senator from Arkansas.

Mr. HUTCHINSON. I thank the Senator from Georgia for yielding. First, I want to associate myself with the remarks of the Senator from Nebraska and his excellent analysis of the efforts by our government to federalize not only education, but many other programs as well. And I applaud Senator COVERDELL from Georgia for his efforts in the area of education, and in particular, his leadership on the Better Opportunities for Our Kids and Schools Act, the BOOKS Act. I believe this bill demonstrates that we, as Republicans, have a deep concern about education in this country. We have a deep concern about improving education for our children, who are precious to us. And we recognize that this is best done at the local level, where teachers know the names of our kids, and can pick up the phone and call the parents when the need arises. These decisions are better made at the local school district level, the State level, and not by a greater and bigger Federal bureaucracy.

Last evening, in his State of the Union Address, the President proposed ''the first ever national effort to reduce the class size in the early grades . . . by hiring 100,000 new teachers.'' So I ask, is this really a genuine effort to reduce the size of our children's classes? Or is it just another exercise of ever bigger Government, and a move in that gradual effort toward federalizing education in this country?

Why are new teachers, mandated from Washington, the ticket to smaller class sizes? It is well-documented that many States across this Nation have taken on the responsibility of reducing the size of their classrooms; namely, California, Virginia, Massachusetts, Connecticut and Wisconsin. The Governors of these five States have proposed hiring thousands of new teachers using, not Federal dollars, but State dollars. This makes sense, allowing individuals closest to our children to make these kinds of decisions.

Madam President, I trust those individuals in the thousands of cities and towns across this country who know your child's name, to make the important decisions that impact the very classrooms in which our children learn much more than I trust bureaucrats in our Nation's capital. In an effort to allow States and localities to make these decisions, I, as part of the BOOKS legislation, will be introducing the Dollars to the Classroom Act, that will redirect about $3 billion of K–12 education dollars to the States, requiring only that 95 percent of that money actually reach our children's classrooms. This money can be for books, it can be for teachers, it can be for computers—whatever the local education officials deem necessary and important to the education of our children.

While no one can deny the importance of providing the best possible education to our children, we also must implement these programs in the most responsible manner: by returning control over the education of our children to the place that it belongs, the parents and teachers and local communities and local school boards. By doing that, we will ensure that education dollars are spent wisely on programs and activities which really benefit our children in the classroom.

Currently, the vast majority of all Federal education funding does not go to school districts or classrooms. In fact, in 1995, of the $100 billion the Federal Government allocated for education programs, only about 13 percent actually got to the local level from the Department of Education. That is a travesty, and a national nightmare.

Madam President, the current system of Federal bureaucrats attempting to administer hundreds of education programs to our children is, to say the least, highly inefficient, as reflected in falling test scores and increased illiteracy rates.

Many students are not adequately prepared to meet the challenges of life beyond high school, whether they go on to college, take a job, or attend a trade school. In fact, last year alone, 43 percent of high school seniors scored below the basic level in science, while 29 percent of all college freshmen were required to take at least one remedial course. Most alarming is that 68 percent of employers say that high school graduates are not prepared to succeed in the workplace. These statistics paint a very sad picture in a country which prides itself on having the best education system in the world. When limited Federal funding is spread so thin over such a wide area, the result is ineffective programs that fail to provide students with the basic skills they need to succeed.

So I ask my colleagues to join Senator COVERDELL and my good friend from Nebraska, Senator HAGEL, and I, in asking hard questions. Which do our constituents really prefer? In whom do the citizens of America really place their confidence? The real question is—is it going to be BOOKS, or is it going to be bureaucrats? So why not let those on the State level, why not let those on the local level, who best know the needs of our children, make those decisions, make those determinations? Perhaps it is books, perhaps it is computers, or perhaps it will be a need for more teachers so that children will have smaller class sizes. But I truly believe that those decisions must be made at the local level.

I believe the alternative, the Dollars to the Classroom Act, demonstrates not only our commitment to the education of our kids, but also proves that there is a better way to implement this commitment rather than creating an ever-growing Federal bureaucracy and appropriating ever-larger sums of money which are failing to provide for the real needs that our schools have.

So, once again, I applaud Senator COVERDELL for his leadership in education, his leadership on our efforts to improve education for all of the children in this country.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. COVERDELL. I commend the Senator from Arkansas. I think he very adroitly draws the distinction between our proposal, which frees these local communities to make decisions about what they need, in distinction to the last 30 or 40 years where more and more and more we have somebody, as you say, who couldn't recognize one of the students, trying to set the priorities, and all the assistance we send is with a mandate to shackle the local school boards.

Everywhere I go—I don't know about yourself—but it is over and over I am being told that you all are going to have to decide. ''You all have to let us teach these kids.'' Or, ''Are you going to keep mandating us and throttling us down with all of your agendas?'' And while we have been doing that, we, each year, have more and more data suggesting that the children cannot do the basics, cannot read right, they cannot understand the basic science, and they cannot add and subtract.

If they cannot do that, they cannot succeed in our society. I think you have adroitly hit it. And I appreciate your work on dollars to these local systems.

We have now been joined, Madam President, by the distinguished Senator from Florida, Senator MACK. I yield Senator MACK up to 10 minutes.

Mr. MACK addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. MACK. Thank you, Madam President.

I thank the Senator from Georgia for this opportunity. I want to again commend the Senator for the leadership he provided last year in focusing us on this issue, leading the debate and the effort to try to pass the A-plus education savings account with great leadership. We appreciate what the Senator is doing.

I want to kind of set the stage as to why I think the issue of education is so important. When I go home and speak to the people, they will tell you that the No. 1 issue facing the Nation, facing their State, facing their community, is education. I think they recognize that if their children are going to be successful with their lives, they have to have an education that is second to none.

But let me put it in a broader perspective in that I believe that the 21st century is going to be the century of knowledge.

We have all heard about, for the last 10 or 15 years, folks like Alvin Toffler talking about the information/communications age. Some of us find ourselves totally surprised that we are engaged in playing around on the computer, the Internet, things I couldn't have dreamed of a couple years ago. We know there is an explosion of knowledge and information out there. We also know that if our children are going to be successful and be able to compete in the 21st century, they are going to have to have an education second to none.

To just build on that, there was an educator in the State of Florida—President Bush put him on his commission— Mitch Madique, who is the president at one of our State universities. He traveled to South America and had discussions with the various leaders of education in those countries. They were saying to him, ''We are really looking forward to the 21st century because competition in the 21st century is no longer going to be based on military capability, military strength or the amount of your natural resources. Instead, competition is going to be based on knowledge. If that's the case, we're all starting off on the same foot. And we believe we have just as much of an opportunity to develop a first-class education system as you do. So we look forward to competition in the 21st century.''

To me, this means that if those three little grandsons of mine, who are 13, 11 and 4, if they are going to have an opportunity to make it, and if they are going to have an opportunity to have the same kind of experiences and opportunities that we had, then they do have to have an education that is second to none.

The proposals that the Senator from Georgia has already laid out make clear that there is not going to be a solution described and defined at the Federal level and passed on to the local communities and States. Conversely, we believe that the answers are going to come from the grassroots level.

So I would like to just share for a moment an experience that I had in California a few years ago. I went to a school in the area where the riots took place. The name of this school was the Marcus Garvey School. We have had some experience with the Marcus Garvey School here in Washington. The experience we had in California was totally different than here locally, so don't be confused.

As I went to the school and I drove down the street, I would suggest that probably most of you would think, ''I'm not sending my child to that school.'' There were just absolutely no amenities. There was not a blade of grass anywhere. There was not a single basketball hoop or any playgrounds that I could see. There was just a building that had been converted, I am not sure what from, into a series of classrooms.

We went in and we met with the owner, the administrator, the principal—all one person. His name was Anyim Palmer. His office was probably 10 by 12, stacked full of papers. He had no secretary. When the phone rang, he answered it. The equipment or the desks and chairs appeared to be 30–40 years old. The point I am making is there was not a lot of money invested in amenities in this school.

He suggested that maybe we go down and work our way through the different classes that were being taught. We started out in the day care area. We saw about eight or nine children age 2—not second grade, but age 2. When my wife and I went down to the room, the teacher said to the children, ''Show the Senator and Mrs. MACK how you can say your ABCs''—again, they were 2 years old. They said their ABCs. Just as cute as they could be, they ran through the alphabet. When they finished with that, the teacher said, ''Now say it in Spanish.'' Then they said it in Spanish. Then she said, ''Do it in Swahili.'' Then they said it in Swahili. Here are 2-year-old children who have already mastered the alphabet in three different languages.

We went from there over to where the 3-year-old children—again, I emphasize 3-year-old children—were working on math. These little children were walking up to the blackboard working through math problems. So the teacher said to me, ''Give them a problem to work on.'' I suspect everybody here would have reacted the same way I did. I said, ''How about 5 plus 3?'' She said, ''No. I mean, give them a difficult problem to do.'' So I said, ''Well, how about 153 plus 385.'' And the little 3-year-old stood there and put a couple dots on the board, wrote down one number; put a couple more dots on the board, and another number went down; a few more dots, another number went down. It was the right answer—3 years old.

We went over where the 4-year-olds were being taught reading, and they were reading at the second and third grade levels—at the age of 4.

I went to where the 5-year-old children were—and mind you, we have not gotten to the first grade yet. The teacher asked one of the little boys to stand up and recite for me, in the proper chronological order, all the Presidents of the United States. This little boy stood up and looked me right square in the eye, and he listed every President of the United States in proper chronological order.

You might be asking yourself, how did I know that? Frankly, they handed me a cheat sheet, and I was working my way down it as he was going through it.

My point is, here is a school that most people, again, would look at and say, ''I don't want my child to go there.'' No amenities. It is bare bones. You may say, ''Well, what makes this thing work?'', which is exactly what I asked every teacher in every room that we went into. How is this happening? Anyim Palmer told me that the answer was the teacher. It is the teacher. Every time they asked the question, the answer was the same—it is the teacher.

Interesting things came out of it. I don't believe any of the teachers were certified. I think only two of them had college educations. What happened is Anyim Palmer, who was the owner, administrator, the principal, was a former public schoolteacher who became so frustrated with the public school system that he said, ''I'm going to start my own school. I'm going to teach people how to teach.''

Again, I would encourage anyone who has an opportunity to make a visit to that school or something like it to do so. But the point is, if we rely on the present system, the present system will produce exactly what it has produced in the past, unless there is something that forces people to change. We believe the program that we have put together will in fact assist local communities and States to develop alternatives to the present public school system.

I visited a charter school in Miami just a few days ago and spoke with a teacher there, who up until a few years ago was an engineer. I said, ''What happened? Why are you teaching?'' He said two things. One is, he said, ''I lost my job. And I didn't want to put my family through that kind of an experience again. I felt there was some security in teaching.'' And then he said, ''You know what? I have found my calling.'' He is teaching second grade children. He said, ''This is exactly where I should be.''

But in this charter school, this individual had flexibility. This individual could approach the opportunity of teaching our children in a totally different way than in the past. So, again, I think if we encourage innovative thinking, we are going to find there are some remarkable ways to improve education in our country.

As you know, one of the major points in our proposal is to reward teachers who do a good job. We ought to reward excellence. We ought to say to those teachers, ''You have done a great job and we are going to reward you for it.'' That is why we are talking about the importance of merit pay.

But if we are going to have merit pay, we also need to recognize those teachers who are not doing a good job. We need a way to determine that, other than whether a principal likes an individual or does not like an individual, or

a school board does not like an individual. We ought to say there ought to be competence testing. Part of this plan, known as BOOKS, calls for competency testing and for merit pay.

Before I conclude, I would like to point out that in the State of Florida, 70 percent of the community college freshmen require remedial education. We have to change that. The cost to the State of Florida is $50 billion a year to handle this problem. Let's improve our K–12 education system.

With that, I yield the floor and again thank the Senator from Georgia for tackling this initiative. I look forward to working with you on this important issue.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. COVERDELL. I commend the Senator from Florida. It is an absolutely fascinating story. There are many of these around the country.

Just to make a point, of late when you read the statistics of 4 in 10 are all that can pass in urban city schools' basic standards tests, 3 in 10, 4 in 10 go to college, as you have noted, and have to go back and learn these skills again. We are beginning to hear an echo that these students were not educable, that there was something wrong someplace else, something wrong at home, something wrong with society.

What kind of community was this? What was the surrounding like around this school? Was this a very wealthy suburb?

Mr. MACK. No. As I indicated, it was in the riot area in Los Angeles.

Mr. COVERDELL. Would you surmise that those students could not have possibly all come from very stable, two-parent families that you might find in some communities?

Mr. MACK. I could suspect you could draw the conclusion they were somewhat different than, say, what most people think of as the traditional family in America. But I would be careful about drawing too many conclusions on that because I think there are some things about what was going on in this school that also sends a message to moms and dads.

I think that one of the reasons for success was because mom and dad were involved. They made the determination. I mean, this was a private school, so they have to pay to go to that private school—some of them at great sacrifice. Some of them, frankly, from outside the community.

But the point there is, if you go back to the charter school, for example, one of the things that most charter schools require, as you know, is that they want parent involvement. In fact, when I was at the school in Liberty City, in Miami, mom and dad parents came into the classroom, as I was talking with the teacher, to discuss with him the problems of their student. What was the problem? Or what should they be doing more at home to help?

Again, I think one of the messages that we do get is that in the charter schools—I guess there are others who are much more knowledgeable at these things than I am, but because it is a very focused school, it understands the importance of mom and dad being engaged. The teacher understands the importance of moms and dads being engaged, and, clearly, the parents understand if they are going to be able to keep their children in this charter school, they have to be part of it.

Again, I would make the case, whether it be a mother and a dad or single mom or single father, that if you can engage them in the education process, regardless of that background, in probably 9 out of 10 cases—I am just saying this from my feeling; I do not have the statistics—but 9 out of 10 times, if you, the parent, one or both, are engaged in your children's education, you are going to improve the ability of your child to learn. And, again, I think you are going to find that you are going to create that environment, something different than we are doing today.

There is just so much we can learn from this experience. Again, the answer that kept coming back, ''It is the teacher. It is the teacher. It is the teacher.'' I think people ought to recognize that what Republicans are saying is we value teachers. They are the ones who really make a difference.

Again, if my grandsons are going to succeed, they need to be exposed to good teachers. We have to help create an environment in which people, (a) want to come into the teaching profession and, (b) once they are there, want to remain and experience the excitement of seeing young children learn. Teachers help children realize how important knowledge is to them and their future. Again, teachers are the ones who really make a difference.

Mr. COVERDELL. The Senator makes an excellent point. Who does not remember the teacher that affected them? There is no one that does not remember that teacher.

Mr. MACK. I can name my first-grade teacher.

Mr. COVERDELL. I thank the Senator for the presentation.

I turn to our distinguished colleague from Wyoming, Senator THOMAS, and yield up to 10 minutes to the Senator.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. THOMAS. I appreciate the Senator from Georgia arranging for an opportunity to talk about our agenda. After all we have just returned now from recess, just returned from a time to talk with our constituents. I spent all this time in Wyoming doing a number of town meetings, talking to people about various things they are interested in.

It is time for us, of course to talk about agendas, to talk about priorities, to talk about what it is that we intend to do during what is already a relatively short work year, during an election year. The thing, of course, that is on our minds today, I suppose, is the President's State of the Union Address last evening in which he laid out his agenda, not a surprise agenda, and talked about the issues he has been talking about now for several weeks, with a new proposal each week, all put together in a State of the Union Message which had, I think, about 30 different proposals of things to do.

It seems to me that what we have to do now as a responsible Congress is to decide on those items that we think are priorities to this country, that we think are priorities for success in families in this country, economically, from a freedom standpoint, how-to-govern standpoint, and really press for those. I must say that I feel rather strongly about that.

I felt last evening that—the President, of course, is certainly free to have his own agenda—that was an agenda that had been put together by pollsters, an agenda that had been put together to enumerate all those things that would sound good to everyone that was listening, an agenda that I think, clearly, again the President is perfectly free to move his position, move his position back toward the more liberal Democrat Party from which he has departed in the last several years somewhat to establish more support for AL GORE when the time comes. I think that is legitimate. I don't happen to agree with that.

I think we ought to be moving forward to continue to do the things that we have begun to do over the last several years, some of the things that I am particularly proud of, frankly, that this Congress has been able to do, to bring forth a balanced budget. That, after all, is the responsibility of the Congress. We have done that. We need to continue to do that. We need to continue to try and control spending so that we can move toward this idea of a balanced budget and beyond, to begin to work on the debt that is there, to begin to do something about that $280 billion we spend on interest every year to service a $5.5 trillion debt. That, it seems to me, ought to be the real focus of what we do.

Our responsibility now, I believe, in the Congress is—we shall meet on Friday, our friends across the aisle will meet I am sure next week—to come to grips with those kind of things we think are the priorities for our agenda. I don't think our agenda can be a laundry list of 30 or 40 things that appeal to the polls but rather ought to be the kinds of things that are terribly important to us.

I think we ought to talk about ISTEA, for example. We ought to get out into the country to do the highway maintenance, the highway building. We didn't get that done last time because we got diverted talking about something else. ISTEA needs to be there. I think we need to continue to work on the budget. There is probably nothing more important than being responsible in the spending that we do. Again, I am

pleased with what has happened with the budget over time. I am pleased for what has happened in the last couple of years on welfare reform. The Congress has moved forward, with the cooperation of the President, after a couple of vetoes. That is OK. But we need to continue to do that, to provide the opportunity to help people move off of welfare into work, which is what most people want to do, of course. We have made some progress in moving away some from the entitlement program that we have had. We have made some progress in terms of moving Government closer to people, where Government is more responsive at the State level, and do those things at the State level that we should do there.

As I listened last night to the enumeration of things that might be done it seemed to me at least one of the considerations that has to be made is where do you do these things most efficiently? Child care—everybody is for having quality child care. Everybody wants to strengthen the child care program. The question first we ought to ask is, where is that best done? What is the role of the Federal Government in child care? What is the role of the State government in these kinds of things?

I happened to have the privilege last night of having my Governor accompany me to the State of the Union Message. I could sense as we went through last night's State of the Union Message him saying to himself, ''We can do that better at the State level. We can really make those things work.'' I agree with that.

There are a number of other things that I personally would like to see us move forward on. One of my personal areas of interest is the national parks. National parks are a national treasure for all of us. More and more people go to visit national parks. More and more people are interested. Yet we have less resources for national parks than we need. National parks, some claim, are as much as $8 billion in arrears on infrastructure. We need to work at that. That happens to be something that I am most interested in.

I think most of all we need to be sure that we are responsible, finally. Spending continues to go up. If we are going to balance the budget—why balance the budget? Because revenues have gone up. I think the President's proposal goes far beyond what is going to be available for dollars. The President says we want to keep a balanced budget and then lists 30 items that will cost billions of dollars plus additional tax deductions there that will reduce revenue. So we find ourselves I am sure with spending far beyond our income if we do those things.

Those, I believe, have to be the constraints. That is what I heard from my people. That is what I heard from the people of Wyoming. They said, look, stay with that business of balancing the budget. We not only want to balance the budget, we would like to see you begin to reduce spending. This idea of the era of large Government being over is a good idea.

I was disappointed the President had done a complete reversal from 2 years ago when he announced that would be his objective. This certainly was not an effort to reduce and to change the era of big Government.

Spending continues to go up, 16 percent last year, 24 percent on entitlements. Over a period of time, entitlements continue to grow. Many of these programs that we talked about inevitably will become entitlements. These young people that are here on the floor as pages won't see those benefits because they will not be sustained if we continue to grow at 24 percent a year.

Madam President, I think we have a real opportunity. As I said, I enjoyed the President's State of the Union Message. That is his agenda. Now it is our responsibility to have an agenda and to put our priorities there, put our philosophy there, our philosophy of a responsible Government, our philosophy of a financially accountable Government, one in which we limit size and move as close as we can to people to solve people's problems.

The educational program that Senator COVERDELL has recommended is one that puts the responsibility in the hands of local people, parents. That is what we need to do. Those are the kinds of things we can do here to assist in those problems. So I am excited about this year. I think we have an opportunity to do a great deal. I am very proud of having been in this Senate since 1994. I think we have made some real changes in direction. It is my hope and my desire to help ensure that we continue to move in the direction of a more responsible Government, responsive to the folks that we represent, the folks I have had a chance to visit with for 2 months and have come back with some renewed dedication to the idea that this Congress, this Government, is responsible to the people, to the taxpayers, responsible for protecting liberty, responsible for being financially responsible, responsible for reducing taxes as much as we can, to leave the money to the people it belongs to. I am excited about the opportunity.

So my friend, Mr. COVERDELL, I appreciate very much what you are doing in this time to talk. I think we should continue to talk about our agenda and talk about the reasons we are doing what we are doing. I look forward to that happening this year.

Mr. COVERDELL. As always, Madam President, I enjoyed the remarks of the distinguished Senator from Wyoming. He brings that clear Western thinking to the Senate.

If I might add a thought, it is a little hard to believe, but this Congress passed the first balanced budget in the 104th Congress. That was vetoed by the President. We did it again. So we passed two. The President signed it. It is the first one in 30 years. In 30 years Washington has never developed the will to balance its budget. It passed the first tax relief in the last Congress. That was vetoed. A modified tax relief was passed last year. That was signed. That is the first tax relief in 16 years.

Now, I don't know what the situation is in Wyoming but that tax relief proposal leaves $750 million every year in Georgia checking accounts of working families, businesses, people sending kids to school and college, trying to make ends meet. It left $750 million in those accounts. It was not a particularly large tax reduction. But it means a lot. It puts about 2,000 additional dollars in the checking account of an average family.

Now, the point I am making is this, and I would like to get the Senator's comment, don't you find it interesting that once the United States balanced its budget, once it has become more engaged in managing its financial affairs, how much more optimistic the people are, how many more of them of working, how interest rates have stayed somewhat down, and how we are talking about surpluses for the first time? Pretty remarkable, very remarkable. It ought to be a lesson to every Congress and every President. This is a good idea. We better keep doing it.

Mr. THOMAS. If I might, I certainly agree with the Senator. It isn't that difficult.

In other words, this is what our system is all about. Our system of private enterprise, our system of limited Government, our system of allowing as much money as possible to stay in the hands of the citizens so they can invest it and create jobs, that is what our system is all about. Through the years it has been tested against socialism and big government and the government doing all these things, and throughout the world this system is the success. It is being copied everywhere. Sometimes it is scary when we see ourselves moving away from our own system that has been so successful, that everybody else has adopted.

So the Senator is exactly right. That certainly is what creates this kind of an economic environment is the ability to take the risk, to invest, to work, to earn, to keep and to do things for yourself and your family.

Mr. COVERDELL. Madam President, I appreciate the remarks of the Senator from Wyoming. I see we have been joined by the distinguished Senator from New York. I welcome his presentation and yield up to 10 minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. D'AMATO. Madam President, I thank the distinguished Senator from Georgia for his leadership on this most important issue. I believe that education is the most important issue facing our country.

We have focused a majority of our attention on the need to give assistance to those of our students who are college bound, and that is important. We have done, I think, a good job in expanding, for example, the Pell grants

to take in nearly 300,000 students, and I voted for that. We have increased the amounts of those grants substantially, from about $2,400 to $3,000 and I support that. And we worked to create educational savings accounts, and I think that is important, Madam President.

But I think it is time that we look at our elementary schools and our high schools, because one in five third-graders across New York State could not read with comprehension even the easiest connected sentences and paragraphs, according to the New York State Department of Education. We have heard that 40 percent of the children in some of our school districts are reading below grade level and are below grade level in math. 50 percentplus of the students in some of our school districts are dropping out of school, including here in the Nation's Capital. What is going to happen to those children who are dropping out? How can they compete? What jobs are they going to hold? What will happen to society if this continues?

Let me say that last night the President talked about a number of issues. One of those issues he talked about was the need to hire more teachers. Let me tell you that I believe we need more teachers in the classrooms. We should empower, by way of making moneys available, the local districts to do exactly that. I am going to work with whoever it is—the President, this administration, my colleagues on both sides of the aisle—to do exactly that.

The President also called for greater accountability in education, and I believe that's important. He said students must be more accountable for their performance, that we should not have social promotion. That is true. Unfortunately, we didn't hear one word about making teachers accountable also. One of the things that this bill, the B.O.O.K.S. Act, does is make available funds for accountability. You can't have our kids learning if the people teaching them do not meet performance standards. We must have competency testing so that we know math teachers do understand basic math and that they can teach it. We have to have some system of evaluating, and we should give the school districts that ability. It is not that we should say what test they should give, but we should empower the local districts and the parents to have a choice.

(Mr. COATS assumed the Chair.)

Mr. D'AMATO. Most of our teachers, I believe, Mr. President, do a great job and are dedicated and hard-working. Unfortunately, there is no financial reward for those great teachers. I think we need merit pay. That is one of the things that we encourage in this legislation, which offers better opportunities for our kids.

We need major reform, not just tinkering at the edges of the problem.

Let me touch on that which, in many cases, brings about a hue and cry not from the parents, but from those who want to protect the status quo, the teachers' union.

By perpetuating the status quo, too many of our children are falling by the wayside—they are not making it. I am talking about a system that many of my colleagues quake when we bring the issue up, and that is called accountability and seeing to it that teachers don't have lifetime tenure. I think our kids are entitled to have teachers who make a difference just like the teachers I had in grade school who created magic in the classroom.

Those teachers exist today. Let's understand that. I think the vast majority of our public school teachers are dedicated, work hard, do a good job, and they should be rewarded with merit pay.

But, by gosh, let's not be afraid to say there should be accountability as well with teacher competency tests and ending a system where teachers, in essence, in too many of our schools and too many of our States, have what is likened to lifetime tenure. After 3 years, it becomes virtually impossible to remove those who are not doing the job. I will give you an example from New York State. Last year, only seven out of 200,000 teachers were removed. Seven. It has become virtually impossible. And it costs hundreds of thousands of dollars to bring this type of action.

Now, Mr. President, I am not suggesting that we jeopardize those good teachers who are doing the job or that we create some arbitrary standards. I am suggesting that we have some review, some system to evaluate performance so that nobody has what is, in essence, lifetime tenure regardless of the job the person is doing.

The education of our children is too important. Those who teach our children must be competent in these subjects, that is why we need competency testing for all teachers. Our children deserve nothing less.

Let me point to just one other area before I conclude my remarks, and that is school safety. My gosh, if we have children in our public schools that say it is dangerous and they feel safer in their neighborhoods than going from one class to another, what more do we need? If we don't have schools as a safe haven, creating the environment where our children can learn in that safe haven, that oasis of learning, then how can the best teacher do the job? So we have to be able to fast-track violent, disruptive students out of the school. You cannot suggest that public education has ever said that even violent, disruptive juveniles have a right to stay in school no matter what their conduct. That is unfortunately the case in too many areas. I will tell you that the 1,116 schools in New York City reported 22,000 incidents in 1996–97, including nearly 5,000 person-related incidents. It becomes impossible to have serious learning in the classroom.

Last but not least, let me just touch on one aspect that I think is so important. Why should we have a plethora of Federal programs that serve cross-purposes, when we can take that money and establish education block grants. Somehow bureaucrats have planted in the minds of many of our parents and local officials that they are going to lose money.

What we call for in this bill is saying that we are going to give you the same amount of money, and, in fact, we will actually give you more money. In title II of the BOOKS Act, States would receive funds through block grants, which can be used for educational needs that the local communities and school boards think are important—not that Washington mandates. So they are going to get more money. In addition, they are going to get a lot more money because 95 percent of those funds must reach the local schools in the classrooms and cannot be used for administrative expenses. We cannot have 15 to as high as 25 and 30 percent of the money being used for administrative overhead. The money is not reaching the kids.

I might give one example. Senator GORTON's amendment along these lines last year would have sent an additional $670 million to local school districts. But we have the bureaucrats in Washington who are opposed to that. They want to keep these ties. That is an employment center as opposed to becoming an educational opportunity. So $670 million more could go to the school districts. And by the way, that hires 26,000 teachers. So when our President says, ''we want to hire 100,000,'' here is a way. If we were to adopt the block grant proposal, and some amendments to it, we could hire as many as 26,000 teachers at the local districts without raising one additional penny. My gosh, that's over a quarter of the number that the President talked about, with no increase in taxes. It just means using the resources we have and empowering our parents and the local school districts to make these choices.

Mr. President, I want to commend Senator COVERDELL, Senator LOTT, and the occupant of the Chair, Senator COATS, for being leaders in this area. We have to do better for our children, not just tinkering at the edges.

By the way, why should we be afraid of the teachers' unions? We should encourage them to work with us. It should not be a battle against them. Notwithstanding that I have been critical of their status quo position and their opposition to basic, good, fundamental reform, this should be a fight for our children, to give our kids a better education. I would hope that the Members and all of the teachers would join and be in favor of this and work together. We can do better and we must do better because our children are entitled to that.

So, Mr. President, I thank you for your leadership. I thank Senator COVERDELL and my colleagues.

I yield the floor.

Mr. COVERDELL. Mr. President, I certainly echo the compliments of the Senator from New York to the Chair

because, clearly, throughout your career you have been dedicated to this kind of work. It was appropriate to mention that. We appreciate the remarks of the Senator from New York. They are very much on target.

We have been joined by our distinguished colleague from Colorado. I yield up to 7 minutes to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized to speak for 7 minutes.

Mr. ALLARD. Mr. President, I thank the Senator from Georgia for yielding me a few moments. One of the strengths of the Republican Party, and one of the reasons I am so proud of the leadership is that they have encouraged us to go back to our States and talk with the citizens in our States and really find out what the problems are. As we are putting together our agenda here for this session, I really feel like this is a grassroots message. It has come from within the States. It has come from our friends and our neighbors and our local elected officials, the people who have to work with the Federal Government on a daily basis. I have gone back to my State and held a lot of town meetings. This particular year, I decided to hold a lot of town meetings in January. I held 40 town meetings in January. The message that came loud and clear to me is the main thing on people's minds is that there is a growing Federal Government that is continuing to interfere in their daily lives. Somehow or other, they feel they are losing control. Local officials in Colorado feel like they are losing control. Small business people feel like they are losing control and are getting too many dictates from Washington.

Another thing that has come up in all of my town meetings has been the Tax Code. People are concerned about the tax burden that they have to bear today, particularly from the Federal Government. People want our tax system reformed. They certainly would like to have lower taxes, and they want a simpler and a less intrusive means of collecting those taxes. It strikes me that the two issues of taxes and the growth of Government tend to intertwine with one another. Those two issues, I think, are simply pulled together with this statement: Where the money goes is where the power goes. So people stand up, and say, ''Well, there is too much power in Washington.'' Then they complain the next minute that my request for funds from some program in Washington comes with mandates and strings attached and they begin to realize that there is power related to where that money goes. I think they think that the Federal Government is entirely too powerful. It does claim a huge portion of our economy each year.

Let me review just a few numbers to make the case for tax reduction and tax reform which is going to be an important part of our agenda. The tax burden has been steadily rising since 1992. In 1992, the Federal Government claimed 19 percent of the economy. By the end of 1997 this has risen to around 21.4 percent. Remember, this is just the Federal Government. It is not State taxes. It is not local taxes. And if we include all of the State and local taxes and Federal taxes, of course, it is much, much larger. We are just talking about the Federal Government's share.

The government at all levels now claims about one-third of the wealth produced each year in our economy—one-third. I think that is really a high number—certainly much more than any of our forefathers ever dreamed as far as the role of the Federal Government in our national economy.

According to the Tax Foundation, State, Federal, and local taxes will claim 38 percent of the median two-income family—38 percent. By comparison, in 1965, the burden was 28 percent. It has gone up 10 percent. The tax burden amounts to no more than a typical family will spend on housing, food, and clothing combined.

Mr. President, if we really want to help families with child care expenses, education expenses, health expenses, or housing expenses, we should reduce the tax burden. They have more money in their pocket. It gives them additional flexibility to spend it how they feel they should instead of sending it to Washington and then coming down with those mandates.

There is much talk in Washington about the budget balancing and the forecast of some excess revenues which are referred to as a ''surplus.'' I certainly hope that this happens.

When I was first elected to the United States House of Representatives, I remember our deficits were running around $340 billion a year. That is how much more they were spending a year than they were bringing in that same year. Now they are projecting—the Congressional Budget Office—somewhere around $5 billion. That is quite a change.

So I certainly hope that happens. Maybe we can do something here in the Senate to move that along by saying let's look at our budget that we passed last year. Maybe we can do something this year to cut back the $5 billion in spending and actually balance the budget and make sure that it happens.

But I think we need to be honest about why the budget numbers look so good. The budget is balancing not because of any tough decisions that we made here in the Congress. But it is balancing because of hard-working Americans out there that are being productive. And the reason that they are being productive, I think, is because they really believe that we are committed to balancing the budget. It holds down costs because interest rates are going down. And when they go to buy a car, or house, or when they are in business for themselves, this means they can invest more in themselves than the community. That is certainly part of it. Another part of it is because I think they believe that Republicans are going to—and they did last session—work for reducing the tax burden so they will have more of that for spending.

So the economic performance in the past year and why it has really done so well is because of action here, I think, in the Republican Congress.

The American people have been sending greater and greater amounts of their money to Washington. There is no doubt about it. With the budget balancing that we are going to be facing this year, I think we all pretty much agree that it is because of increased tax receipts coming in and not because of restraint in spending or the fact that the budget continues to grow. I think we have to keep that in mind.

Federal spending in 1998 is estimated to be around 4.3 percent over our 1997 spending level. It is well in excess of inflation which is a little bit over 2 percent.

So I hope that we will keep in mind that we need to make decisions that move the power from Washington back to the local level, and move it back to the pocketbooks of people who are in business for themselves and are making decisions on behalf of their families.

So we are going to reduce the role of the Federal Government by cutting taxes. And I am here to say that we need to get on with it. And the sooner we show the American people that we are really serious about cutting taxes I think the better our growth is going to be in this economy and the more we can count on to sustain the economy so it is easier for us to balance the budget and move forward with our daily lives.

I thank the Senator from Georgia for yielding me time to comment on taxes and our economy and how my constituents feel about reducing the budget within their daily lives.

Mr. COVERDELL. Mr. President, I thank the Senator from Colorado for his very generous remarks, and I enjoyed his presentation here this afternoon.

Mr. President, I ask unanimous consent that our time be elongated by 5 minutes. We have cleared this with the other side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COVERDELL. Mr. President, we have been joined by the distinguished Senator from Texas. I yield up to 7 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized to speak for up to 7 minutes.

Mrs. HUTCHISON. Thank you, Mr. President.

I thank the Senator from Georgia for letting us talk about this important issue, because I think we are getting to the crux of what Congress wants to do. I am glad to be able to address this issue today after the President's State of the Union Message because I was somewhat concerned that in his State of the Union message. The President

seemed to throw aside any hope for tax cuts. That is a very important agenda that I have, and I think most Members of Congress have because we believe that hard-working American families should be able to keep more of the money they earn, not less.

I want to outline what I think is the right approach, if we do in fact start seeing budget surpluses. I want to put forward the proposition that ''half and half'' is more than just a high-quality milk product. In fact, half and half is the right formula for the responsible spending of the surplus that we hope to see in our budget over the next 10 years. Half should go for paying down the debt. If we are going to be the responsible stewards of this country for our future generation, we must start whittling away the $5 trillion debt. We have worked hard in a bipartisan way in Congress and with the President to come to a balanced budget. We have done the hard work. To now fritter it away with new ideas for spending our hard-earned taxpayer dollars is the wrong thing to do at this time.

So I think one-half should go towards paying down debt, so that we can say to our children we are going to give you at least as good a solid base as we had when we were growing up in this great country. The other half should go for direct tax cuts for the people who have earned this money.

When I hear people on this floor talking about tax cuts, you can really tell the difference in the way they frame the question. The question asked by people who do not want tax cuts is ''Well, now if we give these tax cuts, what is it going to cost the federal government?'' That is the wrong question. It is not the government's money, it is the money of hard-working taxpayers. A tax cut lets them keep more of the money they earn. It is not robbing it from the Federal Government. It is letting the people who earn it keep it.

So half and half I think is the right formula.

I will be introducing legislation very quickly that would provide tax cuts, and it would do it in a descending order of priority so that we would never go over one-half of the budget surplus of that year.

Here is what my tax bill would do. It would first eliminate the marriage tax penalty. People in our country should not have to choose between love and money. We value marriage. And the people who get hurt the most are the middle-income. The policeman who marries the school teacher will pay over $1,000 in taxes in a marriage tax penalty just because they got married. That is wrong, and I want to eliminate it.

No. 2, I want to raise the level of income that people would start paying taxes at 15 percent and 28 percent. This helps the people who are paying the most. I want to raise that 15-percent tax on a single person which, in 1998 will kick in at $25,350. I want to raise that to $35,000 so that you would not go into that 15-percent bracket until you are single and earning $35,000. If you are married, it would be $50,000, up from $42,350. If you are the head of a household, it would be $40,000, up from $33,950. The 28-percent bracket, the next bracket, would start at $71,000 for a single person, up from $61,109, $109,950, for a couple, up from $102,000, and for a head of household, $93,000, up from $87,000.

This just raises the point at which people would have to pay higher rates. It gives a break to those who are paying the biggest share, and that is the lower- and middle-income people of our country.

No. 3, the bill will repeal the 18-month capital gains holding period and make it 12 months. I think 12 months is ample time for a capital gains tax to set in. And keep in mind that capital gains are more disproportionately paid by our elderly citizens.

No. 4, in my proposal, I will index capital gains for inflation. This will be a tremendous help to elderly people because most of their income is investment income rather than earned income. We are indexing the personal exemption on earned income. Why not do it for those who are earning it through investment, as elderly people are?

Finally, my bill will cut the top estate tax rate from 55 percent, to 28 percent. I don't like the estate tax at all because I think the American dream for over 200 years has been that you could come to this country, you could work harder, and you could give your children a better chance than you had. So I do not want the estate tax at all. But if we are going to have one, I think it should be lower so that people will be able to give their children a little bit better start than they had.

This is a balanced tax-cut plan. It is not the only one that is good. I have heard many versions of tax-cut plans being put forward by my colleagues that I could easily support. But, I think the important point here is that most Americans, the average American family, pay 38.2 percent of their income in taxes. Mr. President, that is too much. And we want to change it, and it is a priority for this Congress.

I thank the Senator from Georgia for letting us focus on this very important issue for strengthening the American family by letting them keep more of the money they work hard to earn.

Thank you, Mr. President.

Mr. COVERDELL. Mr. President, I thank the Senator from Texas for her excellent remarks and her dedication to leaving money in the checking accounts of people who earn it.

Let me just say in closing, because I know we are going to the other side, that to me American liberty and freedom rests on three principal stanchions: Economic liberty, which means workers can keep the fruits of their labors and make decisions about their lives and fulfill their responsibilities. We have been talking about that here today making sure we leave resources with American workers and families so that they can do the job and always be dependent upon them to do so in America.

No. 2, for freedom to exist people have to be safe. They have to be secure at work and at home and in their school. We talked about making them safer today.

Last, but certainly not least, an uneducated mind cannot enjoy the benefits of American citizenship. An uneducated mind is denied American liberty. The first major denial occurs, as Senator D'AMATO from New York said, when they are denied economic liberty because they cannot get a job and they cannot connect with the vast opportunity in society.

So America has to get about the task of assuring that all her children and her population have the fundamentals to be free and to enjoy American freedom. And that is what we have been talking about today. We want America to be educated so that she will remain free.

We want workers to be able to benefit from their work so that they can do the job of raising their families and fulfilling their responsibilities as American citizens. And we know they have to be safe because no commerce, no civil interaction can occur in a society that is violence-ridden. And that is what we have been talking about all afternoon.

If you keep America educated, you give her citizens economic viability and options; protect them at home and in the workplace and school, America will be just fine. Our people will take this country and build a new American century.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBB. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. ROBB pertaining to the introduction of S. 1582 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. ROBB. With that, Mr. President, I yield the floor and I thank the distinguished Senator from North Dakota for yielding me time that was to be his, and which I would ask unanimous consent not be charged against the 90 minutes that are allocated to him.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from North Dakota.

Mr. DORGAN. Mr. President, it is my understanding that 90 minutes have been reserved in a block of time for the Democratic Leader or his designee. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

THE AGENDA FOR 1998

Mr. DORGAN. Mr. President, my colleagues and I intend to come here to the floor today to discuss the agenda and what we see ahead of us in this congressional session, the second session of this Congress.

My expectation is that we will find ourselves this year, just as we have in previous years, debating a range of controversial, interesting, and in some cases very provocative issues. We will agree on some of these issues on a bipartisan basis. There may well be aggressive debates about other issues. That is the way the democratic system works. That is the way it should work.

Where we can reach across the aisle and achieve agreement and do the right thing for this country in a harmonious way, good for us. That's what the American people expect us to do. However, when there are policy issues that are very, very controversial, the people expect us to have a vigorous debate, and we will do that.

Most of us head home on weekends or during time when the Senate is not in session. I expect other Senators had the same experience I did during this most recent recess. Constituents say to you, ''Well, what are you doing down there in Washington? What's going on in Washington? What's happening in the Senate?'' It's a question that everyone asks, no matter where you meet them.

What is happening in the U.S. Senate, and what is happening down here in Washington with respect to legislative duties, is whatever we decide to have happen here on the floor. By virtue of what we schedule for the business of the Senate, we decide what parts of the people's business we will address this year.

I want to talk just for a moment about what I think the business of the Senate ought to be in the coming months.

First and foremost, we ought to take up the legislation that reauthorizes the highway program. That bill was supposed to have been passed last year. It wasn't passed; it was extended for 6 months. And the majority leader, quite appropriately, told us that it will be near the first order of business when Congress returns.

We must take that legislation up and pass it so that the folks around this country who have to plan to maintain our roads and bridges can make those plans. It is our responsibility to pass that bill—not later, but sooner, and I urge that the majority leader bring that legislation to the floor and do it soon.

Some in the Chamber counsel, ''Well, let's wait until the budget is passed.'' No, this is the legislation that was supposed to be passed last year. Let's not wait any longer. Let's bring it to the floor as the first order of business and pass a highway bill. It is also a bill that deals with jobs and opportunity and economic growth in every State in this country. We have a responsibility, in my judgment, to bring it to the floor and to move it.

Second, I hope in the next days we will pass a piece of legislation that the House of Representatives approved last year by an overwhelming vote. This bill deals with the Internal Revenue Service. It would change how the IRS does its business. It would make significant, important changes in the relationship between the Internal Revenue Service and the American taxpayer. The Senate should pass that bill quickly. It ought to be this week or next week. That ought to be at the front end of the business of this Senate.

Last night President Clinton came to Capitol Hill and in his State of the Union Address talked about the agenda that he thinks Congress ought to consider. At least one of the items of that agenda, which I expect will be controversial but really should not be, is the issue of managed care. I want to describe why this is so important.

President Clinton last night talked about the number of Americans who are now in managed care plans. Well over 100 million Americans are now in these plans. All of us have heard the stories about what managed care means to our families.

Peter Van Etten of Stanford Health Services, in Time magazine, said this on April 14: ''In the insanity of economics in health care, the patient always loses.''

President Clinton last night said there ought to be a patient's bill of rights. Let me give some real-life examples that will demonstrate the importance of this issue.

In California, an employee who suffered from hemophilia was unable to find out whether the new insurance plan offered by his employer would cover his blood-clotting concentrates unless he first joined the plan. In other words, they said you either decide to join or not to join, and we won't tell you whether this covers you as a hemophiliac. What kind of health care plan is that?

A large California HMO denied a referral of an 8-year-old girl suffering from a rare cancer called Wilms' tumor. According to the National Cancer Institutes' protocol for this type of cancer, the girl should have been referred to a Wilms' tumor multi-disciplinary team. But the HMO covering this girl demanded the surgery she required be performed by a urologist who did not specialize in pediatrics and who never before performed this surgery. Even though that HMO had a relationship with a local teaching hospital, which, in fact, did have a Wilms' tumor team, the family was told they would have to go out of the plan and that even the girl's hospital stay would not be covered by the HMO. This, by the way, ended up in court. The HMO was fined a half a million dollars by the California Department of Corporations.

A Time magazine cover story titled ''What Your Doctor Can't Tell You'' featured a young mother of two, battling with her managed care insurer for coverage of expensive treatments for breast cancer that had already spread to other parts of her body. She died before the article was published, so the fight was over. But she made her point.

In New Jersey, a young woman took a terrible fall from a horse. According to a New York Times newspaper article, she was suffering from swelling of the brain, and was being taken by ambulance to the nearest hospital. In the ambulance, as her brain was swelling from this injury, she said she didn't want to go to the nearest hospital because it was a facility concerned with the bottom line. She didn't want to go to an emergency room where she felt her health care would be a function of profit and loss statements. She told the ambulance crew to take her to a hospital that was farther away, where she was not worried about the kind of care she would get, and where her health was not going to depend on someone's profits and losses.

A Missouri managed care plan sent all of its customers a letter that said a trip to the emergency room with a broken leg, or a baby running a high fever, should not generally be assumed to be covered by the managed care plan. The letter read like this: ''An emergency room visit for medical treatment is not automatically covered under your benefit plan.''

Mr. President, over 100 million Americans are in managed care plans. These plans can, in fact, save money. In some cases they can improve care. But they can also set up circumstances where decisions about health care are made not by a doctor, but by an accountant in an office 400 miles away, who decides what procedures are covered. I have had doctors tell me that this isn't serving patients' interests. And patients are very concerned about the quality of their health care in this circumstance.

The President said let's pass a piece of legislation to give the patient a right to know about health care options, to ensure the fundamental rights of patients under these plans.

Others will talk about other parts of the agenda. But in conclusion let me just talk for a moment about President Clinton's budget proposal last night. He said that if our budget no longer has a deficit, we should use any additional funds to put Social Security first, to save Social Security first.

I want to describe why that is important. This is a brand new document, January 1998, put out by the Congressional Budget Office. I will bet if you go to the Congressional Budget Office and you find out who wrote this, those people have some fancy degrees, probably three or four of them, from the best schools in the country. They probably wear tiny little glasses that make you look really smart. They probably work hard all day, have several titles. And everybody respects them immensely.

So they write a white book and the white book says that the budget is

going to be balanced in the year 2001. It's right here. These are smart people. They published it this month.

Then the same people, wearing the same glasses and gray suits and having the same pride in their work, say on page 43 that in the same year, 2001, when they say the budget will be balanced, the Federal debt will increase by over $100 billion.

I didn't take higher math. I probably didn't go to the best school in the world. But I ask the question, if you claim the budget is in balance, why would the Federal debt be increasing? I know the answer. Apparently these folks don't. It's because they are taking Social Security trust fund money and using it over in the operating side of the budget in order to say that the budget is in balance.

What the President said last night was ''Save Social Security first.'' We need to save the money in those trust funds. This accounting system ought to be honest. These people know better than to put out reports like this. The Congress ought to know better that to think we are running a surplus when the surplus is actually in Social Security and it's for future years. And I hope this Congress will express itself on that issue.

Do we decide as a Congress to save Social Security first? Or do we, as some suggest, spend more money quickly? Or, as others suggest, give money back, quickly, at a time when our Federal debt is still increasing? I hope this Congress will heed the advice of the President and make the right choices.

There is plenty more to talk about in the agenda. And my colleagues will do so.

Mr. President, we have an hour and a half. And I understand that the Senator from West Virginia wishes to take 15 minutes. So I yield to the Senator from West Virginia, Senator BYRD, for 15 minutes.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the distinguished Senator from North Dakota. And I thank the Chair.

Mr. President, on several occasions during the last session of Congress, I took to the Senate floor to discuss the importance of reauthorizing the Intermodal Surface Transportation Efficiency Act, or ISTEA. I shared my observation that this effort to renew our Nation's highway, highway safety and transit programs would be one of the most important, if not the most important, legislative accomplishment of the first session of the 105th Congress. As all Senators are aware, the provisions of ISTEA expired on September 30 of last year 1997. This meant that, absent enactment of new authorization legislation, many important highway, bridge, and transit projects would grind to a halt. Unfortunately, the Senate did not turn to the critically important ISTEA reauthorization bill until October 8 of last year. Between that date and October 29, 1997, the Senate was unable to adopt even one substantive amendment due to the impasse over Senate consideration of campaign finance reform legislation.

The parliamentary amendment tree was filled. And it was impossible to get an amendment in which I and other cosponsors of the amendment wanted to have brought before the Senate.

The Senate failed to invoke cloture four times on the ISTEA bill. In the end, notwithstanding the fact that a unanimous consent agreement was reached on the campaign finance issue, the 6-year ISTEA bill was pulled from the floor. Finally, on November 10, the Senate debated and passed a short-term extension of our existing highway and transit programs, effectively putting off completion of Senate action on our Nation's surface transportation policy for the next 6 years until the second session of the 105th Congress.

Now, despite the stated intentions of the Senate leadership to take up the ISTEA reauthorization bill, S. 1173, during the first week of the second session of this Congress, I am very concerned that the Senate may not return to the ISTEA reauthorization bill until after completion of the fiscal year 1999 budget resolution in late spring.

Mr. President, the onus is now upon us to return to the full 6-year transportation authorization bill and complete our work as soon as possible. While I supported the enactment of the short-term extension bill back in November, I remind my colleagues that it was only a stopgap measure providing only about one-half year of funding for our existing highway, highway safety, and transit programs. As of this date, our State highway departments and our mass transit systems cannot establish a budget for the current fiscal year because they do not know the final level of Federal resources that they will receive for this year. Morever, they cannot develop or implement any long-term financing plans because they do not know the level of Federal resources that will be available to them over the next 5 years. This is an impossible situation for our State highway departments. Given the cost and duration of major highway projects and the complexities associated with short construction seasons in our cold weather States, planning and predictability are essential to the logical functioning of our Federal-Aid Highway program. But that kind of rational planning is precisely what our States cannot do at this time because of our inaction. This is not how our State and local transportation agencies should have to do business. Certainly, no corporation could long survive doing business in this fashion. It is, nonetheless, the circumstances that we have placed upon our transportation agencies, due to our failure to enact a multi-year ISTEA reauthorization bill in a timely manner.

Members will recall that, prior to S. 1173, the ISTEA bill's being pulled from the floor, I, along with Senator GRAMM of Texas, and the chairman and ranking member of the Surface Transportation Subcommittee, Senators WARNER and BAUCUS, filed an amendment numbered 1397. Our amendment embodies the simple premise that the 4.3 cents-per-gallon gas tax, which previously went to deficit reduction, but which is now being deposited in the Highway Trust Fund, should be authorized to better address our Nation's considerable highway needs. The amendment has two principal objectives. First, to put an authorization in place that allows for a substantial increase in highway spending in order to stem the continuing deterioration of our National Highway System. And second, to fulfill the trust of the American people, the people out there who pay these gas taxes every time they drive up to the gas pump believing that these funds will be used to maintain and improve our national transportation system. That was the position of Senators GRAMM, BAUCUS, WARNER, and myself back in October when we brought forth our amendment, and that is our position today.

Our amendment, which now has 49 co-sponsors, provides for the authorization of highway spending levels over the next 5 years consistent with the revenues derived from this 4.3 cents gas tax—roughly $31 billion over the 5 years 1999–2003.

By the way, we have 49 cosponsors on that amendment. But several other Senators have assured us that they will vote for the amendment even though they were not interested in cosponsoring it for one reason or another. They will vote for it. They will be supportive of it if it will be brought up for a vote.

Nothing has changed since October regarding the resolve of Senators GRAMM, WARNER, BAUCUS, and myself to see this amendment adopted. However, other things have changed since the amendment was introduced. We are now well into fiscal year 1998 and the 4.3-cents gas tax is being deposited—where?—into the highway trust fund. By the end of this fiscal year, more than $7 billion—with a big ''B''—$7 billion in additional new revenue will be deposited into the Highway Trust Fund, not one penny—not one penny—of which is authorized to be spent under the committee-reported ISTEA bill. Instead, these funds will be allowed to sit in the highway trust fund, earning interest, and being used as an offset to the Federal deficit for the next 6 years. In other words, if we adopt the levels authorized in the committee-reported bill, as Senators DOMENICI and CHAFEE—both of whom I have the greatest respect for—would have us do, we will have accomplished nothing—nothing at all—toward improving our National Highway System. Instead, we will have just enacted legislation to actually prevent using this 4.3 cents gas tax for highways. What the committee-reported bill does, then, without the Byrd-Gramm-Baucus-Warner amendment, is ignore the availability of this new trust fund revenue for

the entire upcoming 6 years. Not one red cent will be authorized for expenditure if we accept the committee bill, as reported. This means that by the end of 2003, the highway trust fund balances will have grown to roughly $72 billion! In other words, some $72 billion will be sitting there in the highway trust fund as government IOUs collecting interest and being used to lower the Federal deficit instead of for highways as we, the Members of Congress, have told the American people it would be. I cannot imagine a more perverse scam on the American people.

Well, one may say, we need to balance the Federal budget and we cannot do it if we let these highway monies be spent. Not true. Not true, Senators.

The resources were available back in October to finance the levels of highway spending embodied in the Byrd-Gramm-Baucus-Warner amendment. And today, it appears that there are even more resources available to provide for a healthy increase in infrastructure spending, without busting the budget. When one reviews the conditions of our Nation's highways and bridges and the current inadequate levels of investment—which would continue for the next 6 years under the committee-reported bill—one must come, as I do, to the conclusion that it would be irresponsible to do any less.

Mr. President, our national highway system is America's lifeline, not just for rural areas, but for all of our Nation's cities—even those that make extensive use of mass transit and rail systems. Our major highways carry nearly 80 percent of U.S. interstate commercial traffic, and nearly 80 percent of intercity passenger and tourist traffic. Even though our Nation has among the most extensive and efficient rail and aviation systems in the world, eight out of every ten tons of interstate cargo still travel over our highways. And eight out of every ten of our constituents travel between States over highways. In regard to intrastate traffic, Americans take 91 percent of all work trips and 87 percent of all trips in a car or truck. Like it or not, we are a Nation on wheels.

Yet, despite the indispensable role our highway system plays in modern American life, we have, as a Nation, been negligent—let us confess it—we have been negligent in its upkeep. We have allowed the system to fall into a woeful state of disrepair while the unspent balances of the Highway Trust Fund have continued to climb. According to the most recent report by the U.S. Department of Transportation regarding the conditions and performance of our National Highway System, only 39 percent of our National Highway System is rated in good condition. Fully 61 percent of our Nation's highways are rated in either fair or poor condition. For our interstate system, which is the crown jewel of our National Highway System, fully 50 percent of the mileage is rated in fair or poor condition. And these figures only worsen when we look at our other major Federal and State highways. In our urban areas, fully 65 percent of our non-interstate highway mileage is rated as being in fair or poor condition. There are literally over a quarter-of-a-billion miles of pavement in the United States that are in poor or mediocre condition, and there are almost 95,000 bridges in our country that have been deemed to be deficient. Within that total, roughly 44,000 bridges have been deemed to be structurally deficient, meaning that they need significant maintenance, rehabilitation or replacement. Many of these bridges require load posting, requiring heavier trucks to take longer, alternate routes. And an additional 51,000 bridges have been deemed to be functionally deficient, meaning that they do not have the lane widths, shoulder widths, or vertical clearances sufficient to serve the traffic demand.

Paradoxically, as our roads continue to deteriorate, our Nation's dependence on those roads continues to grow. Highway use is on the rise. The number of vehicle miles traveled grew by roughly 40 percent over the last decade to an astronomical rate of 2.3 trillion. Within that total, the rate of traffic growth on our rural interstates grew by an even higher rate. And these levels of growth show no sign of abating. Since 1969, the number of trips per person taken over our roadways increased by more than 72 percent and the number of miles traveled increased by more than 65 percent. This combination of traffic growth and deteriorating conditions has led to an unprecedented level of congestion, not just in our urban centers but also in our suburbs and rural areas. Congestion is literally choking our roadways as our constituents seek to travel to work, to the shopping center, to the child care center, to their houses of worship.

Mr. President, the traveling public is waiting for us—for us—to take up and pass a comprehensive ISTEA bill that truly addresses the needs of our surface transportation system. We should take up that legislation at the earliest possible time. And when we do, I hope all of my colleagues will join Senator GRAMM, Senator BAUCUS, Senator WARNER and me, in supporting our amendment to re-invest in America's lifeline—our amendment to restore the trust of the American people in the Highway Trust Fund—our amendment to authorize the spending of our Highway Trust Fund resources where they are so desperately needed: On our Nation's highways.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Let me thank the Senator from West Virginia, Senator BYRD, for a very important statement.

Mr. BYRD. Let me thank my friend for his courtesy and kindness in yielding this time to me, but more than that for his leadership that he is demonstrating on this floor. This is quite characteristic of him.

Let me also say that my colleague, Senator ROCKEFELLER, likewise, is ready to speak. I shall wait, I shall sit, and I shall listen.

Mr. DORGAN. I yield 10 minutes to the Senator from West Virginia, Senator ROCKEFELLER.

Mr. ROCKEFELLER. I thank my colleague from North Dakota. I secondly thank my colleague from West Virginia. I wish the Presiding Officer a happy new year as we start off on what I think, based upon what we heard last night, ought to be a very optimistic and productive year. I thought it was really quite an extraordinary speech.

Even at the time there seemed to be so much in it that we could do that I worried, was it too much? And I came to the conclusion, no, it was all perfectly sensible—not all of it huge, some of it incremental, some of it large and challenging—all of it doable, and I think that is our challenge.

I think our country ought to be very happy about the fact that we have a balanced budget. It really was extraordinary, $357 billion down to $10 billion. We will present a balanced budget to the President for the first time in 30 years. That is an extraordinary accomplishment. We all share in that. The Democrats probably get the lion's share of the credit for the 1993 part, but the Republicans and Democrats did it together last year and, therefore, sealed what is a remarkable accomplishment in being fiscally prudent—and I think surprising, in a good way, the American people. I think that is probably a good thing because the markets rallied by our action. The markets are now troubled because of what is happening in Asia, and our President last night held out challenges to us on that matter, too, very boldly and I thought very correctly.

The point is we really have to go forward. We have, according to whoever you listen to, somewhere between 70 days and 100 days in which to enact legislative affairs. I haven't counted it up. I don't know exactly how that works, but I will take their word for it. In any event, there is really not much time, which means we have to reach across the aisle. The Presiding Officer and I often don't agree on subjects. On the other hand, we agreed on something of monumental importance when it came to the adoption bill at the end of the last session, and that is the way things get done around here, and that is the way things ought to get done around here. Republicans can't succeed without Democrats. Democrats, obviously in the minority, cannot succeed without Republicans. Yet we often succeed and do ourselves proud here, and I feel very comfortable in saying that.

I think the President made very clear that parents want their children to have the best kind of education. He put a program on the line. It is not an extravagant program. It is a sensible program. On our side, we have been grumbling about crumbling schools for quite a long time, and now I think we have a

chance to do something about that. The President put forward some money for that.

I think workers have reason to feel—workers of all ages—have good reason to feel good about last night because I think the President is very concerned particularly about those between 55 and 65 years old who don't have health insurance. We have all watched the phenomenon as American companies, reacting to principles that I'm not prepared to argue with, which I regret I am not prepared to argue with, as they decrease coverage, as coverage becomes more expensive or they decrease coverage, perhaps, of the dependents of the worker, even if they hold on to the coverage for their worker, and often it is the coverage of the worker's children that is really the matter most at stake. I think he wants that to be solved. He wants people to be able to buy into the Medicare Program between 55 and 65.

Interestingly enough, that is a group which has an enormous amount of dependency on health care because right now 15 percent of those older Americans are completely uninsured. So that is the time in life when things begin to get more difficult in terms of health, and the President understands that and reacted to that.

I really did like, Mr. President, what he talked about in health care. I liked the idea of pushing us further than we have been on children's health care. We did a very good job last year on a bipartisan basis, and that is exactly what it was. I remember the Finance Committee meetings. They were an absolute model, Senator BYRD, of bipartisan cooperation. All staff, everybody left the room, and then there were just the 20 Senators—11 Republicans, 9 Democrats—facing each other. And rather rapidly, perhaps because there was no glare, an enormous amount of cooperation just exploded in that cooperation, and all of a sudden we had the children's health care bill which is being put to good use. Fifteen States have already asked Donna Shalala for a waiver to be able to proceed. West Virginia has not at this point concluded what it will do. Governor Underwood presented a good program to the State legislature. The State legislature is going to come back with a good program. There will be a compromise reached. The legislature is Democratic. The Governor is Republican. They both want the same thing. They both want to see children insured. So does the President, and he wanted to see more of that.

I will express a concern to the Presiding Officer that a large number of those 5 million children that we included in our bill last year are children who are already eligible for Medicaid but simply don't know it because their families are detached from the system, because somehow through the school lunch program they just have not found out they are eligible, they don't want to fill out the paper forms, or they are afraid. That is a phenomenon that one finds in the hills and hollows of various parts of this country. I worry a great deal about being able to get out to those children. In the case of West Virginia there are some 30,000 children who are already eligible for Medicaid. But the President was challenging us to do that and to do more, and well he should because there are 10 million uninsured children in this country. No other industrial nation on Earth has to go through the pain of saying that. He pushes us forward.

I think he cares very much, as I indicated, about the workers in the 55- to 65-year-old range. They worry about their future. The baby boomers, the younger generation, wonder whether there will be Social Security and Medicare for them, and they have reason to worry. I think the President, therefore, said, look, let's take the money which is going into a surplus, should there be one, and put that into Social Security. He said, ''Social Security first.'' That is strong stuff. I think the American people really identify with that. That means that, no, there cannot be some of the tax cuts which some on both sides of the aisle may want to see, some of which may be very useful. But in a sense he was saying we can't have it all. We have to make priorities. Social Security comes first.

There is also, as the Presiding Officer knows, a commission on Medicare which I am very proud to serve on. That is a huge problem that we will have to solve. Last year we bought ourselves about 10 years, but let's face it, in the buying of those 10 years we took some of the pressure off, the decision that we will have to make in the next 2 years, and we cannot allow that to happen.

The Social Security Commission of 1983 succeeded because Social Security was in the act of collapsing and the commission knew it and therefore they acted. The commission on Medicare, which affects so many in our country, is not going to be faced with that kind of immediate pressure so we will have to bring it on through our own energies, our own intellectual and moral commitments, and I believe we will be able to do that.

The other thing that the President said among many that I liked very much was the whole concept of people dealing for the first time with managed care. He pointed out the enormous number of Americans that are in managed care now and he wants to see basic rights for people that have that available to them. I think he is quite right. We will see, as we have before, insurance companies and their lobbyists talking about mandates and big Government and all kind of things like that, but I don't sign on to that. I think the President is right, that confidentiality ought to be a right, and managed care patients ought to be able to see a specialist. Just because it is the cheapest doesn't mean it is the best. Patients should not be herded into something because it is cheap. It ought to be as cheap as possible, but it has to be very, very good.

All in all, I thought the President had a lot to say. I thought he said it with eloquence. I thought he said it with strength. I thought he said it with a very, very strong vision. Health care is hard. No. 1, it is hard just as a subject, but it tends to automatically send people scurrying one direction or another direction. People either say too big Government or people say that is not enough. Somehow we have to find in this Chamber a way of understanding that the world's greatest economy can afford, even if it is on an incremental basis, that all of our citizens be insured. We really can do that and we can work together to do that.

There has been marvelous cooperation—Senator CHAFEE and myself, Senator KENNEDY, Senator HATCH—on children's health last year. There have been so many examples of that over the recent years. I think part of the lesson that he preached last night was, ''Let's do this together.'' It wasn't just ''I, a Democratic President of the United States.'' It is ''we,'' representing all of us, representing Republicans and Democrats all across this country.

I am ready to fight for a good solution for Medicare. I want to see parents satisfied that their children are getting the best education. I want to see baby boomers have a sense of security about Social Security in the future because we dedicate surpluses to that area, and I also want to see retired workers who are either kicked out of jobs or retired from jobs during the vulnerable period of their older lives, 55 to 65, to have a basic sense of being able to buy into Medicare. I think that is sound health care policy and I congratulate the President on doing that.

I yield the floor.

Mr. DORGAN. Mr. President, I thank Senator ROCKEFELLER for a wonderful presentation.

I yield 10 minutes to the Senator from New Mexico, Senator BINGAMAN, following which I yield 10 minutes to the Senator from Connecticut, Senator DODD.

Mr. BINGAMAN. Mr. President, I thank the Senator from North Dakota. I may not take a full 10 minutes, I advise the Senator from Connecticut.

Let me start and make the points that I came here to make because I do believe that some important issues were raised by the President last night in the State of the Union Address, and they are points that are worthwhile to go back and look at for just a minute.

One change that has occurred here in Washington in the time I have been here—and it was very clear last night when I listened to the President—is that we now have a consensus; at least a majority agree that education is a national responsibility as well as a State and local responsibility. I can remember very recently—and you still hear people say this, but not many anymore—but I can remember when a

substantial number of people used to say education is not an appropriate issue for the Federal Government to concern itself with.

Clearly, it is a great concern for the people I represent in New Mexico, and it is a great concern for working families all over this country; but ''it should not be a concern for people who come to Washington to make the laws or to appropriate funds or to allocate tax dollars because this is not a national responsibility.'' That was the argument that we always heard. I think one of the great legacies that this President will leave and this Congress will leave is that there is a change in that attitude. There is a recognition here in Washington, finally, that just as every other industrial nation in the world considers education a national concern as well as a State and local concern, here in America we need to consider it a national concern as well as a State and local concern as well. So I think that is a major change and a change for the better.

Last year, Congress and the President agreed on some very significant initiatives in the area of education—a new HOPE scholarship for 2 years of college, a $3 billion overall increase in education funding was included last year, and funding for a new $210 million reading initiative. There were various other initiatives in the education area that were agreed upon by Democrats and Republicans alike. So we have made progress so far in the 105th Congress, and in the second session we can make more progress. I have heard some speeches today and some comments today by my colleagues, particularly on the other side of the aisle, and they go along two lines. Number one is the old argument that this is not a national concern, education is not a national concern, we should not be doing more in this area. We ought to leave it up to local school districts if they want to do it. Second, there is no money. We may have the largest economy in the world, and we may be in a period where the Union is strong and where the economy is strong and where we are finally getting to a balanced budget, or very near to it, but there is no money. ''We now spend less than 2 percent of our Federal budget on education and that is too much. We can't afford to spend any more.'' That is the argument I hear.

I don't think the American people agree with that. When I go to my State and have town hall meetings and visits with people around New Mexico, I hear them say they are shocked to find that the Federal Government commits so little in resources relative to what the Federal Government spends in other areas. So I think we are expected by the people who sent us here to do better by education. The President is showing us the way to do that.

There are three areas in particular I want to highlight today where I think he is showing some leadership, and we need to follow that leadership and try to make a difference. One is in the very important area of lowering the dropout rate in our schools, reaching those at-risk students who historically have left high school before they graduate. We have oversized schools in this country. We have low expectations of many of our students. We have inadequate involvement of parents in the education of their children. As a result of all of these factors, over 500,000 students each year in this country drop out of school before they complete high school. Thirty percent of the young Hispanic adults in this country lack a high school degree because of that very problem. This is a national tragedy, in my opinion, and we at the Federal level can do some things to try to assist with this problem.

I hope very much we will take the lead of the President in doing that. He has proposed key programs such as title I, the TRIO program, bilingual education, and several new initiatives to make schools more conducive to learning, to raise expectations and lower dropout rates. He has proposed $12 billion for class size reduction and teacher training and a mentoring program for at-risk middle school students. He has proposed $150 million for comprehensive reform. Now, that funding would go to schools with a serious dropout problem that want to focus on restructuring those schools and coming up with ways to give attention to the at-risk student, to keep them in that school, prevent them from dropping out. That is an initiative that is worth our effort and support.

A second area, in addition to the dropout problem that the President is providing leadership on and that we here in Congress have done a substantial amount on in recent years, is providing computers and access to the Internet for the students in our schools today. Technological literacy is an essential part of being educated today. We need to ensure that the schools throughout this Nation are equipped so that students who come through those schools have access to that technology. The President is proposing significant fiscal year 1999 increases for key technology programs. For the formula grants to States there is $425 million in fiscal 1997. For competitive grants, $76 million for technology training for teachers. And all of us understand that you have to train the teachers to use the technology in order that it can be used effectively by the students as well in the classroom. The President is proposing increases in each of these areas. I believe it is in the best interest of this country for us to follow his lead in that area.

The President's $10 billion school construction initiative will also help to provide access to fully-wired, technology-ready facilities for computers, and the Internet can be readily integrated into classrooms. Schools are the last area of our society where technology is really having an impact. It is more prevalent in our homes and in our offices than it is in our schools, and it is time that we fix that problem.

The final area I want to mention is where I believe the President has made some progress and this Congress has made some progress and we need to keep moving forward in, which is the area of world-class academic standards. Too many schools still offer watered-down academic programs, general education tracks, and low expectations that will not meet the demands of local competition. The President has proposed $200 million in incentives to help districts to set high academic standards, to eliminate the problem of social promotion which he spoke about very eloquently last night, and to take other measures to upgrade the quality of education in our schools. He requested roughly $13 million to pilot and field test a new voluntary national test in reading at the fourth grade level and math at the eighth grade level. This test would be developed by the National Assessment Governing Board, which is not part of the Department of Education.

Mr. President, these three initiatives—the effort to reduce dropout rates, the effort to provide technology for our schools, and the effort to assist our local schools to achieve world-class academic standards—are all worthy goals for us in this second session of the 105th Congress. I hope very much that we will follow the lead of the President and support these efforts with real resources. We will recognize that our constituents do not want to have us debate and debate and debate about whose responsibility it is to improve the schools. They want to see progress, they want to see improvement, they want to see their children receive a better education. We have the power to do that by continuing what we started in the last session of this Congress—that is, putting more resources into education, giving the priority to education that the President talked about last night. I hope very much we will do that. I believe the President has shown a direction that the American people want to see us follow. And I hope very much we will have the good sense to follow that direction.

Mr. President, I know there are others who intend to speak. So at this point I yield the floor.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER (Mr. HAGEL). The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, let me, first of all, commend my colleague from New Mexico for the very thoughtful statement on education, on the importance of it. I did not hear all of the statements made earlier. I know my colleague from West Virginia, the senior Senator from West Virginia, Senator BYRD, discussed the issue of transportation and the importance of the ISTEA bill, the intermodal transportation system bill, which has to be brought up very quickly here. I heard our junior Senator from West Virginia

discuss the issue of Medicare and health care. So a number of these items the President discussed last evening in his State of the Union Message have been the subject of some discussion here today.

I think all of us were very impressed with the agenda the President has laid out for this session of this Congress, the remaining 70 to 120 days. The distinguished majority leader of the U.S. Senate, Senator LOTT, has indicated this will not be a long session. So we have a relatively short amount of time for an agenda that I think is important for the country. I hope many of these items will be considered in a strong bipartisan sense. Some will obviously provoke some disagreements. Minimum wage and family and medical leave are two items that come to mind immediately. But I hope on things like Medicare and Social Security and building our public schools and campaign finance reform, we can find some common ground here and get the business of the country done.

Mr. President, I would like to focus some remarks, if I could, on a subject that is I think critically important. The President spent some time discussing it last evening. It is one that I had worked on for about a month and a half here, during the month of December and a good part of the month of January, with a bipartisan group of Republicans and Democrats, and that subject is child care.

Unfortunately, in the last week, I received some correspondence from our colleagues on the Republican side who decided to pull out of the effort basically to come up with another bill. I understand Senator CHAFEE of Rhode Island has introduced a bill that, in many ways, reflects the work product of those 6 weeks, where I had tried to see in that quiet time if we could come out with a proposal that we could rally around here. Unfortunately—and this happens—these things break apart. I hope at some point we will come back together again. This is important. We have introduced a bill on our side, so there are two bills out there. The President laid out some thoughts and ideas on it. Let me say to you, Mr. President, how important this issue is. We are talking about millions of families in this country that are either single parents raising children, or two-income parents that need both incomes. They may have children and have to pay the tremendous cost of child care because, obviously, you can't leave them home alone. Maybe they don't necessarily have grandparents or aunts and uncles around to take care of them on a daily basis. It poses a serious problem for parents. When schools close down for snow days during the winter. What do you do with your children when you have to go off to work? You have the job you need and the children you love. How do you reconcile these issues?

In the past, many of us grew up in a situation where you had neighbors and friends and you would accommodate an occasion when a crisis like that emerged. Today, it is a daily effort, if a family is to make ends meet and fulfill these obligations. The average cost of a child care setting is between $4,000 and $9,000 per child per year. If you are making, as the average family does, $30,000, $35,000, $40,000 a year, with two children that need some care because they are minors or infants, you immediately get a sense of how difficult a situation people can be placed in financially.

What we have proposed is to expand the block grants, to come up with some tax credits—by the way, tax credits not just to families who have children they want to place in care, but to families who decide they are going to try and get along with one income. Some parents are going to stay home. We provide the credits for them as well. We make it refundable, too, Mr. President, because people who make that $30,000 and below don't pay taxes. Yet, many of them are out there just barely getting along. If they don't have a refundable tax credit, they don't get any benefit at all. So we refund the tax credits for those families that either want to stay home with their child or place that child in a child care setting, because they need that extra help to get along. On the stay-at-home parent idea—and I am delighted to see more and more coming to this issue—I authored something called the Family and Medical Leave Act, which was a source of some controversy back in the 1980's. It took me 7 years. It went through 2 vetoes, and as the President said, it was the first bill he signed into law in 1993. That was basically a stay-at-home parent idea. The idea was that if your child is facing a medical crisis or serious problem that could be documented, that a parent could make the choice to take 12 weeks away from their job, up to 12 weeks, without pay, without losing their job. We were the only country that I could find among industrialized nations that didn't permit a family and medical leave policy, giving parents the ability to stay at home and care for their children without losing the job that they need.

So the idea of providing some assistance for parents who want to stay at home and care for their children, I think, is a very sound idea. I hope we don't get into the situation where we cause stay-at-home parents and those who must work to be pitted against each other, to cause a quarrel, if you will, between parents who don't have that choice. If you are raising 2 or 3 kids on your own, the idea that you have a choice to stay home and watch them is nonexistent. You don't have that choice. Or if you are a two-income family barely getting by or you want to invest money that you are earning for their education, or to buy a better home, or to plan a vacation, you should not be branded somehow as an uncaring parent because you made that choice. I don't want to see us get into a debate here and suggest somehow that parents who need that second income are less caring about their children because they make that choice, any more than I want to see us deprive parents who make that choice to be at home by not providing them with help so that they can do that.

So I am hopeful that we can come to some common ground here. We have begun Welfare to Work. We have a lot more people in the work force. We don't have the child care vacancies, and we don't have the high-paying child care workers, as the average income is $12,000 a year. I don't know anyone who can now get along on that income. How do you attract good people to care for our children in this society?

There have been studies done recently about the quality of child care programs around the country. Some 17 States now have certification processes. Yet the Ziegler Child Study Center at Yale University would tell you that even in the States that have certification and accreditation processes the quality of child care is embarrassing. It is mortifying.

So for States that do not have that certification process you can imagine what it is like. In fact, if you pick up almost any daily newspaper in any city or any State in the country, you will find a case almost on a daily basis of parents who placed their child in what they thought was a safe, quality child care setting only to discover, of course, that child is not safe, and lost its life as we have seen in numerous cases. So we need to be far more conscientious.

We don't deal with quality here in Washington. We don't set standards. I realize that is too high a hurdle to probably overcome. So we let the States set the standards. There is nothing in our Federal bill that mandates what standards are. But we do think there ought to be at least health and safety standards. We require that for our pets. If you leave them at a vet or in one of these weekend kennels, you get a State requirement of safety and health standards for your puppies. It seems to me, if we are going to require that minimum standard for animals that we might try it for our own children in this country.

So our bill provides assistance to employers and providers of child care, and to parents who want to have the security of knowing their children are in safe places.

To give you an idea of how serious this problem is, in the State of Florida today, there is a need of 40,000 spaces for child care that are nonexistent in the State. We are told with Welfare to Work that number will increase by 440,000 in the coming year. So you are going to have an explosion, I guess, of child care providers. What will be the quality? How much will the cost be? Is it accessible to people? The State of Florida may be an example where the vacancy rate is particularly high. But it is not unique. Other States across

the country are facing similar problems.

I was disappointed when I saw the list of the 19 priority items that the majority leader has placed before us in this brief session that child care is not on that list of 19. Child care is not on that list. We went through the debate on welfare reform a year or so ago. One of the promises made in this Chamber was that as we moved people from welfare to work, we would do something about caring for the children of these people who have been on welfare. What we are being told now, with this priority list of 19, is that child care is not on that list; that working families who are trying to make ends meet in caring for their children are not going to be a part of this agenda in the next 70 or 120 days of a legislative process. I am hopeful that agenda can change, that it is not written in concrete, that there will be an opportunity to make the case that we ought to be able to come up with a compromise bill if need be between Republicans and Democrats that takes out the partisanship on this issue and says that we ought to be able to come up with some idea here that can assist these working families.

I know my colleague from Utah, Senator HATCH, with whom I wrote the child care block grant program 13 years ago, and my colleague from Kansas, Senator PAT ROBERTS, care very much about this issue. Senator JEFFORDS cares about this issue, and had his own bill up earlier. Obviously, Senator CHAFEE does. He has a bill in. I know my colleagues from Maine, Senator COLLINS and Senator SNOWE, and Senator SPECTER have an interest in this. I am just disappointed. I can't hide it—that having invested 6 weeks of staff time and effort to try to come up with a compromise bill that it all falls apart literally in the last few days after we pretty much had a work product.

So I am going to continue to raise this issue. I am glad the President did last night. I am glad he highlighted it. I think a lot of people in this country understand in very graphic ways how important this issue is to them for their neighbors and their coworkers. They understand it. They see every day what goes on, how difficult this is, how costly it is, and how worried people are. After-school care is a big issue in this context. We put over $3 billion over 5 years in after school care. 5 million children every day are home alone between 3 o'clock and 6 o'clock and 7 o'clock. Any police chief in any town will tell you the problems that kids get into is not after 11 p.m. at night when people want to put in curfews. Where kids get in trouble is in the afternoon between 3 o'clock and 8 o'clock. That is when trouble occurs. Seventy percent of our schools in this country have no after-school care programs at all. It seems to me that we ought to do something about that. I am not just talking about infants but young children in elementary schools. Try and dial a phone in a relatively small community between 3 p.m. and 3:30 p.m. in the afternoon. There is a delay between the last digit you dial and when the phone actually clicks in. That is because the phone system is overloaded with parents calling their homes to make sure their kids have gotten home safely.

So after-school care is a part of our effort and a part of this proposal that we will put before this body.

So with those thoughts I am urging our colleagues to see if we can't find some common ground. Hopefully the majority leader will change that agenda to include child care on it with the recommendation of the administration. We are not arguing now with an executive branch over whether or not we ought to do this.

There are two bills here that it seems to me we should move on. I am going to raise this issue at every opportunity I can in the coming weeks to see to it that before this session of this Congress adjourns that this U.S. Senate will address child care, after-school care, and care for parents who want to stay at home, and that these parents are going to get some relief before we call it quits. I think it is a critical issue and one that ought to be one of our top priorities rather than not a priority at all.

With that I yield the remainder of my time, if any of my colleagues want to take a few minutes before the time expires. I see my colleague from New Jersey.

Mr. TORRICELLI. I thank the Senator from Connecticut for the time.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. TORRICELLI. Mr. President, the State of the Union Address last evening reminds me of the words of President KENNEDY who in 1962 came before the Nation and he said, ''It is my responsibility to report on the state of the Nation but it is all of our responsibility to improve it.''

Increasingly that is a responsibility that is being met. It is incredible now to remember that when President Clinton assumed office 5 years ago there was projected to be in 1998 a Federal budget deficit of $357 billion. Indeed, in the budget that the President is about to submit there is a $10 billion deficit. And the reality is within a year the U.S. Government for the first time in 30 years will be conducting its affairs in a fiscal surplus.

For 3 decades, six Presidents of both political parties in their State of the Union Addresses have had it incumbent upon them to distribute pain—not to challenge the Nation to meet problems but to distribute sacrifice because of mounting deficits that left the U.S. Government with no choice.

There have indeed been many victims of the deficit. It is common to talk about them in terms of taxpayers having to pay an ever larger share of their income in Federal tax with an ever-larger share of their taxes going to interest on the national deficit. The taxpayers were not the only victims. The Federal deficit made victims out of children who never got the education they required. Students were never able to continue with assistance into higher education because of programs we could not pass; young families that could not get day care, and people, mothers and fathers, who could not follow opportunities because of it. There were many victims of the Federal deficit, and we each now need to be reminded that the country's budget evolved into a surplus.

Alan Greenspan may have said it best when he said we cannot just balance the Federal budget and think that our work is complete for if there is no investment in the Nation's future then we have still failed. That, Mr. President, is where we find ourselves tonight. Part of our national mission is accomplished. There will be a Federal budget surplus. Now the question is are we wise enough to recognize where the sacrifices have been? Are we smart enough to plan for the future to assure that the economic growth that we are now experiencing can continue?

Last night in the State of the Union Address the President outlined several specific investments that go to the core of this question, each in a way addressing an aspect of the national infrastructure. The first was Social Security.

There are in our Nation 80 million members of my generation born in the years after the last world war. They have worked hard. They are saving diligently. They have participated in building this high-growth economy. Soon they begin to face retirement. The Social Security trust fund through their savings and participation will continue to run a surplus through the year 2014. The current projections are that the same trust fund will expire by the year 2031.

Last night the President left us with a simple challenge. In facing the Federal budget surplus let's deal with Social Security first. Let this generation of Americans now retire. My generation who will be facing it in all too few years know the trust funds will be secure, permanent. Let's begin that planning now.

Second, the President recognized that in the 21st century the foundation of our Nation's economy and perhaps its principal national infrastructure will be our educational institutions. As certainly as in the 17th century it may have been the construction of canals, as certainly as in the 18th and 19th century it may have evolved into railroads to most certainly what now are institutions of higher learning in our schools.

As part of the program to deal with this reality, the President challenged us to create a Federal program to hire 100,000 new teachers to enable the Nation to reduce the class size for first, second, and third graders to 18 students, an extraordinary challenge with everything that it could mean for expanding the quality of American schools. But it did more.

Recognizing that smaller school classes is going to mean the need for more classrooms and facing the reality that fully two-thirds of all American schools are now substandard, two-thirds have at least one serious construction problem that must be addressed, potentially $100 billion worth of necessary construction to bring America's schools up to standards, the President recommended a program whereby the Federal Government would not build the schools; that responsibility would remain local. But we could reduce the cost of the construction by the Federal Government paying the interest on the loans of local governments and State governments to build those schools.

Third, the President challenged this Congress to continue progress on access to quality health care in America. Two years ago, this Congress assured that Americans could change their jobs without losing their health care. This Congress assured that if a member of a family was taken ill, they would not lose their health care because they made use of it. Two years ago, we did right by the American people in expanding our health care opportunities. And a year ago we did so again, adding 5 million American children, previously uninsured, without access to the system. We brought them into health care insurance through the Government.

Now the question is even larger. The President challenged us in the State of the Union Address to deal with the reality of 160 million Americans who now have their health care delivered through managed care systems. I know something of this issue because only a week ago in New Jersey, meeting with 100 individuals, many of whom had had difficulties with their managed care systems, I heard the stories that Americans are experiencing every day—members of managed care systems who could not get the truth of their own files, people who needed to see specialists but were denied, people whose privacy had been violated, people who traveled needing access to emergency rooms and could not get it because care would not be received through their managed care program.

The President's challenge last evening was we can make managed care work, and, indeed, in reducing costs it has worked. We have gone from 12 and 13 and 14 percent annual increases in the cost of health care to 2.5 percent last year. But saving money is only half the equation. The remainder is assuring that what has been the finest quality care system in the world in the United States is maintained and that managed care complements that system and does not frustrate it.

Fourth, the President recognized the reality that fully 60 percent of American women today with children, with homes to maintain, are also in the work force—not always by choice, certainly not usually by luxury. But with the cost of raising children and maintaining a home today, two family incomes are often a necessity, and yet in modern America the ambitions of these women, the needs of these families are frustrated because they cannot get affordable child care. It is hard to imagine any higher priority today for young working families in America than assuring quality, safe, affordable child care. Indeed, America remains almost alone in the world in not helping our families meet this urgent need and responsibility.

Through tax credits for businesses, through a larger child care tax credit for working families, the challenge has been laid before the Congress. More directly, the President said, ''Not a single American family should ever have to choose between the job they need and the child they love.'' Exactly, Mr. President, and that is the challenge before this Congress.

And yet, finally, I recognize that having fought all of these years to balance the Federal budget, to reach the point where an American President could honestly predict a surplus in our finances, we achieve nothing if we meet these responsibilities but require higher taxes on American families that cannot afford the increased burden. It is notable that this balanced budget has been achieved and some of these social objectives already met while the country has the lowest tax burden on middle-income families in 20 years. But it is important still to recognize that that burden can still be eased more through targeted, responsible tax cuts that do not add to the deficit but help meet some of these social objectives—tax cuts to encourage and expand child care, targeted tax cuts to help with the cost of financing education, tax cuts that encourage savings and investment to maintain this rapid economic growth that is producing these extraordinary revenues.

Mr. President, this is an extraordinary time in the life of our country. We can do good and great things but not by resting on what we have achieved. This economy has not grown, our people are not productive, our industries are not competitive, we are not leading the world in finance and industry, no less in diplomacy, statesmanship and military power because we have learned to rest but, rather, because we have learned to challenge—not because we live off the growth of previous years, the investments of other generations but because we invest and save ourselves. That challenge remains with us tonight, not to accept things as they are but to invest, to educate, to build,

There is a quote that I have through the years always admired from an architect in Chicago, Daniel Burnham, who said in 1909 to his colleagues, ''Make no little plans, for they have no magic to stir men's blood and will probably never be realized. Make big plans.'' Last night, in his State of the Union Address, President Clinton made before the Nation an ambitious agenda. It is a big plan worthy of a big and a great nation.

I hope and trust in this final year of the 105th Congress our vision will be as big, our action will be as bold as the State of the Union Address this Congress heard last night from President Clinton.

Madam President, with that, if I could, I should like to yield to the Senator from Oregon.

The PRESIDING OFFICER (Ms. COLLINS). The Senator from Oregon is recognized.

Mr. WYDEN. I thank the Chair.

Madam President, by focusing on Social Security reform, educational quality, and strengthening the rights of health care patients, last night's speech zeroed in on the issues that I have been hearing Oregonians talk about during the course of 12 town meetings this month. Certainly a budget surplus, no matter how you count to create that surplus, is not going to bring us into some sort of budget nirvana if it is followed by more years of deficits. And I thought what was especially constructive about last night's speech was it zeroed in on the critical questions of retirement and health care that clearly drive the budget and the deficit for the long-term. The fact is you cannot have long-term budget discipline unless you deal with Social Security and health care, and I think last night we heard a call to arms, to dig in on a bipartisan basis on those key issues.

Now, with respect to Social Security—and I am sure it is the case for all of our colleagues on both sides of the aisle—I can report that in my State more young people think that they are going to have a date with an extraterrestrial than think they are going to get a Social Security check. They look at these whopper payroll taxes that they are paying today, more than 6 percent for the worker, more than 6 percent for the employer, millions of Americans paying more in payroll taxes than they pay in income taxes, and they see that essentially their retirement contribution in the past has gone to a great extent to operate the budget.

I think it is fair to say—and there has been a considerable amount of discussion of this in the last few weeks—that the budget surplus in America is to a great extent the Social Security surplus in America. I think last night we learned that the real challenge ahead—the President essentially called for what amounts to a year-long national teach-in on retirement finance in America—is to be straight with people. We are going to have to talk about the tough choices and in particular how we protect the millions of Americans for whom Social Security is a lifeline, vulnerable folks who every month are balancing their food costs against their medical bills and medical bills against their pharmaceutical bills, and the question is, how do we take care of those vulnerable folks and still get

ready for this demographic tsunami—75, 80 million baby boomers that are going to retire early in the next century.

But it seems to me that if we spend the next year working on a bipartisan basis to dig into these issues, look at a variety of different approaches—I am particularly attracted to the idea of trying to stimulate more private saving; I think there are a variety of ways in which that can be done—we will have said on our watch, on our watch, Madam President—and I have enjoyed serving with you on the Senate Committee on Aging—we will be able to say that on our watch we did not duck the tough and difficult questions. And certainly they are just as difficult with respect to health care as they are to retirement finance.

I come from a part of the United States where we have perhaps the highest concentration of managed care in the country. In fact, in my hometown of Portland, more than half of the older people are in HMOs, are in managed care, and the challenge always is, even in a hometown like mine where we have a lot of good managed care, how do you hold the cost down while still protecting the rights of patients in those health plans.

I am of the view that a lot of those folks feel powerless today. Frankly, they feel powerless throughout the health system, whether they are in an HMO or a fee-for-service plan or one of these hybrids that is a little bit of each. And I think that we as a body differ on lots of aspects about health care. Certainly you can differ on the role of the Federal Government, State government, tax policy, and a variety of issues, but I, for the life of me, cannot understand why any of us would not support what we heard last night with respect to patients being told about all their options in the health care system. Disagree all you want about the kind of services that ought to be part of a health plan but let us not disagree on the fundamental right to know what treatment might be available to you and what your options are. The same with the right of appeal, the right to make sure that if you felt you did not get a fair shake from the health care system you would have an opportunity to be heard and you could have another chance to make sure that your claim for services was addressed in a fair way. This issue, the question of protecting the rights of patients in health plans while holding costs down, is the essence of our challenge in health care. Of course you can hold costs down if you don't give people any care. That is a walk in the park. Anybody can do that. That is not the kind of health care system we want. We want one that both holds costs down and protects the quality of health care in our country. We have been able to achieve some of that success in my home State. I am convinced we can do it in every community in Oregon and across the country, but it is going to mean, as we heard last night, stepping forward, stepping up to the key issues.

Madam President, what I was especially pleased about with respect to last night's speech was the call for bipartisanship. I think that is critical to taking on these key issues such as retirement and health care. Again, in our home State, that's the kind of government that we are trying to practice. I can tell you that my colleague in the U.S. Senate, Senator GORDON SMITH and I, after we ran against each other for the seat to replace Bob Packwood—of all people, we could probably have come here and quarreled about all kinds of issues. We have not wanted to make that part of our service. We wanted to make part of our service tackling these issues on a bipartisan basis, in a way that makes sense for Oregon and our country. That is why, as new members of the Budget Committee, we joined in the last session in terms of Medicare reimbursement reform.

As the Presiding Officer of this body knows, regarding much of the Medicare reimbursement system, since its inception the program has actually rewarded folks for being inefficient and penalized States for holding costs down. Senator SMITH and I thought that was particularly unfair to our constituents, who have done so much heavy lifting to get the health care system back on track. We worked with other Senators, leaders on both sides, and were able to make some very dramatic changes in that reimbursement system. It has an eye-glazing name called the AAPCC, the Average Adjusted Per Capita Costs, but it's the guts of reimbursement. And I am convinced that when, on a bipartisan basis, colleagues can work for those kinds of changes, and we were successful last session, we can certainly rise to the challenge that we were given last night and move ahead with respect to reform as it relates to health maintenance organizations—consumer rights, like the right to full information and the right to appeal.

So I am optimistic, as we go forward in the days ahead to tackle these issues, Madam President. I think we have an opportunity on our watch to say that we did not duck, that we understand that these issues, with respect to retirement and health care financing, are the biggest issues that in the past folks in politics ducked. We cannot afford to do that any longer. I look forward to working on a bipartisan basis with my colleagues on those questions in the days ahead.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. Madam President, I do want to say to my colleague from Wyoming that I shall stay within 10 minutes. He is here on the floor. We have had a chance to speak as Democrats for a while. So I will try and stay relatively brief. When I say 10 minutes I mean by clock time, not by Senate time. So I really will try to do this.

I thank my colleague from Oregon for his fine statement.

Mr. WYDEN. I thank my colleague.

Mr. WELLSTONE. Madam President, I want to talk about the President's speech last night. Let me start out with where I disagree with some of what he had to say, and then let me talk about what I think were some of the sharp differences between Democrats and Republicans. That is not to say I am not interested in bipartisanship, but I think, frankly, if there are differences between the parties that make a difference, and people see a real debate and it is important to their lives, that will be all to the good.

I think the President is dead wrong in what he had to say about welfare reform. I never called it reform because I think that takes for granted the very question in doubt, as to whether or not it is really reform. That there are a million or 2 million or 3 million fewer women and children—those are the welfare recipients on welfare today—than several years ago does not necessarily represent reform. A reduction of the caseload, reduction of people who are receiving assistance, has nothing to do with whether or not you have reduced poverty. It is reform when we have reduced poverty.

I will just say for the record that, as I have had a chance to travel around the community, and a lot of poor communities in our country, there are several things which I found which are very troubling. I do not believe I do any damage to the truth when I say this, and think all Senators need to take note of it. First of all, it is simply true that there are 3- and 4-year-olds at home alone. It is simply true that there were long waiting lists for affordable child care, long before welfare reform, and many of these children are not receiving nurturing, important developmental care at the most critical years of their lives.

This is wrong.

It is also true, as I said the other day, that there are first and second and third graders who, when they go home, there is no parent there. I think it is poignant. I think it is wrong that there are fewer children playing outdoors now because when many of these kids go home they go into a housing project and they are told to go inside, not take any phone calls, not answer the door. That is happening in the United States of America. We need to take note of that.

I think the President is also wrong because we don't know where these mothers are. We don't know what kind of jobs they have. And what is really astounding to me, Madam President, is at the State level we are not collecting the data. I think, as responsible policymakers, since 4 years, 3 years, 2 years from now, depending upon the State, all of these women and children are going to essentially be receiving no assistance, they are going to be cut off from all assistance, don't we need to know whether or not they have reached

economic self-sufficiency? These parents, mainly women—do they have jobs that pay a decent wage? Do they have health care coverage? Can they afford child care? Where are their children? We need to know that. That is where I disagree with the President's analysis. And I will have some amendments almost on the first piece of legislation that comes to the floor of the Senate where I will try to get the Senate to address these problems.

Second, I think we have to do much better in higher education. I was a college teacher for 20 years and I believe that we didn't expand assistance gaining the best bang for the buck. The way of targeting the assistance to those students in most need would have been to dramatically expand the Pell grant program. And if you are going to have tax credits, they have to be refundable. If you don't have tax credits that are refundable and you have a student from a family earning less than $27,000, $28,000 a year—which, by the way, is the income profile of many, many community college students—it doesn't do you any good. You have no tax liability. You can't cash flow paying your tuition because you get it too late to pay your tuition, and you are not eligible anyway. So if we are going to talk about making higher education more affordable let's, for gosh sakes, talk about these working families.

That is disagree.

Agreement: I think the President's focus on education, on early childhood development, affordable child care, on health care, was extremely important. Let me make but a couple of points for my Republican colleagues. As I listened to some of my Republican colleagues talk about the President's speech last night, I felt like what they were saying is: Oh, this is just Government all over again. Americans, when it comes to these pressing issues of your lives, there is nothing the Government can or should do.

Madam President, if you own your own large corporation and you are wealthy, then that's fine. But for most of the working families in this country, affordable child care is a huge issue. For most of the working families in this country, making sure that your children get a good education and a commitment to public education and lowering class sizes and having more teachers and having more teaching assistance is hugely important to you. If you are from a working family in our country, you want to make sure, vis-a-vis an increasingly corporatized and bureaucratized health care system—listen, managed care can be good or bad. It depends upon who manages the managed care. But the fact of the matter is, the nine largest insurance companies own and control well over 60 percent of the managed care plans, and for them the bottom line has become the only line.

So of course we want to make sure that people have access to the care they need. Of course we want to make sure that nurses and doctors can provide that care. Of course we want to make sure there are some independent appeals processes for ordinary people in our country. Of course we want to make sure that there are some basic consumer protections. And I think the President is right on the mark. What I am worried about, it is a challenge to colleagues on both sides of the aisle, is that the Congress will sure enough pass a bill. It will have a great acronym. It will sound great and it will have that made-for-Congress look, because there will not be any teeth in it, enforcement teeth.

By the way, one way in which I would love to amend some of what the President was talking about last night, and I think we could get bipartisan support for this, is we ought to think about —Families USA has talked about ombudsmen, you know, through nongovernment organizations, through nonprofits, where people would have somewhere to go so they can have basic information about what their rights are as consumers. We absolutely ought to do that. We absolutely ought to do that. It's a simple proposition. Either we are here to represent big insurance companies or we are here to represent doctors, nurses, nurse's assistants, other caregivers, and consumers.

The third point I want to make has to do with jobs. I said it the other day on the floor of the Senate. I will summarize. I will say it again. No matter where I go, whether it be low-income communities, poor communities, middle-income communities, it doesn't matter—and for that matter upper-income communities. People are focused on how to earn a decent living and how to give their children the care they know they need and deserve. I am going, for a moment, to talk about low-income, since we don't talk that much about low-income, poor people. I will tell you that there are two challenges here. One, the President talked about raising the minimum wage. Senator KENNEDY and I have been out on the floor. We talked about the legislation we have introduced, 50 cents a year for 3 years and then indexing it. I will tell you that is extremely important. Because it is wrong when people work full-time, all year round, and they are still poor in America. That should not be the case. When people work, play by the rules of the game, they ought not to be poor.

My second point, however, is different. It doesn't do any good to raise the minimum wage if people live in communities where there is no work at all. We have communities in our country, ghettos and barrios in rural areas, where there is no work. And we really do need to figure out ways of combining our initiatives while at the same time providing some job opportunities for people to build up some skills and then be able to transition to private sector employers. If we are going to rebuild crumbling schools—and we should, God knows, when students go into schools that are so uninviting, with ceilings falling in. Imagine, could we do our work if the heating didn't work? If the plumbing didn't work? If the air conditioning didn't work during the summer? If we didn't have access to Internet? If we didn't have access to the best books? Could we do our work? A lot of students are going to school in decrepit buildings, unsafe, that tell those students we don't value them.

If we are going to rebuild crumbling schools, invest some money in that infrastructure, I think we ought to also make sure that a certain percentage of the jobs go to the adults, the fathers and mothers of those children who live in these communities. Because these are communities that are ravaged by high levels of unemployment. Let's combine rebuilding the schools with some job training and jobs for some of the parents in the community.

If we are going to reduce class size we can talk about 100,000 more teachers, but there is also a role for teaching assistants that can help a teacher in a classroom. That could provide employment for people who live in these communities without any jobs at all. So I would like to see us have more of a focus in this area. To a certain extent I am talking about people who all too often are faceless and voiceless here, but I think it is extremely important, as a matter elementary justice, that we focus in this area.

Finally, Madam President—I hope I have stayed within 10 minutes—an issue that you care a great deal about, an issue that I wish all of us would care a great deal about, even if we disagree on the specifics. I do not know what other people find, but I tell you I think an awful lot of people in our country, I am sorry, I think it is well over 50 percent, are just disillusioned and disaffected with politics. It is terrible. I think people think that both parties are owned and controlled by the same investors.

I think that people think that when it comes to their concerns and their hopes about themselves, their families, their communities, their loved ones, these concerns are of little concern to those of us in the Congress. I hate that.

I have two Republican colleagues on the floor with me from Wyoming and from Colorado, both of whom I respect. It does not matter if we disagree on issues, this is one thing we do not want to have happen. I mean, we do not want people to just kind of become so disillusioned that participation becomes less and less. We lose our democracy.

So, Madam President, the final issue the President talked about—I hope we can move some campaign finance reform. We cannot get all the big money out of politics. I wish we could. But if we could at least pass some reforms that would give people some confidence we are serious about trying to get some of the money out of politics and make politics more responsive to the concerns and circumstances of their lives, we would be taking a big step forward.

I look forward to the debate. I hope we have a lot of debate. I do not want it to be acrimonious. But I think differences between the political parties are healthy. I think if the differences make a difference to the people we represent, it is even better. The sooner we get substantive, the sooner we have bills out here on the floor, the sooner we have the debate, and the sooner we get on with the work of governance, the better I will like it as a Senator from Minnesota.

Madam President, I yield the floor.

The PRESIDING OFFICER. The time under the control of the Democratic leader has expired.

Mr. ENZI addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. ENZI. Thank you, Madam President.

I ask unanimous consent that I be allowed 5 minutes in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ENZI. Thank you.

## CONGRATULATING THE DENVER BRONCOS AND COLORADO STATE UNIVERSITY

Mr. ENZI. Madam President, in the last 3 hours there has been some pretty heavy lifting and some excellent debate by both sides about what is to come of this country. But I am going to take just a moment and let everyone relax and reflect a little bit and realize that everything in the world isn't happening right here in Washington. I want to bring some attention to some things that have happened over the last weekend.

One of those, of course, was the Super Bowl game. I want to congratulate those Broncos and people in Wyoming and Colorado who are avid supporters of that team. They did a wonderful job as fans, as players. It was a great game. But something that is not as well known out of this part of the country is that there is the Western Athletic Conference. There are a bunch of basketball players out there that are having a great year.

Some people may have heard about Utah because, frankly, they are No. 4 in the Nation right now. You may have heard about New Mexico because they are also in the top 20 in the Nation. But I want to talk just for a moment about another team that is going to be in that top 20 in the Nation, and that is Colorado State University, a small university in northern Colorado just south of Wyoming. This last weekend we had an event called the ''Border Wars.'' That is an event that has been going on for 101 games in Laramie, WY, alone. They play the other half of the games in Colorado. So the oldest traditional rivalry in basketball, probably, in the United States—101 games. This last weekend was the event of that 101st game.

I cannot convey to you enough the rivalry that we have between these two schools that have been playing for that long and that are only separated by 45 miles, which out in our part of the country is very little distance.

It is my pleasure to say that Colorado State University won that game. They beat an outstanding team. That is why you are going to hear more about Colorado State University. They won that game 53–46. They got out to a 9–0 lead in the game, then a 15–2 lead, which is almost what their record is this year, 15–3, a pretty outstanding record, particularly in that conference. They are 3–2 in the Western Athletic Conference. But they have won nine of their home games, only losing one. Their coach, Stew Morrill, has done an outstanding job with the team that came back from last year. As most people do not realize, they had that entire team back for another season. And they will have a great season.

So keep your eye on the Western Athletic Conference and particularly Colorado State University.

This is such a rivalry that this last weekend I had the pleasure of hosting Senator ALLARD and his wife Joan for the basketball game in Wyoming. As part of that competition, part of that rivalry, I agreed that if Wyoming lost that game, I would wear this Colorado State tie for a week. It was really fun having the folks from Colorado come up and to have that competition continue. I want to congratulate Senator ALLARD for the outstanding job that they did.

I yield the remainder of my time.

Mr. ALLARD. Madam President, I ask unanimous consent to be recognized for 2 minutes.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. ALLARD. Madam President, I want to stand up and thank my colleague from Wyoming for having both Joan and I join him and his lovely wife for a great, great basketball game in Laramie, WY. We look forward to a continuation of this rivalry. He is a great sport. I am so pleased that he has agreed to go ahead and wear that tie now for the rest of the week. It makes all of us feel so proud at Colorado State University to see somebody who is such a strong supporter of the University of Wyoming willing to share that win with the rest of the people in Colorado.

So we are looking forward to many, many more rivalries in the Western Athletic Conference with the University of Wyoming in Laramie. I want to wish everybody the very best.

Madam President, I yield back the remainder of my time.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. CONRAD. Madam President, I will make one correction, if I can. North Dakota.

The PRESIDING OFFICER. The Chair apologizes. The Senator from North Dakota is recognized.

Mr. CONRAD. No need to apologize. We often get mixed up with our sister State. They sometimes call us the four amigos, the four Senators from North and South Dakota. So we are always glad to be put in the class of our friends from South Dakota.

## THE FISCAL CONDITION OF OUR COUNTRY

Mr. CONRAD. Madam President, last night we heard the President's State of the Union Address. It was an important review of where the country stands. I want a chance to discuss today what I think are some of the most important points that were made last night, the most important points with respect to the fiscal condition of our country.

I came here to the U.S. Senate 12 years ago. The thing that compelled me to run was the fact that fiscal conditions in the country were a disaster. I was convinced that unless steps were taken to get us back on a sound fiscal track, the future economic security of our country was threatened, which would have an adverse effect on the people that I represent in the State of North Dakota. We are very much affected by the national economy.

But I was also concerned about where we were headed in terms of a national legacy. What were we going to leave to our children? Remember those times when we were running massive deficits? It looked like there was no end to red ink. So I came here with a commitment to get our fiscal house in order. I wanted not only to balance the budget, as it is called in Washington, but I also wanted to see us stop the practice of looting the Social Security trust funds in order to make the deficit appear smaller than it really was.

So last night was a very special night for me. I was able to hear a President say he was going to submit a balanced budget for the first time in 30 years. I was also able to hear a President say that he was going to go further than that and he was going to move to stop the practice of raiding and looting Social Security trust fund surpluses.

Madam President, I think that is critically important to the Nation's future. I want to describe what has happened, what is happening and why it matters to people.

I brought this chart along to show precisely what has happened and what the differences are between the budget we talk about here in Washington and what I think any fair commentary would be on the budget. If we go back to 1992, the blue line shows what is termed the unified budget. What has happened to the so-called unified budget? That includes all of the resources of the Federal Government, all the revenues and all the expenditures. Of course, that means it also includes the Social Security surpluses.

The red line shows the budget of the United States if you exclude the Social Security surpluses. What these lines show is that in 1992 we had a unified budget deficit of $290 billion—$290 billion. And the projections were that the

deficits were just going to go up from there.

That is where we were in 1992. The next year we passed an economic plan proposed by this President. And I might say all the votes were on this side of the aisle because none of our friends on the other side would vote for it. It was controversial. And it is controversial. Any time you really are going to take action and reduce the deficit, that means you are going to cut spending, and perhaps even raise taxes. That is what the 1993 plan did. It cut spending, and it raised taxes on the wealthiest 1.5 percent of the income-tax payers of the country.

That plan has worked and worked remarkably well. You can see what has happened here to the unified deficit. It has gone down each and every year so that this year, fiscal 1998, the Congressional Budget Office is now projecting a budget deficit of only $5 billion. But let us remember that is the unified deficit.

The President said for fiscal 1999 he is going to propose a balanced budget. That means all of the revenues of the Federal Government, when matched with all of the outlays of the Federal Government, are going to balance. That is dramatic progress. That is real progress. That is important.

But we should never forget that that means we are still using Social Security trust fund surpluses. We ought to stop it. We ought to stop it because we have to get ready for the time the baby-boom generation starts to retire. It is coming sooner than any of us might think. In fact, I am one of the leading edge members of the baby-boom generation. I will be 50 years old in just a few short weeks. When I retire, along with millions of other baby boomers, that is going to put enormous pressure on the Federal budget.

I call it a demographic time bomb. It is lurking just over the horizon. We have to get ready for that time. The way we get ready is to stop using the Social Security trust fund surpluses to fund the other aspects of Government.

I said to my colleagues in the Budget Committee this morning, if any private company tried to do what we are doing, they would be in big trouble. Because if any private company took the retirement funds of its employees and threw those into the pot in order to balance its operating budget, they would be in violation of Federal law. They would be headed for a Federal institution, but it would not be the U.S. Congress. They would be headed for a Federal penitentiary because that is considered fraud.

That is the reason we ought to stop it. It is wrong. But it is not just wrong in the sense of being illegal. It is also wrong in the sense of preparing the economic future for this country. If we do not take action now, we will face very draconian decisions as we get closer to the time when the baby boomers actually start to retire.

So this blue line shows the so-called unified budget. It shows that we have made dramatic progress moving towards a so-called balanced budget. But it is not really balanced until or unless we also stop raiding the Social Security trust fund, until we stop looting the trust fund surpluses to pay for the other actions of governments. You can see that this year we will be using the difference between a $5 billion deficit and $106 billion. We will be using $101 billion of Social Security trust fund surpluses.

Last night the President said, whoa, wait a minute.

Let's not continue this practice. Let's not fool ourselves by saying we have surpluses when, in fact, we are taking trust fund money and using those moneys to make believe we have surpluses. So before anybody gets busy figuring out new spending or new tax cut schemes, let's make sure we have secured the future of Social Security. As the President said, save Social Security first. That should be the first order of business for this Congress and future Congresses to come.

Now, one reason it is important to end this raid on Social Security is because that will better secure the economic future for our country. This progress that we have made, this dramatic progress on reducing the deficit, has led to remarkably good economic conditions. We have seen over these last 4 years real business fixed investment growing at 10 percent a year, one of the strongest rates we have ever seen in our history. We have seen the unemployment rate in the United States reduced to the lowest level since 1973. We have the lowest rate of unemployment in 24 years.

The good news doesn't stop there. If you look at the inflation rate, that is the best sustained performance since 1967, the lowest rate of inflation on a sustained basis in 30 years. These are truly remarkable economic numbers. In addition to that, we know over 14 million jobs have been created. This has been one of the most successful economic policies ever put in place, and it was done at a time when there was great controversy about it. That is clear if you go back to 1993 and read the debate. Folks on the other side of the aisle said if you pass that plan, you will increase the deficit. They said you will increase unemployment. They said you will increase inflation. They were wrong. They were wrong on every single point.

They had an economic theory called trickle down economics. When we pursued that theory in the 1980s, the deficit and the debt exploded. In 1993, we reversed course and said, no, we are going back to commonsense economics, which means you look at what you are spending and what your revenues are and you put them into balance. That is how you eliminate the deficit. You cut your spending, you increase your revenue, and you eliminate the deficit. In doing this you take pressure off of interest rates and relieve that debt burden on the economy and the economy will grow. And this economic course worked. It did precisely what we hoped it would do. In fact, the results have been even better than we anticipated. The deficit has come down dramatically. We have seen remarkably strong economic growth, the lowest inflation in 30 years, the lowest unemployment in 24 years, the biggest reduction in elderly poverty in our history. That is a record we can be proud of.

Let me just say I heard the other night somebody on television saying it is not because of the fiscal policy that was passed in 1993, it is because of the monetary policy the Federal Reserve Board has been pursuing that we have had this economic success. Mr. Greenspan, the head of the Federal Reserve, doesn't even subscribe to that proposition. He has said that the 1993 economic plan has played a significant role in the good economic circumstances that we have seen since that time. He is exactly right. It is a combination of fiscal policy and monetary policy that has brought us to the strong economic position we are in today. The fiscal policy is controlled by the Congress and the White House. The fiscal policy that we put in place with the 1993 economic plan has worked and it has worked like a charm. In fact, it has permitted the Federal Reserve Board to follow the monetary policy they have pursued that has also helped create this very successful economic environment in which we are in.

Madam President, I wanted this chance to review where we have been, where we are going, how we got here, and how we can continue to make progress that strengthens the economy of this country.

In conclusion, I just want to say we have an unparalleled opportunity this year. We have a chance to build on the remarkable success that was started with the 1993 economic plan. We have a chance to take that, coupled with the bipartisan budget plan that was passed last year, and thankfully we now see we are 3 years ahead of schedule on that plan. We now can take the next step and stop the raiding and the looting of Social Security trust fund surpluses in a way that would strengthen this economy for decades to come. We shouldn't let this moment pass. We shouldn't allow ourselves to get caught up in new spending schemes or tax cut schemes that threaten and endanger this remarkable progress that we have made.

I hope that my colleagues, as we go through the legislative agenda of this year, will pay special attention to doing all that we can to secure the economic future for our country. We have, really, very few responsibilities that are more important than laying the groundwork for the economic prosperity and opportunity of the people that we represent.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BROWNBACK. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

## REPORT CONCERNING PEACEFUL USES OF NUCLEAR ENERGY—MESSAGE FROM THE PRESIDENT—PM 85

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations.

*To the Congress of the United States:*

I am pleased to transmit to the Congress, pursuant to sections 123 b. and 123 d. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153(b), (d)), the text of a proposed Agreement for Cooperation Between the Government of the United States of America and the Republic of Kazakhstan Concerning Peaceful Uses of Nuclear Energy, with accompanying annex and agreed minute. I am also pleased to transmit my written approval, authorization, and determination concerning the agreement, and the memorandum of the Director of the United States Arms Control and Disarmament Agency with the Nuclear Proliferation Assessment Statement concerning the agreement. The joint memorandum submitted to me by the Secretary of State and the Secretary of Energy, which includes a summary of the provisions of the agreement and various other attachments, including agency views, is also enclosed.

The proposed agreement with the Republic of Kazakhstan has been negotiated in accordance with the Atomic Energy Act of 1954, as amended by the Nuclear Non-Proliferation Act of 1978 and as otherwise amended. In my judgment, the proposed agreement meets all statutory requirements and will advance the nonproliferation and other foreign policy interests of the United States. The agreement provides a comprehensive framework for peaceful nuclear cooperation between the United States and Kazakhstan under appropriate conditions and controls reflecting our common commitment to nuclear nonproliferation goals.

Kazakhstan is a nonnuclear weapons state party to the Treaty on the Nonproliferation of Nuclear Weapons (NPT). Following the dissolution of the Soviet Union, the Republic of Kazakhstan agreed to the removal of all nuclear weapons from its territory. It has a full-scope safeguards agreement in force with the International Atomic Energy Agency (IAEA) to implement its safeguards obligations under the NPT. It has enacted national legislation to control the use and export of nuclear and dual-use materials and technology.

The proposed agreement with the Republic of Kazakhstan permits the transfer of technology, material, equipment (including reactors), and components for nuclear research and nuclear power production. It provides for U.S. consent rights to retransfer, enrichment, and reprocessing as required by U.S. law. It does not permit transfers of any sensitive nuclear technology, restricted data, or sensitive nuclear facilities or major critical components thereof. In the event of termination, key conditions and controls continue with respect to material and equipment subject to the agreement.

I have considered the views and recommendations of the interested agencies in reviewing the proposed agreement and have determined that its performance will promote, and will not constitute an unreasonable risk to, the common defense and security. Accordingly, I have approved the agreement and authorized its execution and urge that the Congress give it favorable consideration.

Because this agreement meets all applicable requirements of the Atomic Energy Act, as amended, for agreements for peaceful nuclear cooperation, I am transmitting it to the Congress without exempting it from any requirement contained in section 123 a. of that Act. This transmission shall constitute a submittal for purposes of both sections 123 b. and 123 d. of the Atomic Energy Act. The Administration is prepared to begin immediately the consultations with the Senate Foreign Relations and House International Relations Committees as provided in section 123 b. Upon completion of the 30-day continuous session period provided for in section 123 b., the 60-day continuous session provided for in section 123 d. shall commence.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *January 28, 1998.*

## REPORT CONCERNING PEACEFUL USES OF NUCLEAR ENERGY—MESSAGE FROM THE PRESIDENT—PM 86

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations.

*To the Congress of the United States:*

I am pleased to transmit to the Congress, pursuant to sections 123 b. and 123 d. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153(b), (d)), the text of a proposed Agreement for Cooperation Between the Government of the United States of America and the Swiss Federal Council Concerning Peaceful Uses of Nuclear Energy, with an accompanying agreed minute, annexes, and other attachments. I am also pleased to transmit my written approval, authorization, and determination concerning the agreement, and the memorandum of the Director of the United States Arms Control and Disarmament Agency with the Nuclear Proliferation Assessment Statement concerning the agreement. The joint memorandum submitted to me by the Secretary of State and the Secretary of Energy, which includes a summary of the provisions of the agreement and other attachments, including the views of the Nuclear Regulatory Commission, is also enclosed.

The proposed new agreement with Switzerland has been negotiated in accordance with the Atomic Energy Act of 1954, as amended by the Nuclear Non-Proliferation Act of 1978 (NNPA) and as otherwise amended. It replaces an earlier agreement with Switzerland signed December 30, 1965, which expired by its terms August 8, 1996. The proposed new agreement will provide an updated, comprehensive framework for peaceful nuclear cooperation between the United States and Switzerland, will facilitate such cooperation, and will establish strengthened nonproliferation conditions and controls including all those required by the NNPA. The new agreement provides for the transfer of moderator material, nuclear material, and equipment for both nuclear research and nuclear power purposes. It does not provide for transfers under the agreement of any sensitive nuclear technology (SNT). (U.S. law permits SNT to be transferred outside the coverage of an agreement for cooperation provided that certain other conditions are satisfied. However, the Administration has no plans to transfer SNT to Switzerland outside the agreement.)

The proposed agreement has an initial term of 30 years, and will continue in force indefinitely thereafter in increments of 5 years each until terminated in accordance with its provisions. In the event of termination, key nonproliferation conditions and controls, including guarantees of safeguards, peaceful use and adequate physical protection, and the U.S. right to approve retransfers to third parties, will remain effective with respect to transferred moderator materials, nuclear materials, and equipment, as well as nuclear material produced through their use. The agreement also establishes procedures for determining the survival of additional controls.

Switzerland has strong nonproliferation credentials. It is a party to the

Treat on the Non-Proliferation of Nuclear Weapons (NPT) and has an agreement with the International Atomic Energy Agency (IAEA) for the application of full-scope IAEA safeguards within its territory. In negotiating the proposed agreement, the United States and Switzerland took special care to elaborate a preamble setting forth in specific detail the broad commonality of our shared nonproliferation commitments and goals.

The proposed new agreement provides for very stringent controls over certain fuel cycle activities, including enrichment, reprocessing, and alteration in form or content and storage of plutonium and other sensitive nuclear materials. The United States and Switzerland have accepted these controls on a reciprocal basis, not as a sign of either Party's distrust of the other, and not for the purpose of interfering with each other's fuel cycle choices, which are for each Party to determine for itself, but rather as a reflection of our common conviction that the provisions in question represent an important norm for peaceful nuclear commerce.

In view of the strong commitment of Switzerland to the international nonproliferation regime, the comprehensive nonproliferation commitments that Switzerland has made, the advanced technological character of the Swiss civil nuclear program, the long history of U.S.-Swiss cooperation in the peaceful uses of nuclear energy without any risk of proliferation, and the long-standing close and harmonious political relationship between Switzerland and the United States, the proposed new agreement provides to Switzerland advance, long-term U.S. approval for retransfers to specified facilities in the European Atomic Energy Community (EURATOM) of nuclear material subject to the agreement for reprocessing, alteration in form or content, and storage, and for the return to Switzerland of recovered nuclear materials, including plutonium, for use or storage at specified Swiss facilities. The proposed agreement also provides advance, long-term U.S. approval for retransfers from Switzerland of source material, uranium (other than high enriched uranium), moderator material, and equipment to a list of countries and groups of countries acceptable to the United States. Any advance, long-term approval may be suspended or terminated if it ceases to meet the criteria set out in U.S. law, including criteria relating to safeguards and physical protection.

In providing advance, long-term approval for certain nuclear fuel cycle activities, the proposed agreement has features similar to those in several other agreements for cooperation that the United States has entered into subsequent to enactment of the NNPA. These include U.S. agreements with Japan and EURATOM. Among the documents I am transmitting herewith to the Congress is an analysis of the advance, long-term approvals contained in the proposed U.S. agreement with Switzerland. The analysis concludes that the approvals meet all requirements of the Atomic Energy Act, as amended.

I believe that the proposed agreement for cooperation with Switzerland will make an important contribution to achieving our nonproliferation, trade, and other significant foreign policy goals.

In particular, I am convinced that this agreement will strengthen the international nuclear nonproliferation regime, support of which is a fundamental objective of U.S. national security and foreign policy, by setting a high standard for rigorous nonproliferation conditions and controls.

Because the agreement contains all the consent rights and guarantees required by current U.S. law, it represents a substantial upgrading of the U.S. controls in the recently-expired 1965 agreement with Switzerland.

I believe that the new agreement will also demonstrate the U.S. intention to be a reliable nuclear trading partner with Switzerland, and thus help ensure the continuation and, I hope, growth of U.S. civil nuclear exports to Switzerland.

I have considered the views and recommendations of the interested agencies in reviewing the proposed agreement and have determined that its performance will promote, and will not constitute an unreasonable risk to, the common defense and security. Accordingly, I have approved the agreement and authorized its execution and urge that the Congress give it favorable consideration.

Because this agreement meets all applicable requirements of the Atomic Energy Act, as amended, for agreements for peaceful nuclear cooperation, I am transmitting it to the Congress without exempting it from any requirement contained in section 123 a. of the Act. This transmission shall constitute a submittal for purposes of both sections 123 b. and 123 d. of the Atomic Energy Act. The Administration is prepared to begin immediately the consultations with the Senate Foreign Relations and House International Relations Committees as provided in section 123 b. Upon completion of the 30-day continuous session period provided for in section 123 b., the 60-day continuous session period provided for in section 123 d. shall commence.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *January 28, 1998*.

## REPORT CONCERNING THE NATIONAL EMERGENCY WITH RESPECT TO TERRORISTS WHO THREATEN TO DISRUPT THE MIDDLE EAST PEACE PROCESS—MESSAGE FROM THE PRESIDENT—PM 87

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

*To the Congress of the United States:*

I hereby report to the Congress on the developments concerning the national emergency with respect to terrorists who threaten to disrupt the Middle East peace process that was declared in Executive Order 12947 of January 23, 1995. This report is submitted pursuant to section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. 1703(c).

1. On January 23, 1995, I signed Executive Order 12947, ''Prohibiting Transactions with Terrorists Who Threaten to Disrupt the Middle East Peace Process'' (the ''Order'') (60 Fed. Reg. 5079, January 25, 1995). The Order blocks all property subject to U.S. jurisdiction in which there is any interest of 12 terrorist organizations that threaten the Middle East peace process as identified in an Annex to the Order. The Order also blocks the property and interests in property subject to U.S. jurisdiction of persons designated by the Secretary of State, in coordination with the Secretary of the Treasury and the Attorney General, who are found (1) to have committed, or to pose a significant risk of committing, acts of violence that have the purpose or effect of disrupting the Middle East peace process, or (2) to assist in, sponsor, or provide financial, material, or technological support for, or services in support of, such acts of violence. In addition, the Order blocks all property and interests in property subject to U.S. jurisdiction in which there is any interest of persons determined by the Secretary of the Treasury, in coordination with the Secretary of State and the Attorney General, to be owned or controlled by, or to act for or on behalf of, any other person designated pursuant to the Order (collectively ''Specially Designated Terrorists'' or ''SDTs'').

The Order further prohibits any transaction or dealing by a United States person or within the United States in property or interests in property of SDTs, including the making or receiving of any contribution of funds, goods, or services to or for the benefit of such persons. This prohibition includes donations that are intended to relieve human suffering.

Designations of persons blocked pursuant to the Order are effective upon the date of determination by the Secretary of State or her delegate, or the Director of the Office of Foreign Assets Control (OFAC) acting under authority delegated by the Secretary of the Treasury. Public notice of blocking is effective upon the date of filing with the *Federal Register*, or upon prior actual notice.

Because terrorist activities continue to threaten the Middle East peace process and vital interests of the United States in the Middle East, on January 21, 1998, I continued for another year

the national emergency declared on January 23, 1995, and the measures that took effect on January 24, 1995, to deal with that emergency. This action was taken in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)).

2. On January 25, 1995, the Department of the Treasury issued a notice listing persons blocked pursuant to Executive Order 12947 who have been designated by the President as terrorist organizations threatening the Middle East peace process or who have been found to be owned or controlled by, or to be acting for or on behalf of, these terrorist organizations (60 Fed. Reg. 5084, January 25, 1995). The notice identified 31 entities that act for or on behalf of the 12 Middle East terrorist organizations listed in the Annex to Executive Order 12947, as well as 18 individuals who are leaders or representatives of these groups. In addition, the notice provided 9 name variations or pseudonyms used by the 18 individuals identified. The list identifies blocked persons who have been found to have committed, or to pose a significant risk of committing, acts of violence that have the purpose or effect of disrupting the Middle East peace process or to have assisted in, sponsored, or provided financial, material, or technological support for, or services in support of, such acts of violence, or are owned or controlled by, or act for or on behalf of other blocked persons. The Department of the Treasury issued three additional notices adding the names of three individuals, as well as their pseudonyms, to the List of SDTs (60 Fed. Reg. 41152, August 11, 1995; 60 Fed. Reg. 44932, August 29, 1995; and 60 Fed. Reg. 58435, November 27, 1995).

3. On February 2, 1996, OFAC issued the Terrorism Sanctions Regulations (the ''TSRs'' or the ''Regulations'') (61 Fed. Reg. 3805, February 2, 1996). The TSRs implement the President's declaration of a national emergency and imposition of sanctions against certain persons whose acts of violence have the purpose or effect of disrupting the Middle East peace process. There has been one amendment to the TSRs, 31 C.F.R. Part 595 administered by the Office of Foreign Assets Control of the Department of the Treasury, since my report of August 5, 1997. The Regulations were amended on August 25, 1997. General reporting, recordkeeping, licensing, and other procedural regulations were moved from the Regulations to a separate part (31 C.F.R. Part 501) dealing solely with such procedural matters (62 Fed. Reg. 45098, August 25, 1997). A copy of the amendment is attached.

4. Since January 25, 1995, OFAC has issued three licenses pursuant to the Regulations. These licenses authorize payment of legal expenses of individuals and the disbursement of funds for normal expenditures for the maintenance of family members of individuals designated pursuant to Executive Order 12947, and for secure storage of tangible assets of Specially Designated Terrorists.

5. The expenses incurred by the Federal Government in the 6-month period from July 22, 1997, through January 22, 1998, that are directly attributable to the exercise of powers and authorities conferred by the declaration of the national emergency with respect to organizations that disrupt the Middle East peace process are estimated at approximately $165,000. These data do not reflect certain costs of operations by the intelligence and law enforcement communities.

6. Executive Order 12947 provides this administration with a tool for combating fundraising in this country on behalf of organizations that use terror to undermine the Middle East peace process. The order makes it harder for such groups to finance these criminal activities by cutting off their access to sources of support in the United States and to U.S. financial facilities. It is also intended to reach charitable contributions to designated organizations and individuals to preclude diversion of such donations to terrorist activities.

Executive Order 12947 demonstrates the United States determination to confront and combat those who would seek to destroy the Middle East peace process, and our commitment to the global fight against terrorism. I shall continue to exercise the powers at my disposal to apply economic sanctions against extremists seeking to destroy the hopes of peaceful coexistence between Arabs and Israelis as long as these measures are appropriate, and will continue to report periodically to the Congress on significant developments pursuant to 50 U.S.C. 1703(c).

WILLIAM J. CLINTON.

THE WHITE HOUSE, *January 27, 1998*.

## MESSAGES FROM THE HOUSE

At 10:31 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3042. An act to amend the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 to establish the United States Institute for Environmental Conflict Resolution to conduct environmental conflict resolution and training, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 131. Concurrent resolution acknowledging 1998 as the International Year of the Ocean and expressing the sense of Congress regarding the ocean.

## MEASURE REFERRED

The following concurrent resolution was read and referred as indicated:

H. Con. Res. 131. Concurrent resolution acknowledging 1998 as the International Year of the Ocean and expressing the sense of Congress regarding the ocean; to the Committee on Commerce, Science, and Transportation.

## MEASURE PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent and placed on the calendar:

H.R. 3042. An act to amend the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 to establish the United States Institute for Environmental Conflict Resolution to conduct environmental conflict resolution and training, and for other purposes.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mrs. FEINSTEIN:

S. 1576. A bill to amend the Clean Air Act to permit the exclusive application of California State regulations regarding reformulated gasoline in certain areas within the State; to the Committee on Environment and Public Works.

By Mr. CHAFEE (for himself, Mr. HATCH, Ms. SNOWE, Mr. ROBERTS, Mr. SPECTER, and Ms. COLLINS):

S. 1577. A bill to amend the Internal Revenue Code of 1986 to provide additional tax relief to families to increase the affordability of child care, and for other purposes; to the Committee on Finance.

By Mr. MCCAIN (for himself, Mr. COATS, Mr. FAIRCLOTH, and Mr. ASHCROFT):

S. 1578. A bill to make available on the Internet, for purposes of access and retrieval by the public, certain information available through the Congressional Research Service web site; to the Committee on Rules and Administration.

By Mr. DEWINE (for himself, Mr. JEFFORDS, Mr. KENNEDY, Mr. WELLSTONE, Mr. HARKIN, Mr. FRIST, Ms. COLLINS, Mr. DODD, Mr. REED, Mr. CHAFEE, and Mr. BINGAMAN):

S. 1579. A bill to amend the Rehabilitation Act of 1973 to extend the authorizations of appropriations for such Act, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. SHELBY:

S. 1580. A bill to amend the Balanced Budget Act of 1997 to place an 18-month moratorium on the prohibition of payment under the medicare program for home health services consisting of venipuncture solely for the purpose of obtaining a blood sample, and to require the Secretary of Health and Human Services to study potential fraud and abuse under such program with respect to such services; to the Committee on Finance.

By Mr. LUGAR (for himself, Mr. HARKIN, Mr. MCCONNELL, and Mr. LEAHY):

S. 1581. A bill to reauthorize child nutrition programs, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. ROBB:

S. 1582. A bill to provide market transition assistance for quota holders, active tobacco producers, and tobacco-growing counties, to authorize a private Tobacco Production Control Corporation and tobacco loan associations to control the production and marketing and ensure the quality of tobacco in the United States, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. LOTT (for himself, Mr. DASCHLE, Mr. MCCAIN, Mr. LEAHY, Mr. HELMS, Mr. DODD, Mr. BROWNBACK, Mr. BRYAN, Mr. WARNER, Mr. CLELAND, Mr. STEVENS, Mr. TORRICELLI, Mr. MACK, Mr. KERRY, Mr. COVERDELL, Mr. BYRD, Mr. SMITH of Oregon, Mr. MOYNIHAN, Mr. THOMAS, Mr. WYDEN, Mr. GORTON, Mr. GRAHAM, Mr. FAIRCLOTH, Mr. HOLLINGS, Ms. COLLINS, Mr. AKAKA, Mr. INHOFE, Mr. CONRAD, Mr. GRAMS, Mr. ROBB, Mr. BENNETT, Mr. SPECTER, and Mr. HAGEL):

S. Con. Res. 71. A concurrent resolution condemning Iraq's threat to international peace and security.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. FEINSTEIN:

S. 1576. A bill to amend the Clean Air Act to permit the exclusive application of California State regulations regarding reformulated gasoline in certain areas within the State; to the Committee on Environment and Public Works.

### THE MTBE CLEAN AIR ACT AMENDMENT ACT OF 1998

Mrs. FEINSTEIN. Mr. President, I rise today to introduce legislation which will amend the Clean Air Act to allow California to operate its own reformulated gasoline program, which is stricter than the federal program and meets the air quality requirements set forth in the 1990 Clean Air Act.

### WHAT THE BILL DOES

The bill provides that if a state's reformulated gasoline rules achieve equal or greater emissions reductions than federal regulation, that state's rules will take precedence. This works to exempt California from overlapping federal oxygenate requirements.

The bill is the Senate version of legislation introduced last year in the House by Congressman BRIAN BILBRAY (R–San Diego) and cosponsored by 46 members of the California Congressional delegation.

The bill applies only to states which have received waivers under Section 209(b)(1) of the Clean Air Act, for which California is the only state currently eligible for such a waiver.

By exempting California from the oxygenate requirement, this legislation will give gasoline manufacturers the flexibility to reduce or even eliminate the use of gasoline oxygenates, such as methyl tertiary butyl ether (MTBE)—which has been detected in alarming amounts in California groundwater.

The legislation allows the companies who serve California's gasoline needs to continue to adopt better methods of producing California Cleaner Burning gasoline, without being restricted by oxygenate requirements.

### CALIFORNIA AIR QUALITY HISTORY

California's efforts to improve air quality predate similar federal efforts, and have achieved marked success in reducing toxic emission levels, resulting in the cleanest air Californians have seen in decades. This trend will continue with the passage of this bill.

Since the introduction of the California Cleaner Burning Gasoline program, there has been a 300 ton per day decrease in ozone forming ingredients found in the air. This is the emission reduction equivalent of taking 3.5 million automobiles off the road. California reformulated gasoline reduces smog forming emissions from vehicles by 15 percent.

The state has also has seen a marked decrease in first stage smog alerts, during which residents with respiratory ailments are encouraged to stay indoors.

California Environmental Protection Agency Chairman John Dunlop, who supports this legislation, says:

. . . our program has proven (to have) a significant effect on California's air quality. Following the introduction of California's gasoline program in the spring of 1996, monitor levels of ozone . . . were reduced by 10 percent in Northern California, and by 18 percent in the Los Angeles area. Benzene levels (have decreased) by more than 50 percent.

Although California has made great progress in decreasing the amount of toxins in the air, the overlap of federal regulations, on top of the strict state regulations, does not allow the state much flexibility in the design and implementation of its reformulated fuels program.

This inflexibility makes it difficult for gasoline producers to respond effectively to unforeseen problems associated with their product. Such is the case with the oxygenate MTBE leaking into California groundwater.

Refiners are bound by federal law to include an oxygenate in their gasoline, even if they can make gasoline which meets Clean Air Act emissions requirements without its use.

Thus, the need for the legislation is twofold—to streamline overlapping federal and state regulations, and to allow gasoline manufacturers the flexibility to make California Cleaner Burning Gasoline without oxygenated fuels.

### FEDERAL REFORMULATED GASOLINE REQUIREMENT HISTORY

Federal reformulated gasoline, and the oxygenate requirement included in it, came as a response to the worsening air quality of many American cities.

For many years major cities, including San Diego, Sacramento and Los Angeles, were facing serious pollution problems due to increasing amounts of smog and ozone in the air.

As the air quality worsened, people around the country began experiencing more frequent respiratory illnesses, and increased asthma attacks due to the toxins in the air.

In 1990, Congress recognized the gravity of this national problem and amended the Clean Air Act to ensure that our nation's most smoggy and polluted areas were the beneficiaries of tougher motor vehicle emission control standards.

One of these amendments directed the United States Environmental Protection Agency (EPA) to adopt a federal reformulated gasoline program for urban areas with the most serious pollution problems.

The federal reformulated gasoline program mandated that this new cleaner burning gasoline reduce emissions of benzene, a known human carcinogen, and other toxins.

The federal program also mandated that this reformulated gasoline contain 2 percent by weight oxygenate, which functions to make the gas burn more completely and efficiently.

### CALIFORNIA REFORMULATED GASOLINE

By December 1994, the oxygenate requirement went into effect. In California, this mandate affected three cities in particular, where the air quality was the worst.

Reformulated gasoline was required to be sold during the winter season in the greater Los Angeles, San Diego and Sacramento regions. This gasoline contained 11 percent MTBE, in order to meet the federal oxygenate requirement.

While federal Clean Air Act regulations were being promulgated, the California Air Resources Board developed even tougher and more stringent environmental standards. However, these standards permitted more flexibility in how they could be achieved by California's gasoline manufacturers.

By establishing a State Implementation Plan which restricts eight different properties that affect emissions of toxic air pollutants and ozone forming compounds, California's stricter regulations were approved by the U.S. EPA and are federally enforceable.

Additionally, California regulations contain an innovative predictive model which is based on the analysis of a large number of vehicle emission test studies. Refiners have the option of using this model to produce reformulated gasoline as long as its usage results in equivalent or greater reductions in emissions than federal regulations. California EPA states that the predictive model ''shows that a different formulation will achieve equivalent or better air quality benefits.''

While the amendments to the Clean Air Act have helped reduce emissions throughout the United States, they imposed limitations on the level of flexibility that U.S. EPA can grant to California.

The overlapping applicability of both the federal and state reformulated gasoline rules has actually prohibited gasoline manufacturers from responding as effectively as possible to unforeseen problems with their product. This bill addresses exactly this type of situation.

This legislation rewards California for its unique and effective approach in solving its own air quality problems by permitting it an exemption from federal oxygenate requirements as long as tough environmental standards are enforced.

MTBE CONTAMINATION OF CALIFORNIA GROUNDWATER

This legislation will allow refiners to address the problems that have occurred with the use of MTBE as it has leaked into groundwater supplies.

Such problems were certainly not anticipated during the drafting of these amendments, and therefore only exemplifies the need for a California exemption to this requirement.

MTBE is a highly soluble organic compound which moves quickly through soil and gravel, therefore posing a more rapid threat to aquifers than the other constituents of gasoline when leaks occur. MTBE is easily traced, but very difficult and expensive to clean up.

Higher quantities of MTBE in drinking water has a smell similar to turpentine and a taste like paint thinner.

Although we do not have all of the data we need to determine the potential damage of MTBE to our water and our health, we do know that it is increasingly a problem for California:

MTBE has been detected in drinking water supplies in a number of cities including Santa Monica, Riverside, Anaheim, Los Angeles and San Francisco;

MTBE has also been detected in numerous California reservoirs including Lake Shasta in Redding, San Pablo and Cherry reservoirs in the Bay Area, and Coyote and Anderson reservoirs in Santa Clara;

The largest contamination occurred in the city of Santa Monica, which lost 75% of its ground water supply as a result of MTBE leaking out of shallow gas tanks beneath the surface;

MTBE has been discovered in publicly owned wells approximately 100 feet from City Council Chamber in South Lake Tahoe;

In Glennvile, California, Near Bakersfield, MTBE levels have been detected in groundwater as high as 190,000 parts per billion—dramatically exceeding the California Department of Health advisory of 35 parts per billion; and

250 underground fuel tank sites have leaked MTBE in Santa Clara County not far from water wells used by the residents of San Jose.

In the face of mounting evidence of extensive MTBE contamination in California groundwater, several gasoline manufacturers, including Chevron and Tosco (Union 76), have made it clear they would like to have the flexibility to use only the amount and type of oxygenate necessary to continue to meet the environmental specifications of clean burning gasoline.

Many manufacturers believe that it is possible to meet California's more stringent clean air standards using reduced amounts of, or in some cases, no oxygenate in their gasolines.

In a recent letter to me, Chevron chairman Ken Derr÷ expressed his belief that while he believes MTBE is safe if handled properly, his company is exploring other options. He says:

(Chevron has) taken another look at the extensive body of data that relates to fuel composition to vehicle emissions and have concluded that it may be possible to make more gasoline without MTBE and still meet California's cleaner burning gasoline standards.

If California refiners can meet the stricter state clean air standard while reducing or eliminating the use of a chemical that is contaminating California water, it makes good sense to give them the flexibility they need to solve the problem.

By amending the Clear Air Act to waive the requirement for oxygenates in California, which already has in place its own stricter standards, this legislation does not detract in any way from the gains in emission reductions mandated in the Clear Air Act. It will simply allow for companies like Chevron to meet Clean Air Act requirements, while maximizing the advantages of increased flexibility in order to respond more efficiently and effectively to any unforseen problems encountered in the production of California cleaner burning gasoline.

If exempting California from the oxygenate requirement meant weakening the Clear Air Act in any way, I would be the first person to stand up and lead the battle against such an effort.

This bill does not weaken the Clear Air Act, but instead is a step in the right direction, towards sound environmental policy.

This narrowly-targeted legislation simply makes sense. With this bill, California is once again taking the initiative to lead the way in ensuring the protection of the air we breathe, and the water we drink.

By allowing the companies that supply our state's gasoline to utilize good science and sound environmental policy, we can achieve the goals set forth by the Clear Air Act, without sacrificing California's clean water.

In short, when we pass this legislation, we will take another step forward in ensuring that protecting our air qualify does not come at the expense of safeguarding our water.

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. 1576

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

**SECTION 1. CALIFORNIA REFORMULATED GASOLINE RULES.**

Section 211(c)(4)(B) of the Clean Air Act (42 U.S.C. 7545(c)(4)(B)) is amended by adding at the end the following: ''If any such State that has received a waiver under section 209(b)(1) promulgates reformulated gasoline rules for any covered area of the State (as defined in subsection (k)(10)), the rules shall apply in the area in lieu of the requirements of subsection (k) if the State rules will achieve equivalent or greater emission reductions than would result from the application of the requirements of subsection (k) in the case of the aggregate mass of emissions of toxic air pollutants and in the case of the aggregate mass of emissions of ozone-forming compounds.''.

By Mr. CHAFEE (for himself, Mr. HATCH, Ms. SNOWE, Mr. ROBERTS, Mr. SPECTER and Ms. COLLINS):

S. 1577. A bill to amend the Internal Revenue Code of 1986 to provide additional tax relief to families to increase the affordability of child care, and for other purposes; to the Committee on Finance.

THE CARING FOR CHILDREN ACT

Mr. CHAFEE. Mr. President, I am pleased today to introduce the Caring for Children Act, legislation to help all families with their child care needs.

I want to thank my colleagues who have worked so hard to put this bill together. Senator HATCH, who was a leader in the development of the child care block grant, and is always a stalwart supporter of children. Senator SNOWE, who has worked on this issue for many years. Senator ROBERTS, who has taken an active interest in this issue. Senator SPECTER, who made an enormous contribution to the development of this bill. And Senator SUSAN COLLINS, who we are very fortunate to have on our child care proposal.

Last night, in his State of the Union Address to the nation, President Clinton issued a challenge to Congress to develop child care legislation in a bipartisan manner with the Administration. Well, that is exactly what we are doing today.

Our proposal is straightforward and far-reaching. It makes the current child care credit more equitable for lower and middle income families. And, for the first time, makes the credit available to families where one parent stays at home to care for the children. That is a critical step and an important change for families across America.

Raising children in today's world is a true challenge. In many families, both parents must work in order to support the family. Often, the child care expenses consume all or most of one parent's income. How often do we hear the refrain, particularly from women, that after they pay for day care, there is little or nothing left of their wages.

Another common complaint is from parents who desperately want to stay home and raise their children themselves—especially in those very critical, early years of childhood—but who simply cannot afford to forego that second income.

The legislation we are introducing today responds to both of these concerns. We believe that parents should make their own decisions about who is going to care for their children. The government and the tax code should not be promoting one choice over another.

By making more of the existing child care tax credit available to lower and middle income families, and making it available also to families where one parent stays at home, we are sending the message that the choice is yours, and we support your choice.

Our bill makes several changes to the existing dependent care tax credit.

First, the maximum credit percentage is increased from 30 percent to 50 percent to provide more benefits to those most in need. Second, the income level at which the maximum credit begins to be reduced is moved from $10,000 to $30,000, so that more lower-income families will qualify for the maximum amount of assistance. Third, we propose to completely phase out the credit for wealthier families. Finally, families where one spouse stays at home to care for the children will be eligible for a credit similar to the one they would receive if both parents were working outside the home and the child was in daycare.

We also acknowledge that we cannot solve the entire child care problem through the tax code alone. Many low-income families do not have taxable income, and therefore cannot benefit from a tax credit. The Child Care and Development Block Grant (CCDBG) provides critical funding to help these lower-income families—and I have been a strong supporter of the program. Recognizing the critical role CCDBG plays in subsidizing daycare for low-income families in the states, our proposal doubles the block grant over a five-year period.

Of course, the problem with child care is not limited to just affordability. Many parents cannot find an available child care slot. Our proposal addresses this issue of accessibility by providing a tax credit to businesses to build or renovate on or near-site child care centers for their employees.

Finally, there is the issue of quality daycare. Parents cannot be productive in the workplace if they are constantly worrying about the health and safety of their children in daycare. We have all read the horrifying stories in the newspapers about daycare facilities that are unsafe or unsanitary, about the poor record of enforcement of standards in many states.

while we acknowledge that the federal government should not be setting standards for daycare providers, we do believe the states should set at least minimum health and safety standards and enforce them rigorously. Our legislation beefs up this enforcement by rewarding states with a good enforcement record and penalizing those with poor records.

I am very proud of this legislation, and proud that this group was able to come together and produce this initiative. Child care is a problem that must be solved, and we are committed to doing that. I look forward to working with the President and my colleagues in the Congress to find workable, affordable solutions for all families.

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. 1577

*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 ''Caring for Children Act''.

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



## TITLE I—TAX RELIEF TO INCREASE CHILD CARE AFFORDABILITY

### SEC. 101. EXPANSION OF DEPENDENT CARE TAX CREDIT.

(a) PERCENTAGE OF EMPLOYMENT-RELATED EXPENSES DETERMINED BY TAXPAYER STATUS.—Section 21(a)(2) of the Internal Revenue Code of 1986 (defining applicable percentage) is amended to read as follows:

''(2) APPLICABLE PERCENTAGE DEFINED.—For purposes of paragraph (1), the term 'applicable percentage' means 50 percent reduced (but not below zero) by 1 percentage point for each $1,500, or fraction thereof, by which the taxpayers's adjusted gross income for the taxable year exceeds $30,000.''.

(b) MINIMUM CREDIT ALLOWED FOR STAY-AT-HOME PARENTS.—Section 21(e) of the Internal Revenue Code of 1986 (relating to special rules) is amended by adding at the end the following:

''(11) MINIMUM CREDIT ALLOWED FOR STAY-AT-HOME PARENTS.—Notwithstanding subsection (d), in the case of any taxpayer with one or more qualifying individuals described in subsection (b)(1)(A) under the age of 4 at any time during the taxable year, such taxpayer shall be deemed to have employment-related expenses with respect to such qualifying individuals in an amount equal to the greater of—

''(A) the amount of employment-related expenses incurred for such qualifying individuals for the taxable year (determined under this section without regard to this paragraph), or

''(B) $150 for each month in such taxable year during which such qualifying individual is under the age of 4.''.

(c) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 1998.

### SEC. 102. PROMOTION OF DEPENDENT CARE ASSISTANCE PROGRAMS.

(a) PROMOTION OF DEPENDENT CARE ASSISTANCE PROGRAMS.—The Secretary of Labor shall establish a program to promote awareness of the use of dependent care assistance programs (as described in section 129(d) of the Internal Revenue Code of 1986) by employers.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out the program under paragraph (1) $1,000,000 for each of fiscal years 1999, 2000, 2001, and 2002.

### SEC. 103. ALLOWANCE OF CREDIT FOR EMPLOYER EXPENSES FOR CHILD CARE ASSISTANCE.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end the following:

### ''SEC. 45D. EMPLOYER-PROVIDED CHILD CARE CREDIT.

''(a) ALLOWANCE OF CREDIT.—For purposes of section 38, the employer-provided child care credit determined under this section for the taxable year is an amount equal to 20 percent of the qualified child care expenditures of the taxpayer for such taxable year.

''(b) DOLLAR LIMITATION.—The credit allowable under subsection (a) for any taxable year shall not exceed $100,000.

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

''(1) QUALIFIED CHILD CARE EXPENDITURE.—

''(A) IN GENERAL.—The term 'qualified child care expenditure' means any amount paid or incurred—

''(i) to acquire, construct, rehabilitate, or expand property—

''(I) which is to be used as part of a qualified child care facility of the taxpayer,

''(II) with respect to which a deduction for depreciation (or amortization in lieu of depreciation) is allowable, and

''(III) which does not constitute part of the principal residence (within the meaning of section 1034) of the taxpayer or any employee of the taxpayer,

''(ii) for the operating costs of a qualified child care facility of the taxpayer, including costs related to the training of employees,

''(iii) under a contract with a qualified child care facility to provide child care services to employees of the taxpayer, or

''(iv) under a contract to provide child care resource and referral services to employees of the taxpayer.

''(2) EXCLUSION FOR AMOUNTS FUNDED BY GRANTS, ETC.—The term 'qualified child care expenditure' shall not include any amount to the extent such amount is funded by any grant, contract, or otherwise by another person (or any governmental entity).

''(3) QUALIFIED CHILD CARE FACILITY.—

''(A) IN GENERAL.—The term 'qualified child care facility' means a facility—

''(i) the principal use of which is to provide child care assistance, and

''(ii) which meets the requirements of all applicable laws and regulations of the State or local government in which it is located, including, but not limited to, the licensing of the facility as a child care facility.

Clause (i) shall not apply to a facility which is the principal residence (within the meaning of section 1034) of the operator of the facility.

''(B) SPECIAL RULES WITH RESPECT TO A TAXPAYER.—A facility shall not be treated as a qualified child care facility with respect to a taxpayer unless—

''(i) enrollment in the facility is open to employees of the taxpayer during the taxable year,

''(ii) the facility is not the principal trade or business of the taxpayer unless at least 30 percent of the enrollees of such facility are dependents of employees of the taxpayer, and

''(iii) the use of such facility (or the eligibility to use such facility) does not discriminate in favor of employees of the taxpayer who are highly compensated employees (within the meaning of section 414(q)).

''(d) RECAPTURE OF ACQUISITION AND CONSTRUCTION CREDIT.—

''(1) IN GENERAL.—If, as of the close of any taxable year, there is a recapture event with respect to any qualified child care facility of the taxpayer, then the tax of the taxpayer under this chapter for such taxable year shall be increased by an amount equal to the product of—

''(A) the applicable recapture percentage, and

''(B) the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted if the qualified child care expenditures of the taxpayer described in subsection (c)(1)(A) with respect to such facility had been zero.

''(2) APPLICABLE RECAPTURE PERCENTAGE.—

''(A) IN GENERAL.—For purposes of this subsection, the applicable recapture percentage shall be determined from the following table:

| ''If the recapture event occurs in: | The applicable recapture percentage is: |
|---|---|
| Years 1–3 | 100 |
| Year 4 | 85 |
| Year 5 | 70 |
| Year 6 | 55 |
| Year 7 | 40 |
| Year 8 | 25 |
| Years 9 and 10 | 10 |
| Years 11 and thereafter | 0. |

''(B) YEARS.—For purposes of subparagraph (A), year 1 shall begin on the first day of the taxable year in which the qualified child care facility is placed in service by the taxpayer.

''(3) RECAPTURE EVENT DEFINED.—For purposes of this subsection, the term 'recapture event' means—

''(A) CESSATION OF OPERATION.—The cessation of the operation of the facility as a qualified child care facility.

''(B) CHANGE IN OWNERSHIP.—

''(i) IN GENERAL.—Except as provided in clause (ii), the disposition of a taxpayer's interest in a qualified child care facility with respect to which the credit described in subsection (a) was allowable.

''(ii) AGREEMENT TO ASSUME RECAPTURE LIABILITY.—Clause (i) shall not apply if the person acquiring such interest in the facility agrees in writing to assume the recapture liability of the person disposing of such interest in effect immediately before such disposition. In the event of such an assumption, the person acquiring the interest in the facility shall be treated as the taxpayer for purposes of assessing any recapture liability (computed as if there had been no change in ownership).

''(4) SPECIAL RULES.—

''(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

''(B) NO CREDITS AGAINST TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under subpart A, B, or D of this part.

''(C) NO RECAPTURE BY REASON OF CASUALTY LOSS.—The increase in tax under this subsection shall not apply to a cessation of operation of the facility as a qualified child care facility by reason of a casualty loss to the extent such loss is restored by reconstruction or replacement within a reasonable period established by the Secretary.

''(e) SPECIAL RULES.—For purposes of this section—

''(1) AGGREGATION RULES.—All persons which are treated as a single employer under subsections (a) and (b) of section 52 shall be treated as a single taxpayer.

''(2) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

''(3) ALLOCATION IN THE CASE OF PARTNERSHIPS.—In the case of partnerships, the credit shall be allocated among partners under regulations prescribed by the Secretary.

''(f) NO DOUBLE BENEFIT.—

''(1) REDUCTION IN BASIS.—For purposes of this subtitle—

''(A) IN GENERAL.—If a credit is determined under this section with respect to any property by reason of expenditures described in subsection (c)(1)(A), the basis of such property shall be reduced by the amount of the credit so determined.

''(B) CERTAIN DISPOSITIONS.—If during any taxable year there is a recapture amount determined with respect to any property the basis of which was reduced under subparagraph (A), the basis of such property (immediately before the event resulting in such recapture) shall be increased by an amount equal to such recapture amount. For purposes of the preceding sentence, the term 'recapture amount' means any increase in tax (or adjustment in carrybacks or carryovers) determined under subsection (d).

''(2) OTHER DEDUCTIONS AND CREDITS.—No deduction or credit shall be allowed under any other provision of this chapter with respect to the amount of the credit determined under this section.

''(g) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 2003.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 38(b) of the Internal Revenue Code of 1986 is amended—

(A) by striking out ''plus'' at the end of paragraph (11),

(B) by striking out the period at the end of paragraph (12), and inserting a comma and ''plus'', and

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

''(13) the employer-provided child care credit determined under section 45D.''.

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following new item:

''Sec. 45D. Employer-provided child care credit.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

## TITLE II—ENCOURAGING QUALITY CHILD CARE

### Subtitle A—Dissemination of Information About Quality Child Care

#### SEC. 201. COLLECTION AND DISSEMINATION OF INFORMATION.

(a) COLLECTION AND DISSEMINATION OF INFORMATION.—The Secretary of Health and Human Services shall, directly or through a contract awarded on a competitive basis to a qualified entity, collect and disseminate—

(1) information concerning health and safety in various child care settings that would assist—

(A) the provision of safe and healthful environments by child care providers; and

(B) the evaluation of child care providers by parents; and

(2) relevant findings in the field of early childhood learning and development.

(b) INFORMATION AND FINDINGS TO BE GENERALLY AVAILABLE.—

(1) SECRETARIAL RESPONSIBILITY.—The Secretary of Health and Human Services shall make the information and findings described in subsection (a) generally available to States, units of local governments, private nonprofit child care organizations (including resource and referral agencies), employers, child care providers, and parents.

(2) DEFINITION OF GENERALLY AVAILABLE.—For purposes of paragraph (1), the term ''generally available'' means that the information and findings shall be distributed through resources that are used by, and available to, the public, including such resources as brochures, Internet web sites, toll-free telephone information lines, and public and private resource and referral organizations.

#### SEC. 202. GRANTS FOR THE DEVELOPMENT OF A CHILD CARE TRAINING INFRASTRUCTURE.

(a) AUTHORITY TO AWARD GRANTS.—The Secretary of Health and Human Services shall award grants to eligible entities to develop distance learning child care training technology infrastructures and to develop model technology-based training courses for child care providers and child care workers. The Secretary shall, to the maximum extent possible, ensure that grants for the development of distance learning child care training technology infrastructures are awarded in those regions of the United States with the fewest training opportunities for child care providers.

(b) ELIGIBILITY REQUIREMENTS.—To be eligible to receive a grant under subsection (a), an entity shall—

(1) develop the technological and logistical aspects of the infrastructure described in this section and have the capability of implementing and maintaining the infrastructure;

(2) to the maximum extent possible, develop partnerships with secondary schools, institutions of higher education, State and local government agencies, and private child care organizations for the purpose of sharing equipment, technical assistance, and other technological resources, including—

(A) sites from which individuals may access the training;

(B) conversion of standard child care training courses to programs for distance learning; and

(C) ongoing networking among program participants; and

(3) develop a mechanism for participants to—

(A) evaluate the effectiveness of the infrastructure, including the availability and affordability of the infrastructure, and the training offered the infrastructure; and

(B) make recommendations for improvements to the infrastructure.

(c) APPLICATION.—To be eligible to receive a grant under subsection (a), an entity shall submit an application to the Secretary at such time and in such manner as the Secretary may require, and that includes—

(1) a description of the partnership organizations through which the distance learning programs will be disseminated and made available;

(2) the capacity of the infrastructure in terms of the number and type of distance learning programs that will be made available;

(3) the expected number of individuals to participate in the distance learning programs; and

(4) such additional information as the Secretary may require.

(d) LIMITATION ON FEES.—No entity receiving a grant under this section may collect fees from an individual for participation in a distance learning child care training program funded in whole or in part by this section that exceed the pro rata share of the amount expended by the entity to provide materials for the training program and to develop, implement, and maintain the infrastructure (minus the amount of the grant awarded by this section).

(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as requiring a child care provider to subscribe to or complete a distance learning child care training program made available by this section.

**SEC. 203. AUTHORIZATION OF APPROPRIATIONS.**

There is authorized to be appropriated to carry out this subtitle $50,000,000 for each of fiscal years 1999 through 2003.

**Subtitle B—Increased Enforcement of State Health and Safety Standards**

**SEC. 211. ENFORCEMENT OF STATE HEALTH AND SAFETY STANDARDS.**

(a) IDENTIFICATION OF STATE INSPECTION RATE.—

(1) IN GENERAL.—Section 658E(c)(2)(G) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858c(2)(G)) is amended by striking the period and inserting '', and provide the percentage of completed child care provider inspections that were required under State law for each of the 2 preceding fiscal years.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) applies to State plans under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.) on and after September 1, 1998.

(b) INCREASED OR DECREASED ALLOTMENTS.—Section 658O(b) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858m(b)) is amended—

(1) in paragraph (1), in the matter preceding subparagraph (A), by inserting '', subject to paragraph (5),'' after ''shall''; and

(2) by adding at the end the following:

''(5) INCREASED OR DECREASED ALLOTMENT BASED ON STATE INSPECTION RATE.—

''(A) INCREASED ALLOTMENT FOR FISCAL YEARS 1999, 2000, AND 2001.—

''(i) IN GENERAL.—Subject to clause (iii), for fiscal years 1999, 2000, and 2001, the allotment determined for a State under paragraph (1) for each such fiscal year shall be increased by an amount equal to 10 percent of such allotment for the fiscal year involved with respect to any State—

''(I) that certifies to the Secretary that the State has not reduced the scope of any State child care health or safety standards or requirements that were in effect in calendar year 1996; and

''(II) that, with respect to the preceding fiscal year, had a percentage of completed child care provider inspections (as required to be reported under section 658E(c)(2)(G)), that equaled or exceeded the target inspection and enforcement percentage specified under clause (ii) for the fiscal year for which the allotment is to be paid.

''(ii) TARGET INSPECTION AND ENFORCEMENT PERCENTAGE.—For purposes of clause (i)(II), the target inspection and enforcement percentage is—

''(I) for fiscal year 1999, 75 percent;

''(II) for fiscal year 2000, 80 percent; and

''(III) for fiscal year 2001, 100 percent.

''(iii) PRO RATA REDUCTIONS IF INSUFFICIENT APPROPRIATIONS.—The Secretary shall make pro rata reductions in the percentage increase otherwise required under clause (i) for a State allotment for a fiscal year as necessary so that the aggregate of all the allotments made under this section do not exceed the amount appropriated for that fiscal year under section 658B.

''(B) DECREASED ALLOTMENT FOR FISCAL YEARS 2000 AND 2001.—

''(i) IN GENERAL.—The allotment determined for a State under paragraph (1) for each of fiscal years 2000 and 2001 shall be decreased by an amount equal to 10 percent of such allotment for the fiscal year involved with respect to any State that, with respect to the preceding fiscal year, had a percentage of completed child care provider inspections (as required to be reported under section 658E(c)(2)(G)) that was below the minimum inspection and enforcement percentage specified under clause (ii) for the fiscal year for which the allotment is to be paid.

''(ii) MINIMUM INSPECTION AND ENFORCEMENT PERCENTAGE.—For purposes of clause (i), the minimum inspection and enforcement percentage is—

''(I) for fiscal year 2000, 50 percent; and

''(II) for fiscal year 2001, 75 percent.

''(iii) REQUIREMENT TO EXPEND STATE FUNDS TO REPLACE REDUCTION.—If the allotment determined for a State for a fiscal year is reduced by reason of clause (i), the State shall, during the immediately succeeding fiscal year, expend additional State funds under the State plan funded under this subchapter by an amount equal to the amount of such reduction.''.

**Subtitle C—Removal of Barriers to Increasing the Supply of Quality Child Care**

**SEC. 221. INCREASED AUTHORIZATION OF APPROPRIATIONS FOR THE CHILD CARE AND DEVELOPMENT BLOCK GRANT ACT.**

Section 658B of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858) is amended to read as follows:

**''SEC. 658B. AUTHORIZATION OF APPROPRIATIONS.**

''There is authorized to be appropriated to carry out this subchapter—

''(1) for each of fiscal years 1996 through 1998, $1,000,000,000;

''(2) for fiscal year 1999, $1,500,000,000;

''(2) for fiscal year 2000, $1,750,000,000;

''(2) for fiscal year 2001, $2,000,000,000;

''(2) for fiscal year 2002, $2,250,000,000; and

''(2) for fiscal year 2003, $2,500,000,000.''.

**SEC. 222. SMALL BUSINESS CHILD CARE GRANT PROGRAM.**

(a) ESTABLISHMENT.—The Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall establish a program to award grants to States to assist States in providing funds to encourage the establishment and operation of employer operated child care programs.

(b) APPLICATION.—To be eligible to receive a grant under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including an assurance that the funds required under subsection (e) will be provided.

(c) AMOUNT OF GRANT.—The Secretary shall determine the amount of a grant to a State under this section based on the population of the State as compared to the population of all States.

(d) USE OF FUNDS.—

(1) IN GENERAL.—A State shall use amounts provided under a grant awarded under this section to provide assistance to small businesses located in the State to enable the small businesses to establish and operate child care programs. Such assistance may include—

(A) technical assistance in the establishment of a child care program;

(B) assistance for the start up costs related to a child care program;

(C) assistance for the training of child care providers;

(D) scholarships for low-income wage earners;

(E) the provision of services to care for sick children or to provide care to school aged children;

(F) the entering into of contracts with local resource and referral or local health departments;

(G) care for children with disabilities; or

(H) assistance for any other activity determined appropriate by the State.

(2) APPLICATION.—To be eligible to receive assistance from a State under this section, a small business shall prepare and submit to the State an application at such time, in such manner, and containing such information as the State may require.

(3) PREFERENCE.—

(A) IN GENERAL.—In providing assistance under this section, a State shall give priority to applicants that desire to form a consortium to provide child care in geographic areas within the State where such care is not generally available or accessible.

(B) CONSORTIUM.—For purposes of subparagraph (A), a consortium shall be made up of 2 or more entities which may include businesses, nonprofit agencies or organizations, local governments, or other appropriate entities.

(4) LIMITATION.—With respect to grant funds received under this section, a State may not provide in excess of $100,000 in assistance from such funds to any single applicant.

(e) MATCHING REQUIREMENT.—To be eligible to receive a grant under this section a State shall provide assurances to the Secretary that, with respect to the costs to be incurred by an entity receiving assistance in carrying out activities under this section, the entity will make available (directly or through donations from public or private entities) non-Federal contributions to such costs in an amount equal to—

(1) for the first fiscal year in which the entity receives such assistance, not less than 50 percent of such costs ($1 for each $1 of assistance provided to the entity under the grant);

(2) for the second fiscal year in which an entity receives such assistance, not less than 66⅔ percent of such costs ($2 for each $1 of assistance provided to the entity under the grant); and

(3) for the third fiscal year in which an entity receives such assistance, not less than 75 percent of such costs ($3 for each $1 of assistance provided to the entity under the grant).

(f) REQUIREMENTS OF PROVIDERS.—To be eligible to receive assistance under a grant awarded under this section a child care provider shall comply with all applicable State and local licensing and regulatory requirements and all applicable health and safety standards in effect in the State.

(g) ADMINISTRATION.—

(1) STATE RESPONSIBILITY.—A State shall have responsibility for administering the grant awarded under this section and for monitoring entities that receive assistance under such grant.

(2) AUDITS.—A State shall require each entity receiving assistance under a grant awarded under this section to conduct an annual audit with respect to the activities of the entity. Such audits shall be submitted to the State.

(3) MISUSE OF FUNDS.—

(A) REPAYMENT.—If the State determines, through an audit or otherwise, that an entity receiving assistance under a grant awarded under this section has misused the assistance, the State shall notify the Secretary of the misuse. The Secretary, upon such a notification, may seek from such an entity the repayment of an amount equal to the amount of any misused assistance plus interest.

(B) APPEALS PROCESS.—The Secretary shall by regulation provide for an appeals process with respect to repayments under this paragraph.

(h) REPORTING REQUIREMENTS.—

(1) 2-YEAR STUDY.—

(A) IN GENERAL.—Not later than 2 years after the date on which the Secretary first provides grants under this section, the Secretary shall conduct a study to determine—

(i) the capacity of entities to meet the child care needs of communities within a State;

(ii) the kinds of partnerships that are being formed with respect to child care at the local level; and

(iii) who is using the programs funded under this section and the income levels of such individuals.

(B) REPORT.—Not later than 28 months after the date of enactment of this Act, the Secretary shall prepare and submit to the appropriate committees of Congress a report on the results of the study conducted in accordance with subparagraph (A).

(2) 4-YEAR STUDY.—

(A) IN GENERAL.—Not later than 4 years after the date on which the Secretary first provides grants under this section, the Secretary shall conduct a study to determine the number of child care facilities funded through entities that received assistance through a grant made under this section that remain in operation and the extent to which such facilities are meeting the child care needs of the individuals served by such facilities.

(B) REPORT.—Not later than 52 months after the date of enactment of this Act, the Secretary shall prepare and submit to the appropriate committees of Congress a report on the results of the study conducted in accordance with subparagraph (A).

(i) DEFINITION.—As used in this section, the term ''small business'' means an employer who employed an average of at least 2 but not more than 50 employees on business days during the preceding calendar year.

(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $60,000,000 for the period of fiscal years 1999 through 2001. With respect to the total amount appropriated for such period in accordance with this subsection, not more than $5,000,000 of that amount may be used for expenditures related to conducting evaluations required under, and the administration of, this section.

(k) TERMINATION OF PROGRAM.—The program established under subsection (a) shall terminate on September 30, 2002.

**SEC. 223. GAO REPORT REGARDING THE RELATIONSHIP BETWEEN LEGAL LIABILITY CONCERNS AND THE AVAILABILITY AND AFFORDABILITY OF CHILD CARE.**

Not later than 6 months after the date of enactment of this Act, the Comptroller General of the United States shall report to Congress regarding whether and, if so, the extent to which, concerns regarding potential legal liability exposure inhibit the availability and affordability of child care. The report shall include an assessment of whether such concerns prevent—

(1) employers from establishing on or near-site child care for their employees;

(2) schools or community centers from allowing their facilities to be used for on-site child care; and

(3) individuals from providing professional, licensed child care services in their homes.

**Subtitle D—Quality Child Care Through Federal Facilities and Programs**

**SEC. 231. PROVIDING QUALITY CHILD CARE IN FEDERAL FACILITIES.**

(a) DEFINITION.—In this section:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of General Services.

(2) EXECUTIVE AGENCY.—The term ''Executive agency'' has the meaning given the term in section 105 of title 5, United States Code, but does not include the Department of Defense.

(3) EXECUTIVE FACILITY.—The term ''executive facility'' means a facility that is owned or leased by an Executive agency.

(4) FEDERAL AGENCY.—The term ''Federal agency'' means an Executive agency, a judicial office, or a legislative office.

(5) JUDICIAL FACILITY.—The term ''judicial facility'' means a facility that is owned or leased by a judicial office.

(6) JUDICIAL OFFICE.—The term ''judicial office'' means an entity of the judicial branch of the Federal Government.

(7) LEGISLATIVE FACILITY.—The term ''legislative facility'' means a facility that is owned or leased by a legislative office.

(8) LEGISLATIVE OFFICE.—The term ''legislative office'' means an entity of the legislative branch of the Federal Government.

(b) EXECUTIVE BRANCH STANDARDS AND ENFORCEMENT.—

(1) STATE AND LOCAL LICENSING REQUIREMENTS.—

(A) IN GENERAL.—The Administrator shall issue regulations requiring any entity operating a child care center in an executive facility to comply with applicable State and local licensing requirements related to the provision of child care.

(B) COMPLIANCE.—The regulations shall require that, not later than 6 months after the date of enactment of this Act—

(i) the entity shall comply, or make substantial progress (as determined by the Administrator) toward complying, with the requirements; and

(ii) any contract for the operation of such a child care center shall include a condition that the child care be provided in accordance with the requirements.

(2) EVALUATION AND ENFORCEMENT.—The Administrator shall evaluate the compliance of the entities described in paragraph (1) with the regulations issued under that paragraph. The Administrator may conduct the evaluation of such an entity directly, or through an agreement with another Federal agency, other than the Federal agency for which the entity is providing child care. If the Administrator determines, on the basis of such an evaluation, that the entity is not in compliance with the regulations, the Administrator shall notify the Executive agency.

(c) LEGISLATIVE BRANCH STANDARDS AND ENFORCEMENT.—

(1) STATE AND LOCAL LICENSING REQUIREMENTS AND ACCREDITATION STANDARDS.—The Architect of the Capitol shall issue regulations for entities operating child care centers in legislative facilities, which shall be the same as the regulations issued by the Administrator under subsection (b)(1), except to the extent that the Architect may determine, for good cause shown and stated together with the regulations, that a modification of such regulations would be more effective for the implementation of the requirements and standards described in such paragraphs.

(2) EVALUATION AND ENFORCEMENT.—Subsection (b)(2) shall apply to the Architect of the Capitol, entities operating child care centers in legislative facilities, and legislative offices. For purposes of that application, references in subsection (b)(2) to regulations shall be considered to be references to regulations issued under this subsection.

(d) JUDICIAL BRANCH STANDARDS AND ENFORCEMENT.—

(1) STATE AND LOCAL LICENSING REQUIREMENTS AND ACCREDITATION STANDARDS.—The Director of the Administrative Office of the United States Courts shall issue regulations for entities operating child care centers in judicial facilities, which shall be the same as the regulations issued by the Administrator under subsection (b)(1), except to the extent that the Director may determine, for good cause shown and stated together with the regulations, that a modification of such regulations would be more effective for the implementation of the requirements and standards described in such paragraphs.

(2) EVALUATION AND ENFORCEMENT.—Subsection (b)(2) shall apply to the Director described in paragraph (1), entities operating child care centers in judicial facilities, and judicial offices. For purposes of that application, references in subsection (b)(2) to regulations shall be considered to be references to regulations issued under this subsection.

(e) APPLICATION.—Notwithstanding any other provision of this section, if 3 or more child care centers are operated in facilities owned or leased by a Federal agency, the head of the Federal agency may carry out the responsibilities assigned to the Administrator under subsection (b)(2), the Architect of the Capitol under subsection (c)(2), or the Director described in subsection (d)(2) under such subsection, as appropriate.

Mr. SPECTER. Mr. President, I have sought recognition to join my colleagues in introducing the ''Caring for Children Act,'' which will ease the financial burden of child care for American families—for those parents who work, and for those who choose to stay home to raise their children for a period of time. The sponsors of this legislation recognize the importance of affordable quality child care to the successful development of our children.

Our bill would expand the Dependent Care tax credit to make it more accessible to families who need it, double the authorization for the Child Care Development Block Grant, and provide grants to small businesses to create or enhance child care facilities for their employees. This bill also includes provisions from the proposal I introduced last year with my colleague, Congressman Jon Fox, ''The Affordable Child Care Act,'' which provides a tax credit for employers who provide on-site or site-adjacent child care to their employees in order to reduce the child care expenses of the employee.

Not all families choose the same option for child care. Many families rely on relatives, centers operated by churches and other religious organizations, centers at or near their workplace, or make other arrangements to provide care for their children while they work. In light of the diverse needs for child care in America, this bill represents a good start toward expanding the choices for American parents. And, any such legislation must recognize that there is a need to provide some relief to families where one parent stays at home.

The need for affordable and accessible day care is critical given the increasing numbers of working parents and dual-income families in the United States. According to the Bureau of the Census, in 1975, 31 percent of married

mothers with a child younger than age one participated in the labor force. By 1995, that figure had risen to 59 percent. Almost 64 percent of married mothers and 53 percent of single mothers with children younger than age six participated in the labor force in 1995.

The cost of child care for families is also significant. Licensed day care centers in some urban areas cost as much as $200 per week, and the disparity in costs and availability of child care between urban and rural grows greater every day. For families which need or choose to have both parents work outside the home, the burden of making child care decisions is great. These figures serve to underscore the need for action on the part of the Federal government to provide the necessary assistance to our nation's working families.

As Chairman of the Labor, Health and Human Services, and Education Appropriations Subcommittee, I am pleased that this legislation would build on an existing federal child care program by authorizing an additional $5 billion over five years to the Child Care Development Block Grant program, bringing total spending for this program to $2.5 billion annually by FY2002. The CCDBG program which works well in assisting low-income families acquire child care and helped over 93,000 Pennsylvania families last year. By increasing the authorization, we can help even more families without creating a new entitlement program.

Our legislation will also require States to create and enforce safety and health standards in child care facilities, and provide money for the Department of Health and Human Services to disseminate information to parents and providers about quality child care, through brochures, toll-free hotlines, the Internet, and other technological assistance.

The ''Caring for Children Act'' complements my recent efforts to assist working families in the context of welfare reform and children's health insurance. When Congress debated welfare reform in 1995 and 1996, I worked to ensure that adequate funds were provided for child care, a critical component for welfare mothers who would be required to work to receive new limited welfare benefits. I am pleased that the welfare reform bill that became law provides $20 billion in child care funding over a six year period. Similarly, I was pleased to participate in the bipartisan effort in 1997 to enact legislation to provide $24 billion over the next five years for States to establish or broaden children's health insurance programs.

In conclusion, Mr. President, I believe that it is critical that the 105th Congress not adjourn without enacting legislation to assist families in their ability to afford safe, quality child care for their children, either at home with a parent or another arrangement. Our legislation will provide peace of mind to millions of American families struggling to balance career and child raising. I urge my colleagues to join me in cosponsoring this important legislation, and I urge its swift adoption.

Mr. HATCH. Mr. President, eight years ago, Congress passed and President Bush signed the landmark Child Care and Development Block Grant Act. I was proud to have helped lead the effort, and I am proud of what our states have been able to accomplish since its implementation.

But, it is also clear that we must do more to help families. In my home state of Utah, more than half of the children under age 6 have either their only parent or both parents in the workforce.

The ''Child Care Connection,'' a four-county resource and referral program, reported last year that there were five major Salt Lake area zip codes that had zero openings for infants.

Utah child care officials have reported that there are too few slots generally for infants and toddlers and for special needs children.

It is my pleasure to be here today with Senators CHAFEE, SNOWE, ROBERTS, and SPECTER, each of whom has a long track record of involvement in child care issues. We believe that we have developed a comprehensive, yet realistic, child care proposal that will augment the ability of the child care block grant to serve families in each state.

Of particular note, this proposal recognizes the choice that many families make to have one parent remain at home as primary caregiver. As important as it is to assist low- and middle-income families with necessary out-of-home child care expenses—and our proposal will increase the Dependent Care Tax Credit for such families—it is also important for us to realize the value of a parent in the home and that the sacrifice of a second income is also a child care expense.

Additionally, our proposal will not create major new programs in need of permanent funding. We do not intend to spend federal dollars on bigger bureaucracy in the name of expanding child care. We want available resources to be put directly in the hands of parents through tax credits and in the hands of states to address specific gaps in availability and enforcement of health and safety standards.

Our bill takes a very balanced approach to the issues of affordability, availability, and quality.

Child care costs, of course, are a significant part of a family budget. The average cost of child care has been estimated at over $4000 per child. This is a substantial increase from the $3000 average it was when we enacted the Child Care and Development Block Grant eight years ago. Clearly, low- and middle-income taxpayers devote a larger share of their earnings to child care.

And, at a time when we are trying to move families off of public assistance and into employment, child care has to be a key element of transitional support.

Our bill increases the Dependent Care Tax Credit (DCTC) for working parents. Our bill raises the maximum credit from 30 percent to 50 percent. And, it raises the maximum income level for the maximum credit from $10,000 to $30,000. No change is made in the maximum allowable expenses of $2400 for one child and $4800 for two or more children.

Thus, a family in St. George, Utah, earning $30,000, with two children, would receive a tax credit of $2400. Under current law, this family's credit would be $960.

Both our bill and the proposal made by the Clinton administration begin to gradually reduce the percentage of the credit at $30,000, but the ''Caring for Children Act'' reduces the credit at a slower rate. Thus, families earning between $30,000 and $75,000 will receive a bigger tax benefit than under either President Clinton's proposal or current law.

We can afford to provide larger benefits for this income group because we have recommended a phase-out of the credit entirely for families with incomes of $105,000 or more. Under current law, there is no income limit for eligibility for the DCTC. This is one tax credit that wealthy taxpayers do not need.

But, our bill, the ''Caring for Children Act,'' goes one step further. The bill I have developed along with Senators CHAFEE, SNOWE, ROBERTS, and SPECTER would, for the first time, recognize child care provided by a parent.

Our bill would extend eligibility for the Dependent Care Tax Credit to families with young children in which one parent remains at home as caregiver. How would this work? The bill would impute monthly child care expenses of $150 to families with children age 3 and under. For example, a family in Morgan, Utah, earning $30,000 a year and having one or more children under age 3, would receive a $900 tax credit. It works this way: 50% credit $150 monthly imputed expenses 12 months = $900.

I would like to see this tax break be even more generous. I will work toward that end. But, given our budget realities, this ground-breaking extension of the DCTC is feasible. And, I believe it is an essential component of the ''Caring for Children Act.''

It is high time we recognize the value of stay-at-home parents. This tax credit in no way offsets their work or their monetary sacrifices; but it does, at last, give a mother or father in the home standing in our tax code. It transforms the Dependent Care Tax Credit from an employment-based credit to a child-based credit.

These two changes to the DCTC will put money—their own money I might add—back into the pockets of America's families.

The ''Caring for Children Act'' also deals with the issue of availability. As I mentioned, there are areas where child care—particularly infant care,

after school care, or care for special needs children—is tough to find. The substantial increase we are recommending for the Child Care and Development Block Grant (CCDBG) will provide states with the ability to address shortages as well as to increase support to low-income families.

President Clinton has recommended solving the availability problem by creating two new programs, one for after school care and one geared to early childhood. While I can appreciate the President's concern that there may be few choices out there for parents who depend on out-of-home care, I do not believe it makes sense to create new programs when the CCDBG already permits such programs. I think the answer is not to second guess how the states have chosen to allocate their scarce resources under the block grant, but rather to give the states some additional resources so that they can better meet their own priorities.

We are proposing a $5 billion increase in the CCDBG over five years. These additional resources will give states much more flexibility in their planning. States will be able to provide subsidies for a greater number of the eligible population; they will be able to finance child care programs in underserved areas of the state; they will be able to address particular shortages. And, they will be able to better enforce critical health and safety standards.

I am a firm believer that states should be able to set their own rules and regulations for child care providers. I do not believe that the federal government can or should interfere with child care affordability in our various states by setting national standards that are unrealistic. Moreover, to the extent that child care standards reflect the values as well as the economic conditions of any given state, the federal government has no business micromanaging them.

But, I also believe that states that participate in the block grant program—and that would be all of them—have an obligation to ensure that children are in safe and healthy environments. And, they have an obligation to see that such standards are adequately enforced. A sanitary standard is no standard at all if it is unenforced.

It may not matter where you have your car washed, but it absolutely matters who is taking care of your child.

Therefore, the ''Caring for Children Act'' puts some teeth into the requirement for inspections under the block grant. A state that inspects a threshold number of facilities subject to inspection will be eligible for a 10 percent bonus. After the second year, a state failing to inspect a minimum number of child care sites will be subject to a 10 percent penalty.

Additionally, our bill authorizes $50 million a year for HHS to undertake two important quality enhancing activities. First, more information about child care can be made available to parents. Consumer information about automobiles, credit cards, and well-baby care are available. I believe parents would welcome more information on what to look for in a child care center or family-based care setting. I also believe that parents are the best form of accountability in child care. Second, to assist providers and child care workers enhance the quality of their services, the bill would enable HHS to award grants for the development of a technology infrastructure for distance learning.

Many child care providers are in rural areas. Traditional training in the form of workshops and college classes are not practical. Programs for child care providers that could be developed and made available through distance learning, however, could prove a viable alternative as well as a valued help. My home state of Utah, I might add, has been a leader in the distance learning arena. I have no doubt that such a format would be eagerly received in my state.

The ''Caring for Children Act'' contains several other provisions of interest. In order to test the effectiveness of small business consortia as employer-based child care providers, the bill authorizes $60 million over three years for demonstration grants.

To increase the awareness of the existing Dependent Care Assistance Program (DCAP), a tax provision that permits employees to authorize their employers to withhold up to $5000 of the employee's salary in a DCAP account for child care expenses to be paid by the employer, the ''Caring for Children Act'' authorizes $1 million a year for the next five years to the Secretary of Labor to conduct outreach to both employers and employees about this program and its benefits.

Finally, the bill would require that child care facilities located in federal buildings for federal employees be held to the same quality standards that apply to child care programs in the state in which the federal facility is located.

I believe the measure we have introduced is a balanced approach. It does not depend entirely on the tax code to address child care issues, nor does it depend solely on federal spending.

It does not concentrate benefits on only one income group. The DCTC expansion is geared particularly to assist the middle class. The increase in the CCDBG is targeted to subsidies for low-income families.

It recognizes that we have to make an investment in our children, but it does not propose new federal mandatory spending programs that can become wildly expensive.

Our bill gives careful attention to each of the three cornerstones of child care: affordability, availability, and quality.

And, for the first time, federal child care legislation will not ignore those families who choose to forego one income to have a parent remain at home.

I want to say again that I am proud to sponsor this bill with my colleagues, Senators CHAFEE, SNOWE, ROBERTS, and SPECTER. I urge other senators to join us in this legislation.

Mr. ROBERTS. Mr. President, I am pleased and honored to join with my colleagues to introduce legislation to help meet the child care challenges facing families around the nation. Our bill is entitled the ''Caring for Children Act.''

Child care, in the home when possible and outside the home when both parents work, goes right to the heart of keeping families strong. Unfortunately, finding quality, affordable child care is one of the most pressing problems for families in Kansas and around the country.

The ''Caring for Children Act'' takes the first steps to address this challenge through a responsible approach. This legislation expands child care opportunities without expanded government costs or intrusion in our lives. This legislation builds into the existing network without adding more government intervention or mandates. This legislation will help families that have two working parents and families that have a stay-at-home parent. This legislation will help to increase the supply of quality of child care.

First, in order to provide additional tax relief and increase affordability of child care, we expand the Dependent Care Tax Credit (DCTC) by raising the income level to $30,000 at which families become eligible for the maximum tax credit. We also raise the maximum percentage of child care expenses that parents can deduct to 50 percent. These changes make the DCTC more realistic for families that face increasing child care costs.

Increasing the income level and the percentage of child care expenses that are deductible will help families where both parents work. But, we also recognize that families who choose to have one parent remain at home have child care expenses as well. Therefore, we extend eligibility for the DCTC to families with a stay-at-home parent. This provides greater options to more families and leaves child care choices where they should be—with the family. In order to target this credit to parents who need it the most and meet our fiscal responsibilities, the credit is phased out for higher income wage earners.

Small businesses play a critical role in providing child care options to millions of working parents. Unfortunately, small businesses generally do not have the resources required to start up and support a child care center. The ''Caring for Children Act'' includes a short-term, flexible grant program to encourage small businesses to work together to provide child care services for employees. This program is more of a demonstration project that will sunset at the end of three years. In the meantime, small businesses will be eligible for grants up to $100,000 for start-up costs, training, scholarships, or other related activities. Businesses

must continue to meet state quality and health standards. Businesses will be required to match federal funds to encourage self-sustaining facilities well into the future.

''Caring for Children'' also includes provisions to provide a tax credit of expenses up to $500,000 for employers who choose to construct, renovate, or operate on- or near-site child care facilities for their employees. And, ''Caring for Children'' includes funding to promote greater availability of the Dependent Care Assistance Program (DCAP) for families with children. This will allow the Department of Labor to conduct outreach to businesses to promote awareness of the DCAP program.

All children deserve quality care. Although all states have health and safety standards in place, many times these regulations are not enforced. ''Caring for Children'' includes incentives for states to improve their inspection efforts and ensure that facilities are in compliance with their own state standards. The bill also authorizes funding for the Department of Health and Human Services to get more information in the hands of parents and help child care providers access child care training programs.

Finally, we authorize additional funding for the Child Care and Development Block Grant. This program sends federal assistance to states, permitting them to allocate resources where they are most needed in the state. We maintain maximum flexibility and allow states to make decisions about how to address their own child care challenges.

Child care is an issue that impacts each and every one of us. While parents continue to struggle to meet the constant demand of work and family, we must continue to do our part to expand child care options and protect our nation's most valuable resource, our children. I look forward to working with all of my colleagues in this important effort.

Ms. SNOWE. Thank you, Mr. President, I am pleased to join with my colleagues, Senators HATCH, ROBERTS, SPECTER, and CHAFEE to introduce a bill that I believe is an historic opportunity to help ensure the well-being of our children and by extension the very well-being of our nation: the Caring for Children Act.

I come before you as a veteran on child care issues who has worked to address child care throughout my political life, and was the lead Republican cosponsor on the Act for Better Child Care in 1989—the bill which set the stage for the bipartisan package that was adopted by the 101st Congress. Since that time we have advanced the ball in profound ways that reflect the changing nature of the American family, but our work must never cease when it comes to our children. We must build on our laurels, not rest on them: and that is precisely what this bill does.

Consider the challenge: In California alone in 1997, 500,000 children were already on waiting lists for federal child care in—half a million! Now, it is estimated that, as welfare reform proceeds, some 2 million parents across America will join the workforce and their children will require child care. A GAO report from May of last year determined that in Chicago, for example, the known supply of child care would only meet 14 percent of the need for infant child care in the first year of welfare reform implementation. And within three years, 3 out of 4 American women with children under 5 will be working and in need of child care.

With the perspective of years spent on this issue, I have come to the conclusion that what American parents need most are choices. The decision of how to care for a young child is a deeply personal and difficult one. Many feel handcuffed by economic concerns, others worry about the safety of child care, but all face different circumstances that make the decision making process unique.

Given the tremendous challenges of raising children today, and the extraordinary range of issues facing families, I believe the federal government should not be in the business of encouraging one choice over another. Instead the government's role must be to ensure that families have viable options and that the basis for decisions is the best interests of the child. If we are to care about children we must care about choices, and not politicize the issue with partisanship or ideology.

That is the spirit in which we crafted our bill. Because it is not about pitting one group against another. It is not about starting a ''mommy war''. It is about helping parents do the best they can for their children—no matter what choice they make.

The reality is that, despite our best efforts to date to make quality, affordable child care accessible, the myriad pressures facing American families today still imperil their ability to provide the best possible care for their children. In my home state of Maine, one out of every five Mainers are working multiple jobs. Across the country, 63 percent of women with children under age six are in the workforce, and as a result, over 12 million children are cared for by someone other than a parent during working hours. In Maine, there are 42,000 women in the labor force with children under 6, and 64,000 with children between the ages of 6 and 17.

At the same time, child care costs can range from $4,000 to $9,000 annually—with families earning less than $14,000 per year paying more than one quarter of their income in child support. As a result, families are often forced to make a choice between two unacceptable options: find care for their children that may not be safe or appropriate, or stay home and hope that they can somehow still put food on the table.

Our bill respects parents' decisions and expands the choices available in a number of innovative ways. By expanding the Dependent Care Tax Credit, we make it more affordable for parents to choose quality child care, but we also leave the door open for a parent to stay at home with their child. And we target our tax benefits to those who need them most: working American families.

For two-working parent families with child care expenses, we raise the income level at which parents can take the maximum credit from $10,000 to $30,000, allowing more parents to take advantage of the maximum tax credit. In addition, we raise the percentage of child care expenses that parents can put toward their credit to 50% (up from 40% under current law) of expenses up to $2400 for one child, or $4800 for two or more children. The credit will phase down 1% for every $1500 of income above $30,000, phasing out completely for families earning over $105,000 per year. Under this new scheme, the maximum tax credit will be $1200 for one child (up from $720), or $2400 for two or more children (up from $480).

For the first time, parents who forgo an income to stay at home to take care of a child between the ages of 0–3 will be able to take advantage of the Dependent Care Tax Credit. By attributing child care expenses to stay at home parents of $150 per month, they will be eligible for a maximum tax credit of up to $900 per year, depending on their income. Applying the tax credit to parents who wish to stay home for children ages 0–3 acknowledges that parents of infants and toddlers often face the toughest decisions between working or staying at home, particularly in light of recent research in the area of early childhood development which demonstrates that care from one or two consistent, loving and stimulating caregivers during these earliest years is crucial to brain development.

The Caring for Children Act will also help defray the considerable costs of child care for low-income families by *doubling* funding for the Child Care and Development Block Grant, to the time of $5 billion. This will create more child care slots for low-income families and double the amount of money devoted to improving quality, again leaving more options for parents.

And we also address the issue safety, because parents are still rightfully concerned about safety. According to a US News and World Report article last August, a query of all 50 states and the District of Columbia revealed that 76 children died in day care in 1996. The causes included drownings, falls, and being struck by automobiles. And these numbers are low because, shockingly, some states do not even track day care deaths. In terms of oversight, the US News report revealed that in Virginia, for example, the state had failed to make mandatory twice-a-year inspections of 722 of its 4,200 licensed facilities in 1996; 159 centers were not visited even once.

No parents should have to fear for their child's safety—no parent should

ever get that dreaded call that their child was hurt at day care. Bringing a young child to day care in the morning should not be an act of faith—it should be an act of confidence. While states have the responsibility to set health and safety standards, states need to be held accountable for enforcing these standards by adhering to the inspection-schedule that they establish under state law. Accordingly, our bill provides a 10 percent bonus in CCDBG funding to states that meet targeted inspection rates, while penalizing those by 10 percent that don't meet their existing responsibility to ensure health and safety. This gives our bill ''teeth'' to ensure that child care is safe and children are protected.

Finally, we encourage more American businesses to become partners in child care by offering then tax credits for child care operation, construction and renovation expenses up to $500,000. And recognizing that it is not always feasible for small businesses to assist with child care, we offer grants to small employers to provide such care. Businesses already have an incentive to provide child care in that parents who are confident in their child care arrangements are more reliable, productive workers. These initiatives will not only create more slots and make child care more affordable for parents and businesses alike, but it will help literally bring care closer to more parents.

In closing, let me emphasize that this bill is an investment in our nation's future. It is a statement by the federal government that there can be no greater cause—no more noble a purpose than providing for our children. How a nation raises its youth and the value it places on giving children a chance to grow up safe, happy, and healthy speaks volumes to its greatness. This legislation won't make decisions easier for parents but it will ensure that they have a full range of options available to them as they seek to do the very best they can for their children. That's why I'm proud to be here today and that's why I will work hard to ensure the passage of the Caring for Children Act. Thank you.

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By Mr. McCAIN (for himself, Mr. COATS, Mr. FAIRCLOTH and Mr. ASHCROFT):

S. 1578. A bill to make available on the Internet, for purposes of access and retrieval by the public, certain information available through the Congressional Research Service web site; to the Committee on Rules and Administration.

CONGRESSIONAL RESEARCH SERVICE LEGISLATION

Mr. McCAIN. Mr. President, I would like to introduce a bill that will make Congressional Research Service Reports, Issue Briefs, and Authorization and Appropriations products available on a web site to the American people. Senator COATS, Senator FAIRCLOTH, and Senator ASHCROFT are original co-sponsors to this bill. Additionally, Representative SHAYS will be introducing a companion bill over in the House.

The Congressional Research Service (CRS) has a well-known reputation for producing high-quality reports and issue briefs that are unbiased, concise, and accurate. Many of us have used these CRS products to make decisions on a wide variety of legislative proposals and issues, including Amtrak, the Endangered Species Act, the Line Item Veto, and U.S. policy in Zambia. Also, we routinely issue these products to our constituents in order to help them understand the important issues of our time.

This fiscal year, the American taxpayer will pay $64.6 million to fund the Congressional Research Service. Newspapers, such as the San Jose Mercury-News and the Austin American-Statesman, and watchdog groups, such as the Congressional Accountability Project, have recently asked the Congress to allow the public access to CRS resources. The American people have paid for these valuable resources and have a right to see that their money is being well spent.

Congress can also serve two important functions by allowing public access to this information. First, public access to these CRS products will mark an important milestone in opening up the federal government. Our constituents will be able to see the research documents which influenced our decisions and understand the trade-offs and factors that we consider before a vote. This will give the public a more accurate view of the Congressional decision-making process to counter the prevailing cynical view of Members of Congress selling their votes to the highest campaign contributor.

Also, these CRS reports will serve an important role in informing the public. Members of the public will be able to read these CRS products and receive a concise, accurate summary of the issues that concern them. As elected representatives, we should do what we can to promote an informed, educated public. The educated voter is best able to make decisions and petition us to do the right things here.

The Internet provides an ideal way to inform the public while not distracting CRS from its primary mission to serve Congress. The Director of CRS can simply post CRS products on a web site, and then voters can look up information without any extra effort by CRS researchers. The public will not be allowed to write responses or research requests to CRS, so that valuable CRS time will not be diverted from helping us to do our jobs. Confidential requests by Members of Congress will not be released to the public. It is my intent that CRS establish a separate web site that will serve the public without otherwise causing CRS to do anything drastically different from its current operations when it posts CRS products on the web site accessible to Members of Congress.

I recognize that there have been a few questions about this bill. There are concerns disseminating CRS material via the Internet will remove its protection under the Speech and Debate Clause. At present, no court case has directly addressed this issue. However, the Supreme Court acknowledged in its concurrence to Doe versus McMillan that a legislator's function in informing the public concerning matters before Congress should be protected by the Speech and Debate Clause, similar to communications which relate directly to the legislative process. Furthermore, my bill gives the CRS Director discretion to not release material that he determines is confidential. This aspect of my bill has been upheld in similar circumstances where the U.S. District Court maintained the confidentiality of the underlying research used to create reports by Congressional support agencies. I am including in the RECORD a letter by Mr. Stanley M. Brand, a former General Counsel to the House of Representatives, who agrees that my legislation will not threaten CRS' protection under the Speech and Debate Clause.

I am also aware of potential copyright concerns if the CRS information is made accessible to the public. For example, CRS has informed me that it does not have a copyright agreement that will allow it to make the maps used in CRS products available electronically. I believe we can work out an equitable solution to resolve any copyright concerns that would prevent any CRS Report, Issue Brief, or Authorization or Appropriations product from being electronically disseminated to the public.

Another concern has been raised about the 30 day delay between the release of CRS material to Members of Congress and their staff and its release to the public on the web site. This delay will make sure that CRS has carried out its primary statutory duty of informing Congress before releasing information the public. Also, it will allow CRS to verify that its products are accurate and prepare them for public release in order to protect CRS from liability problems and the American people from being misinformed.

I would like to stress that opening up these select CRS products to the public will in no way compete with existing commercial information services. The public will have access to selected CRS products that are currently available only to Members of Congress and their staff. I firmly believe that the federal government should not be involved in competing with legitimate private industry.

This bill has received popular support from across the country, and I am including in the RECORD a letter of support from many concerned industries and groups including America On-Line, IBM, Public Citizen, and the League of Women Voters of the United States. I hope that my colleagues will join them

in supporting this legislation and opening up a useful source of information to the American people.

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. 1578

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

**SECTION 1. AVAILABILITY OF CERTAIN CRS WEB SITE INFORMATION.**

(a) AVAILABILITY OF INFORMATION.—

(1) IN GENERAL.—The Director of the Congressional Research Service shall make available on the Internet, for purposes of access and retrieval by the public, all information that—

(A) is available through the Congressional Research Service web site;

(B) is described in paragraph (2); and

(C) is not confidential as determined by—

(i) the Director; or

(ii) the head of a Federal department or agency that provided the information to the Congressional Research Service.

(2) INFORMATION.—The information referred to in paragraph (1)(B) is as follows:

(A) All Congressional Research Service Issue Briefs.

(B) All Congressional Research Service Reports that are available to Members of Congress through the Congressional Research Service web site.

(C) All Congressional Research Service Authorization of Appropriations Products or Appropriations Products.

(b) TIME.—The information shall be so made available not earlier than 30 days after the first day the information is available to Members of Congress through the Congressional Research Service web site.

(c) REQUIREMENTS.—The Director of the Congressional Research Service shall make the information available in a manner that the Director determines—

(1) is practical and reasonable; and

(2) does not permit the submission of comments from the public.

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CONGRESSIONAL ACCOUNTABILITY PROJECT,
*Washington, DC, January 26, 1998.*

Hon. JOHN MCCAIN and DANIEL COATS,
*Russell Senate Office Building, U.S. Senate, Washington, DC.*

DEAR SENATORS MCCAIN AND COATS: We happily endorse your draft legislation to put Congressional Research Service (CRS) reports and products on the Internet, including CRS Issue and Legislative Briefs, and Authorization and Appropriation products.

CRS products are some of the finest research prepared by the federal government. They are a precious source of government information on a huge range of topics. In a recent editorial, Roll Call described CRS reports as ''often the most trenchant and useful monographs available on a subject.'' Citizens, scholars, journalists, librarians, businesses, and many others have long wanted access to CRS reports via the Internet.

We believe that taxpayers ought to be able to read the research that we pay for. But citizens cannot obtain most CRS products directly. Instead, we must purchase them from private vendors, or engage in the burdensome and time-consuming process of requesting a member of Congress to send CRS products to us. Often, citizens must wait for weeks or even months before such a request is filled. This barrier to obtaining CRS products serves no useful purpose, and damages citizens' ability to participate in the congressional legislative process.

James Madison aptly described why the public needs reliable, accurate information about current events: ''A popular Government, without popular information, or the means of acquiring it, is but a Prologue to a Farce or a Tragedy; or, perhaps both. Knowledge will forever govern ignorance: And a people who mean to be their own Governors, must arm themselves with the power which knowledge gives.''

Your bill falls squarely within the spirit of Madison's honorable words. Thanks for your efforts in making CRS products available on the Internet.

Sincerely,

American Conservative Union.
American Protestant Health Alliance.
America Online Corp.
Danielle Brian, Executive Director, Project on Government Oversight.
Business Software Alliance.
California Budget Project (CA).
Center for Media Education.
Center for Science in the Public Interest.
Citizen Advocacy Center (IL).
Timothy J. Coleman, Director, Kettle Range Conservation Group (WA).
Computer Communications Industry Association.
Computer Professionals for Social Responsibility.
Congressional Accountability Project.
Consumer Project on Technology.
Decision Matrix Inc. (OR).
George Draffan, Director, Public Information Network (WA).
Electronic Frontier Foundation.
Fairness and Accuracy in Reporting.
Federation of American Scientists.
Ray Fenner, President, Superior Wilderness Action Network (MI).
Darlene Flowers, Executive Director, Foster Parents Association of Washington State (WA).
Forest Service Employees for Environmental Ethics.
Government Purchasing Project.
IBM.
Impact Voters of America.
Information Technology Association of America.
Institute for Local Self-Reliance.
Intel Corp.
League of Women Voters of the United States.
Marin Democratic Club (CA).
Halsey Minor, Chief Executive Officer, CNET.
Barbara J. Moore, Ph.D., President and CEO, Shape Up America!
National Association of Manufacturers.
National Citizens Communications Lobby.
Native Forest Council (OR).
NetAction.
Netscape Communications Corp.
OMB Watch.
Public Citizen.
Public Interest Projects.
Amy Ridenour, President, The National Center for Public Policy Research.
Greg Schuckman, Director of Public Affairs, American Association of Engineering Societies.
Peter J. Sepp, Vice-President for Communications, National Taxpayers Union.
Taxpayers for Common Sense.
TenantNet (NY).
Triad Healthcare Technologies, LLC (TX).
United Democratic Clubs, Orange County, CA; Larry Trullinger, President.
United Seniors Association.
U.S. Public Interest Research Group (PIRG).
U.S. Term Limits.
Russell Verney, Chairman, Reform Party.
Virginia Journal of Law and Technology.
Western Land Exchange Project (WA).

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BRAND, LOWELL & RYAN,
*Washington, DC, January 27, 1998.*

Hon. JOHN MCCAIN,
*U.S. Senate, Russell Senate Office Building, Washington, DC.*

DEAR SENATOR MCCAIN: I am writing to amplify the comments that I recently made to the press concerning applicability of the Speech or Debate Clause, U.S. Const. art. I, §6, cl. 1, to certain CRS products which your bill would, if enacted, make available on the Internet. Juliet Eilperin, Memo Claims That McCain Legislation to Put CRS Reports Online Could Have Constitutional Problems, Roll Call, January 15, 1998, p. 8.

First, as General Counsel to the House of Representatives I litigated virtually scores of cases involving the Speech or Debate Clause, including a landmark case before the Supreme Court reaffirming the central function of the clause in protecting the legislative branch from judicial and executive branch interference, *United States* v. *Helstoski;* 442 U.S. 477, *Helstoski* v. *Meanor*, 442 U.S. 500 (1979); *see also*, *Vander Jagt* v. *O'Neill*, 699 F.2d 1166 (D.C. Cir. 1983); *In Re Grand Jury Investigation*, 587 F.2d 589 (3d Cir. 1978); *United States* v. *Eilberg*, 507 F. Supp. 267 (E.D. Pa. 1980); *Benford* v. *American Broadcasting Co.*, 98 F.R.D. 42 (D. Md. 1983), *rev'd sub nom. In Re: Guthrie*, 735 F.2d 634 (4th Cir. 1984). Many of these cases which I litigated were cited in the CRS memorandum as supporting their conclusion that publication on the Internet would adversely affect the Speech or Debate Clause privilege.

I believe that the concerns expressed in the CRS memorandum are either overstated, or the extent they are not, provide no basis for arguing that protection of CRS works will be weakened by your bill. I also want you to know that I was, and remain, a strong advocate for vigorous assertion and protection of the Speech or Debate Clause privilege as a great bulwark of the separation of powers doctrine that protects the Congress from Executive and Judicial branch encroachment.

The CRS memorandum states ''extensive involvement by CRS in the informing function might cause the judiciary and administrative agencies to reassess their perception of CRS as playing a substantial role in the legislative process, and thereby might endanger a claim of immunity even in an instance in which CRS was fulfilling its legislative mission.''

This fear is simply unfounded. While the courts have consistently relegated the so-called ''informing function'' to non-constitutionally protected status, they have also steadfastly refused to permit litigants to pierce the privilege for activities that are cognate to the legislative process despite later dissemination outside the Congress. So, for example, in *McSurely* v. *McClellan*, 553 F.2d 1277, 1286 n. 3 (D.C. Cir. 1976) (en banc), the Court refused to allow a litigant to question Senate aides about acts taken within the Committee, even though acts of dissemination outside the Congress were subject to discovery. Publication of a CRS product on the Internet would no more subject CRS employees to questioning about the basis for their work, consultations with colleagues or the sources of that work, than would be the case if the same CRS product were obtained by means other than the Internet. Indeed, the fact that House and Senate proceedings are televised does not alter the applicability of the clause to floor speeches, committee deliberations, staff consultation, or other legislative activities. Even certain consultations concerning press relations are protected though dissemination to the media is not protected. Mary Jacoby, Hill Press Releases Protected Speech, Roll Call, April 17,

1995, p. 1 (the Senate Legal Counsel argued that because a legislative discussion is embedded in a press release doesn't entitle a litigant to question staff about the substance of the legislation); *see also Tavoulareas* v. *Piro*, 527 F. Supp. 676, 682 (D.D.C. 1981) (court ordered congressional deponents to merely identify documents disseminated outside of Congress but did not permit questions regarding preparation of the documents, the basis of conclusions contained therein, or the sources who provided evidence relied upon in the documents), *Peroff* v. *Manual*, 421 F. Supp. 570, 574 (D.D.C. 1976) (preparation of a Committee witness by a congressional investigator is protected because ''facially legislative in character''). Under this line of caselaw, it is difficult to foresee how the mere dissemination of a CRS product could subject any CRS employee to inquiry concerning the preparation of such a product. In short, because ''discovery into alleged conduct of [legislative aides] not protected by the Speech or Debate Clause can infringe the [legislative aides'] right to be free from inquiry into legislative acts which are so protected,'' *McSurely* v. *McClellan*, 521 F.2d 1024, 1033 (D.C. Cir. 1975), *aff'd en banc by an equally divided court*, 553 F.2d 1277 (1976) courts have imposed the Clause as a bar to any inquiry into acts unrelated to dissemination of the congressional reports.

In *Tavaulareas* v. *Piro*, 527 F. Supp. at 682, the court ruled ''[t]he fact that the documents were ultimately disseminated outside the Congress does not provide any justification'' for piercing the privilege as to the staff's internal use of the document. *Accord McSurely* v. *McClellan*, 553 F.2d at 1296–1298 (use and retention of illegally seized documents by Committee not actionable); *United States* v. *Helstoski*, 442 U.S. 477, 489 (1979) (clause bars introduction into evidence of even non-contemporaneous discussions and correspondence which merely describe and refer to legislative acts in bribery prosecution of Member); *Eastland* v. *United States Serviceman's Fund*, 421 U.S. at 499 n. 13 (subpoena to Senate staff aide for documents and testimony quashed because ''received by [the employee] pursuant to his official duties as a staff employee of the Senate'' and therefore ''. . . within the privilege of the Senate''). *See also United States* v. *Hoffa*, 205 F. Supp. 710, 723 (S.D. Fla 1962), *cert. denied sub nom Hoffa* v. *Lieb*, 371 U.S. 892 (wiretap withheld by defendant by ''invocation of legislative privilege by the United States Senate'').

In the *Tavoulareas* case, in which I represented the House deponents, part of the theory of plaintiff's case against the *Post* was the reporter ''laundered'' the story through the committee ''as a means of lending legitimacy'' to the stories and information provided by other sources, *Tavoulareas* v. *Piro*, 93 F.R.D. at 18. In pursuance of validating this theory, the plaintiff sought to prove that the committee never formally authorized the investigation, but rather that the staff merely served as a conduit and engaged in no *bona fide* investigation activity. The court ruled that ''although plaintiffs have repeatedly suggested that the subject investigation was not actually aimed at uncovering information of valid legislative interest . . . it is clear that such assertions, even if true, do not pierce the legislative privilege.''

As a practical matter, therefore, a litigant suing or seeking to take testimony from a CRS employee based on dissemination of a report alleged to be libelous or actionable may be unable to obtain the collateral evidence needed to prove such a claim—a serious impediment to bringing such a case in the first place.

Even in the case of *Doe* v. *McMillan*, 412 U.S.C. 306 (1973) relied on by the CRS memorandum to support its narrow view of the Clause's protection, the Court of Appeals on remand stated: ''Restricting distribution of committee hearings and reports to Members of Congress and the federal agencies would be unthinkable.'' 566 F.2d 713, 718 (D.C. Cir. 1977). It would be similarly unthinkable to subject CRS to broad ranging discovery simply because its work product was made available on the Internet.

The CRS memorandum raises the specter that litigants might even seek ''the files of CRS analysts'' in actions challenging the privilege. It is beyond peradventure of doubt, however, that publication of even alleged defamatory or actionable congressional committee reports does not entitle a litigant to legislative flies used to created in preparing such a report. *United States* v. *Peoples Temple of the Disciples of Christ*, 515 F. Supp. 246, 248–49 (D.D.C. 1981) *In re: Guthrie, Clerk, U.S. House of Representatives*, 773 F.2d 634 (4th Cir. 1984), *Eastland* v. *United States Servicemen's Fund*, 421 U.S. at 499, n. 13. Given the foregoing caselaw, I fail to see a realistic threat that CFS employees will be subjected to any increased risk of liability, or discovery of their files. Of course, nothing can prevent litigants from filing frivolous or ill-founded suits, but their successful prosecution or ability to obtain evidence from legislative files seems remote and nothing in your bill would change that.

The CRS memoranda even goes so far as to suggest that claims of speech or debate immunity for CRS products might lead to *in camera* inspection of material, itself an incursion into legislative branch discretion. Yet in the very case cited to by CRS memo, *no court* ordered *in camera* inspection of House documents. *In Re: Guthrie, supra*, involved no *camera* inspection of legislation documents. These cases are typically litigated on the basis of the facial validity of the privilege and few, if any, courts of which I am aware have even gone so far as to order *in camera* inspection. *See United States* v. *Dowdy*, 479 F. 2d 213, 226 (4th Cir. 1973)(''Once it was determined, as here, that the legislative function. . .was *apparently* being performed, the proprietary and motivation for the action taken as well as the detail of the acts performed, are immune from judicial inquiry''). Under the Clause, courts simply do not routinely resort to *in camera* review to resolve privilege disputes. Given the now highly developed judicial analysis of the applicability of the Clause to modern legislative practices it rarely occurs. In one recent celebrated case cited to by the CRS, the Court upheld a claim of privilege for tobacco company documents obtained by Congress even though they were alleged to have been stolen, without ever seeking *in camera* review. *Brown & Williamson Tobacco Corp.* v. *Williams*, 62 F.3d 408, 417 (D.C. Cir. 1995) (''Once the documents were received by Congress for legislative use—at least so long as congressmen were not involved in the alleged theft—an absolute constitutional ban of privilege drops like a steel curtain to prevent B&W from seeking discovery'').

In an abundance of caution, and to address CRS' concerns, you might consider adding the following language to the bill: ''Nothing herein shall be deemed or considered to diminish, qualify, condition, waive or otherwide affect applicability of the Constitution's Speech or Debate Clause, or any other privilege available to Congress, its agencies or their employees, to any CRS product made available on the Internet under this bill.''

I appreciate the CRS sensitivity to subjecting its employees, or their work product, to searching discovery by litigants. Based on the very good caselaw protecting their performance of legislative duties and the strong institutional precedent in both the House and Senate in defending CRS against such intrusions, I do not believe your bill creates any greater exposure to such risks that already exists.

I hope my views are helpful in your deliberations on this issue.

Sincerely,

STANLEY M. BRAND.

Mr. COATS. Mr. President, I am pleased to join the distinguished Senator from Arizona in introducing legislation directing the Congressional Research Service to make available, online, CRS Reports, Issue Briefs, and more comprehensive CRS reports on federal authorizations and appropriations.

CRS is funded with over $64 million in taxpayer money every year and produces perhaps the most prolific and quality research available on policy and legislative issues. In making available information and materials that are used every day by Members and their staffs in developing policy initiatives and legislation, we will be opening a more informed relationship between the American people and the Congress that serves them.

Beyond the tremendous value of informing the American people on the issues before their Congress, this legislation will help to shine some light on the federal government, allowing the American people to see the documents which influence the decision-making process.

Mr. President, FDR once said that, ''The only bulwark of continuing liberty is a government strong enough to protect the interest of the people, and people strong enough and well enough informed to maintain its sovereign control over its government.'' At a time when public cynicism about government is at an all-time high, when government has encroached upon virtually every aspect of our daily lives, this statement is particularly poignant.

As I have stated, CRS information briefs play a critical role in assisting Members of Congress in policy development and the legislative process. By making these products readily available to the American people, who pay for them, we hold out the promise of demystifying a legislative process that has become so complex and arcane that many Americans have simply tuned out.

Mr. President, more than ever, information is power. It is my hope that the effect of this legislation will be to give a better informed public more power over their government.

My intention today is to keep my remarks short. As this legislation moves through the process, I will ask my colleagues to indulge me with more time to discuss the bill in detail. I would like to commend Senator MCCAIN for his leadership on this issue, and to ask my colleagues for their support in this effort to make the Congress more accessible to the people. I yield the floor.

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By Mr. DEWINE (for himself, Mr. JEFFORDS, Mr. KENNEDY, Mr. WELLSTONE, Mr. HARKIN, Mr. FRIST, Ms. COLLINS, Mr. DODD, Mr. REED, Mr. CHAFEE, and Mr. BINGAMAN):

S. 1579. A bill to amend the Rehabilitation Act of 1973 to extend the authorizations of appropriations for such Act, and for other purposes; to the Committee on Labor and Human Resources.

THE REHABILITATION ACT AMENDMENTS OF 1998

Mr. DEWINE. Mr. President, on September 17, 1997, as a member of the Senate Labor and Human Resources Committee and as Chairman of the Subcommittee on Employment and Training, I introduced S. 1186, the Workforce Investment Partnership Act. This legislation represents a tremendous effort to reshape our country's job training system, eliminate its fragmented and ineffective programs, and prepare it for the new demands of the next century.

Today, in the same spirit, I introduce the reauthorized Rehabilitation Act and am very pleased to be joined by Senators JEFFORDS, KENNEDY, WELLSTONE, HARKIN, FRIST, COLLINS, REED, and CHAFEE.

The Rehabilitation Act is the country's only Federally funded job training program for individuals with disabilities. If we are to truly reshape the country's job training programs—and begin to create a seamless system—we must bring all the programs, including vocational rehabilitation, in line with each other. We must link their efforts to train and place individuals. And we must ensure cooperation and awareness among their personnel.

Reauthorizing the Rehabilitation Act of 1973 gives us the perfect opportunity to ensure that the vocational rehabilitation (VR) system does just that.

It links the VR system to the states' new job training systems under the Workforce Investment Partnership Act.

It streamlines the VR system, and eliminates unnecessary and wasteful requirements on state agencies.

It improves the provision of services that lead to more jobs and better jobs for individuals with disabilities.

And it reauthorizes the Rehabilitation Act for 7 years, to mirror the reauthorization schedule of the Workforce Investment Partnership Act.

Linking the VR system to states' new workforce systems should not be confused with compromising the integrity of the VR system. Under no circumstances, proposed either in this reauthorization or in S. 1186, will funding for VR be jeopardized or diluted. However, no one should underestimate the importance of cooperation and awareness between the two systems, and the strong statutory links that are necessary to ensure such cooperation.

Mr. President, let me elaborate on some of the links included in this reauthorization.

First, one member of a state's State Partnership, under S. 1186, would also be a member of a state's State Rehabilitation Council. State Rehabilitation Councils are responsible for advising state VR agencies and helping them develop the state plan for implementing rehabilitation services. Input from a State Partnership will help assure that the programs do not duplicate each other's efforts.

Second, a state's VR agency is required to develop cooperative agreements with other components of the state's workforce investment system. These agreements should include: Arrangements for interagency staff training; arrangements to share data electronically regarding labor market information and information on specific job vacancies; arrangements to use common intake procedures, forms, and referral procedures; agreements to share client databases; and arrangements for resolving interagency disputes.

Third, the Rehabilitation Services Agency Commissioner, who is required to submit a report to Congress and the President on the activities carried out under the Rehabilitation Act for a fiscal year, must now include in his report the same information required in the Workforce Investment Partnership Act.

Linking the reporting requirements helps assure that VR and the state workforce systems will be evaluated on the same results, including statistics on job placement, job retention six and twelve months after placement, and on how many did or did not complete their training.

Finally, the bill clearly states that its purpose is to ''assist states in operating statewide comprehensive, coordinated, effective, efficient, and accountable programs of vocational rehabilitation, each of which is an integral part of a statewide workforce investment system.''

After establishing significant links between state workforce systems and state vocational rehabilitation systems, my second objective in this bill is to streamline the existing VR system. For example:

First, the duplicative and wasteful requirements to develop state plans were removed. For example, the entire concept of a ''strategic plan'' requiring states to develop already existing or required goals and standards elsewhere is eliminated. In addition to saving time for state administrators, this means that states would no longer have to spend 1.5% of their Federal allotment on the ''strategic plan.'' In Ohio, this means a savings of close to 3 million dollars—savings the state of Ohio could now spend on providing services and getting people jobs.

Second, eligibility procedures also have been simplified. Under this reauthorization bill, an individual could demonstrate eligibility for VR services based on information attained from another program with either the same or higher eligibility criteria. Therefore, state agencies would not longer have to reinvent the wheel to determine eligibility for individuals who can already demonstrate it.

Mr. President, in addition to linkages and streamlining, we have vastly improved the VR system in several ways.

First, all individuals eligible for VR programming would now receive at least basic services. Current law allows states under an ''order of selection'' to ignore eligible individuals who have come for job assistance if they do not meet the state's definition of ''most severely disabled.'' Now, even those disabled individuals who would not otherwise be served must receive at least evaluative services, job placement information, and referral services. A state may opt to provide additional services to these individuals, but not everyone will have access to basic assistance and information.

Second, individuals' roles in developing their own ''Individualized Rehabilitation Employment Plans'' have been strengthened. Individuals with disabilities, who will always have the opportunity of working as a team with a VR counselor, will also have more choice as to what their plan will provide.

Third, the dispute resolution process between clients and state agencies has been vastly improved, ensuring real due process for all parties. No longer will a state VR administrator be allowed to review decisions in which the state agency is always a party. Under this reauthorization bill, it is a state's option to have an administrative review of an initial decision, but this review must be conducted by someone not affiliated with the state VR agency.

If a state does not have such a review, any appeals from an initial hearing proceed directly to civil court.

Furthermore, assuming both parties agree, mediation is now an option for either the state VR agency or the individual.

Finally, one of the most positive changes emphasizes the value of self-employment as a possibility for individuals with disabilities. Individuals with disabilities, together with their VR counselors, can develop plans in which their goal is to be self-employed. It is a step that gives VR clients more choice in how they will live their lives and become more independent members of their communities.

Before I conclude, Mr. President, I would like to point out the broad bipartisan support for this bill and its link to the Workforce Investment Partnership Act enjoys. Members from both sides of the aisle, the Department of

Education, and many interest groups worked together in a very open negotiation to produce this legislation—one that will truly improve the lives of millions of people.

I thank the Chairman of the Labor Committee, Senator JEFFORDS; the Ranking Member of the Committee, Senator KENNEDY; the Ranking Member of the Employment and Training Subcommittee, Senator WELLSTONE, and my colleague from Iowa, Senator HARKIN for all the work they and their staffs put into this process. I also would like to thank my colleague from Tennessee, Senator FRIST and his staff for his contribution not only in the 105th Congress, but also for his contributions to developing links to our previous workforce bill in the 104th Congress.

Mr. President, I am hopeful the Senate will approve this legislation soon. Passage of this bill will create a system that will improve the lives of individuals with disabilities and provide opportunities for more jobs. This bill would streamline the VR system, making it more efficient and effective, and couple the vocational rehabilitation system's job training efforts with states' workforce systems' efforts to develop a seamless system of job training.

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. 1579

*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 ''Rehabilitation Act Amendments of 1998''.

**SEC. 2. TITLE.**

The title of the Rehabilitation Act of 1973 is amended by striking ''to establish special responsibilities'' and all that follows and inserting the following: ''to create linkage between State vocational rehabilitation programs and workforce investment activities carried out under the Workforce Investment Partnership Act of 1998, to establish special responsibilities for the Secretary of Education for coordination of all activities with respect to individuals with disabilities within and across programs administered by the Federal Government, and for other purposes.''.

**SEC. 3. GENERAL PROVISIONS.**

The Rehabilitation Act of 1973 is amended by striking the matter preceding title I and inserting the following:



''FINDINGS; PURPOSE; POLICY

''SEC. 2. (a) FINDINGS.—Congress finds that—

''(1) millions of Americans have one or more physical or mental disabilities and the number of Americans with such disabilities is increasing;

''(2) individuals with disabilities constitute one of the most disadvantaged groups in society;

''(3) disability is a natural part of the human experience and in no way diminishes the right of individuals to—

''(A) live independently;

''(B) enjoy self-determination;

''(C) make choices;

''(D) contribute to society;

''(E) pursue meaningful careers; and

''(F) enjoy full inclusion and integration in the economic, political, social, cultural, and educational mainstream of American society;

''(4) increased employment of individuals with disabilities can be achieved through implementation of statewide activities carried out under the Workforce Investment Partnership Act of 1998 that provide meaningful and effective participation for individuals with disabilities in workforce investment activities and activities carried out under the vocational rehabilitation program established under title I, and through the provision of independent living services, support services, and meaningful opportunities for employment in integrated work settings through the provision of reasonable accommodations;

''(5) individuals with disabilities continually encounter various forms of discrimination in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and public services; and

''(6) the goals of the Nation properly include the goal of providing individuals with disabilities with the tools necessary to—

''(A) make informed choices and decisions; and

''(B) achieve equality of opportunity, full inclusion and integration in society, employment, independent living, and economic and social self-sufficiency, for such individuals.

''(b) PURPOSE.—The purposes of this Act are—

''(1) to empower individuals with disabilities to maximize employment, economic self-sufficiency, independence, and inclusion and integration into society, through—

''(A) statewide activities carried out in accordance with the Workforce Investment Partnership Act of 1998 that include, as integral components, comprehensive and coordinated state-of-the-art programs of vocational rehabilitation;

''(B) independent living centers and services;

''(C) research;

''(D) training;

''(E) demonstration projects; and

''(F) the guarantee of equal opportunity; and

''(2) to ensure that the Federal Government plays a leadership role in promoting the employment of individuals with disabilities, especially individuals with significant disabilities, and in assisting States and providers of services in fulfilling the aspirations of such individuals with disabilities for meaningful and gainful employment and independent living.

''(c) POLICY.—It is the policy of the United States that all programs, projects, and activities receiving assistance under this Act shall be carried out in a manner consistent with the principles of—

''(1) respect for individual dignity, personal responsibility, self-determination, and pursuit of meaningful careers, based on informed choice, of individuals with disabilities;

''(2) respect for the privacy, rights, and equal access (including the use of accessible formats), of the individuals;

''(3) inclusion, integration, and full participation of the individuals;

''(4) support for the involvement of an individual's representative if an individual with a disability requests, desires, or needs such support; and

''(5) support for individual and systemic advocacy and community involvement.

''REHABILITATION SERVICES ADMINISTRATION

''SEC. 3. (a) There is established in the Office of the Secretary a Rehabilitation Services Administration which shall be headed by a Commissioner (hereinafter in this Act referred to as the 'Commissioner') appointed by the President by and with the advice and consent of the Senate. Except for titles IV and V and part A of title VI and as otherwise specifically provided in this Act, such Administration shall be the principal agency, and the Commissioner shall be the principal officer, of such Department for carrying out this Act. The Commissioner shall be an individual with substantial experience in rehabilitation and in rehabilitation program management. In the performance of the functions of the office, the Commissioner shall be directly responsible to the Secretary or to the Under Secretary or an appropriate Assistant Secretary of such Department, as designated by the Secretary. The functions of the Commissioner shall not be delegated to any officer not directly responsible, both with respect to program operation and administration, to the Commissioner. Any reference in this Act to duties to be carried out by the Commissioner shall be considered to be a reference to duties to be carried out by the Secretary acting through the Commissioner. In carrying out any of the functions of the office under this Act, the Commissioner shall be guided by general policies of the National Council on Disability established under title IV of this Act.

''(b) The Secretary shall take whatever action is necessary to insure that funds appropriated pursuant to this Act, as well as unexpended appropriations for carrying out the Vocational Rehabilitation Act (29 U.S.C. 31–42), are expended only for the programs, personnel, and administration of programs carried out under this Act.

''(c) The Secretary shall take such action as necessary to ensure that—

''(1) the staffing of the Rehabilitation Services Administration shall be in sufficient numbers to meet program needs and at levels which will attract and maintain the most qualified personnel; and

''(2) such staff includes individuals who have training and experience in the provision of rehabilitation services and that staff competencies meet professional standards.

''ADVANCE FUNDING

''SEC. 4. (a) For the purpose of affording adequate notice of funding available under this Act, appropriations under this Act are authorized to be included in the appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation.

''(b) In order to effect a transition to the advance funding method of timing appropriation action, the authority provided by subsection (a) of this section shall apply notwithstanding that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year.

''JOINT FUNDING

''SEC. 5. Pursuant to regulations prescribed by the President, and to the extent consistent with the other provisions of this Act, where funds are provided for a single project by more than one Federal agency to an agency or organization assisted under this Act, the Federal agency principally involved may be designated to act for all in administering the funds provided, and, in such cases, a single non-Federal share requirement may be established according to the proportion of funds advanced by each agency. When the principal agency involved is the Rehabilitation Services Administration, it may waive any grant or contract requirement (as defined by such regulations) under or pursuant to any law other than this Act, which requirement is inconsistent with the similar requirements of the administering agency under or pursuant to this Act.

**''SEC. 7. DEFINITIONS.**

''For the purposes of this Act:

''(1) ADMINISTRATIVE COSTS.—The term 'administrative costs' means expenditures incurred by the designated State unit in the performance of administrative functions under the vocational rehabilitation program carried out under title I, including expenses related to program planning, development, monitoring, and evaluation, including—

''(A) expenses for—

''(i) quality assurance;

''(ii) budgeting, accounting, financial management, information systems, and related data processing;

''(iii) provision of information about the program to the public;

''(iv) technical assistance and related support services to other State agencies, private nonprofit organizations, and businesses and industries, except for technical assistance and support services described in section 103(b)(5);

''(v) the State Rehabilitation Council and other entities that advise the designated State unit with regard to the provision of vocational rehabilitation services;

''(vi) removal of architectural barriers in State vocational rehabilitation agency offices and State operated rehabilitation facilities;

''(vii) operation and maintenance of designated State unit facilities, equipment, and grounds;

''(viii) supplies; and

''(ix)(I) administration of the comprehensive system of personnel development described in section 101(a)(7), including personnel administration, and administration of affirmative action plans;

''(II) training and staff development; and

''(III) administrative salaries, including clerical and other support staff salaries, in support of the administrative functions;

''(B) travel costs related to carrying out the program, other than travel costs related to the provision of services;

''(C) costs incurred in conducting reviews of rehabilitation counselor or coordinator determinations; and

''(D) legal expenses required in the administration of the program.

''(2) ASSESSMENT FOR DETERMINING ELIGIBILITY AND VOCATIONAL REHABILITATION NEEDS.—The term 'assessment for determining eligibility and vocational rehabilitation needs' means, as appropriate in each case—

''(A)(i) a review of existing data—

''(I) to determine whether an individual is eligible for vocational rehabilitation services; and

''(II) to assign priority for an order of selection described in section 101(a)(5)(A) in the States that use an order of selection pursuant to section 101(a)(5)(A); and

''(ii) to the extent necessary, the provision of appropriate assessment activities to obtain necessary additional data to make such determination and assignment;

''(B) to the extent additional data is necessary to make a determination of the employment outcomes, and the objectives, nature, and scope of vocational rehabilitation

services, to be included in the individualized rehabilitation employment plan of an eligible individual,, a comprehensive assessment to determine the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, including the need for supported employment, of the eligible individual, which comprehensive assessment—

''(i) is limited to information that is necessary to identify the rehabilitation needs of the individual and to develop the individualized rehabilitation employment plan of the eligible individual;

''(ii) uses, as a primary source of such information, to the maximum extent possible and appropriate and in accordance with confidentiality requirements—

''(I) existing information obtained for the purposes of determining the eligibility of the individual and assigning priority for an order of selection described in section 101(a)(5)(A) for the individual; and

''(II) such information as can be provided by the individual and, where appropriate, by the family of the individual;

''(iii) may include, to the degree needed to make such a determination, an assessment of the personality, interests, interpersonal skills, intelligence and related functional capacities, educational achievements, work experience, vocational aptitudes, personal and social adjustments, and employment opportunities of the individual, and the medical, psychiatric, psychological, and other pertinent vocational, educational, cultural, social, recreational, and environmental factors, that affect the employment and rehabilitation needs of the individual; and

''(iv) may include, to the degree needed, an appraisal of the patterns of work behavior of the individual and services needed for the individual to acquire occupational skills, and to develop work attitudes, work habits, work tolerance, and social and behavior patterns necessary for successful job performance, including the utilization of work in real job situations to assess and develop the capacities of the individual to perform adequately in a work environment;

''(C) referral, for the provision of rehabilitation technology services to the individual, to assess and develop the capacities of the individual to perform in a work environment; and

''(D) an exploration of the individual's abilities, capabilities, and capacity to perform in work situations, through the use of trial work experiences, including experiences in which the individual is provided appropriate supports and training.

''(3) ASSISTIVE TECHNOLOGY DEVICE.—The term 'assistive technology device' has the meaning given such term in section 3(2) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2202(2)), except that the reference in such section to the term 'individuals with disabilities' shall be deemed to mean more than one individual with a disability as defined in paragraph (20)(A).

''(4) ASSISTIVE TECHNOLOGY SERVICE.—The term 'assistive technology service' has the meaning given such term in section 3(3) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2202(3)), except that the reference in such section—

''(A) to the term 'individual with a disability' shall be deemed to mean an individual with a disability, as defined in paragraph (20)(A); and

''(B) to the term 'individuals with disabilities' shall be deemed to mean more than one such individual.

''(5) COMMUNITY REHABILITATION PROGRAM.—The term 'community rehabilitation program' means a program that provides directly or facilitates the provision of vocational rehabilitation services to individuals with disabilities, and that provides, singly or in combination, for an individual with a disability to enable the individual to maximize opportunities for employment, including career advancement—

''(A) medical, psychiatric, psychological, social, and vocational services that are provided under one management;

''(B) testing, fitting, or training in the use of prosthetic and orthotic devices;

''(C) recreational therapy;

''(D) physical and occupational therapy;

''(E) speech, language, and hearing therapy;

''(F) psychiatric, psychological, and social services, including positive behavior management;

''(G) assessment for determining eligibility and vocational rehabilitation needs;

''(H) rehabilitation technology;

''(I) job development, placement, and retention services;

''(J) evaluation or control of specific disabilities;

''(K) orientation and mobility services for individuals who are blind;

''(L) extended employment;

''(M) psychosocial rehabilitation services;

''(N) supported employment services and extended services;

''(O) services to family members when necessary to the vocational rehabilitation of the individual;

''(P) personal assistance services; or

''(Q) services similar to the services described in one of subparagraphs (A) through (P).

''(6) CRIMINAL ACT.—The term 'criminal act' means any crime, including an act, omission, or possession under the laws of the United States or a State or unit of general local government, which poses a substantial threat of personal injury, notwithstanding that by reason of age, insanity, or intoxication or otherwise the person engaging in the act, omission, or possession was legally incapable of committing a crime.

''(7) DESIGNATED STATE AGENCY.—The term 'designated State agency' means an agency designated under section 101(a)(2)(A).

''(8) DESIGNATED STATE UNIT.—The term 'designated State unit' means—

''(A) any State agency unit required under section 101(a)(2)(B)(ii); or

''(B) in cases in which no such unit is so required, the State agency described in section 101(a)(2)(B)(i).

''(9) DISABILITY.—The term 'disability' means—

''(A) except as otherwise provided in subparagraph (B), a physical or mental impairment that constitutes or results in a substantial impediment to employment; or

''(B) for purposes of sections 2, 14, and 15, and titles II, IV, V, and VII, a physical or mental impairment that substantially limits one or more major life activities.

''(10) DRUG AND ILLEGAL USE OF DRUGS.—

''(A) DRUG.—The term 'drug' means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812).

''(B) ILLEGAL USE OF DRUGS.—The term 'illegal use of drugs' means the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act. Such term does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

''(11) EMPLOYMENT OUTCOME.—The term 'employment outcome' means, with respect to an individual—

''(A) entering or retaining full-time or, if appropriate, part-time competitive employment in the integrated labor market;

''(B) satisfying the vocational outcome of supported employment; or

''(C) satisfying any other vocational outcome the Secretary may determine to be appropriate (including satisfying the vocational outcome of self-employment or business ownership),

in a manner consistent with this Act.

''(12) ESTABLISHMENT OF A COMMUNITY REHABILITATION PROGRAM.—The term 'establishment of a community rehabilitation program' includes the acquisition, expansion, remodeling, or alteration of existing buildings necessary to adapt them to community rehabilitation program purposes or to increase their effectiveness for such purposes (subject, however, to such limitations as the Secretary may determine, in accordance with regulations the Secretary shall prescribe, in order to prevent impairment of the objectives of, or duplication of, other Federal laws providing Federal assistance in the construction of facilities for community rehabilitation programs), and may include such additional equipment and staffing as the Commissioner considers appropriate.

''(13) EXTENDED SERVICES.—The term 'extended services' means ongoing support services and other appropriate services, needed to support and maintain an individual with a most significant disability in supported employment, that—

''(A) are provided singly or in combination and are organized and made available in such a way as to assist an eligible individual in maintaining supported employment;

''(B) are based on a determination of the needs of an eligible individual, as specified in an individualized rehabilitation employment plan; and

''(C) are provided by a State agency, a nonprofit private organization, employer, or any other appropriate resource, after an individual has made the transition from support provided by the designated State unit.

''(14) FEDERAL SHARE.—

''(A) IN GENERAL.—Subject to subparagraph (B), the term 'Federal share' means 78.7 percent.

''(B) RELATIONSHIP TO EXPENDITURES BY A POLITICAL SUBDIVISION.—For the purpose of determining the non-Federal share with respect to a State, expenditures by a political subdivision thereof or by a local agency shall be regarded as expenditures by such State, subject to such limitations and conditions as the Secretary shall by regulation prescribe.

''(15) IMPARTIAL HEARING OFFICER.—

''(A) IN GENERAL.—The term 'impartial hearing officer' means an individual—

''(i) who is not an employee of a public agency (other than an administrative law judge, hearing examiner, or employee of an institution of higher education);

''(ii) who is not a member of the State Rehabilitation Council described in section 105;

''(iii) who has not been involved previously in the vocational rehabilitation of the applicant or client;

''(iv) who has knowledge of the delivery of vocational rehabilitation services, the State plan under section 101, and the Federal and State rules governing the provision of such services and training with respect to the performance of official duties; and

''(v) who has no personal or financial interest that would be in conflict with the objectivity of the individual.

''(B) CONSTRUCTION.—An individual shall not be considered to be an employee of a public agency for purposes of subparagraph (A)(i) solely because the individual is paid by the agency to serve as a hearing officer.

''(16) INDEPENDENT LIVING CORE SERVICES.—The term 'independent living core services' means—

''(A) information and referral services;

''(B) independent living skills training;

''(C) peer counseling (including cross-disability peer counseling); and

''(D) individual and systems advocacy.

''(17) INDEPENDENT LIVING SERVICES.—The term 'independent living services' includes—

''(A) independent living core services; and

''(B)(i) counseling services, including psychological, psychotherapeutic, and related services;

''(ii) services related to securing housing or shelter, including services related to community group living, and supportive of the purposes of this Act and of the titles of this Act, and adaptive housing services (including appropriate accommodations to and modifications of any space used to serve, or occupied by, individuals with disabilities);

''(iii) rehabilitation technology;

''(iv) mobility training;

''(v) services and training for individuals with cognitive and sensory disabilities, including life skills training, and interpreter and reader services;

''(vi) personal assistance services, including attendant care and the training of personnel providing such services;

''(vii) surveys, directories, and other activities to identify appropriate housing, recreation opportunities, and accessible transportation, and other support services;

''(viii) consumer information programs on rehabilitation and independent living services available under this Act, especially for minorities and other individuals with disabilities who have traditionally been unserved or underserved by programs under this Act;

''(ix) education and training necessary for living in a community and participating in community activities;

''(x) supported living;

''(xi) transportation, including referral and assistance for such transportation and training in the use of public transportation vehicles and systems;

''(xii) physical rehabilitation;

''(xiii) therapeutic treatment;

''(xiv) provision of needed prostheses and other appliances and devices;

''(xv) individual and group social and recreational services;

''(xvi) training to develop skills specifically designed for youths who are individuals with disabilities to promote self-awareness and esteem, develop advocacy and self-empowerment skills, and explore career options;

''(xvii) services for children;

''(xviii) services under other Federal, State, or local programs designed to provide resources, training, counseling, or other assistance, of substantial benefit in enhancing the independence, productivity, and quality of life of individuals with disabilities;

''(xix) appropriate preventive services to decrease the need of individuals assisted under this Act for similar services in the future;

''(xx) community awareness programs to enhance the understanding and integration into society of individuals with disabilities; and

''(xxi) such other services as may be necessary and not inconsistent with the provisions of this Act.

''(18) INDIAN; AMERICAN INDIAN; INDIAN AMERICAN.—The terms 'Indian', 'American Indian', and 'Indian American' mean an individual who is a member of an Indian tribe.

''(19) INDIAN TRIBE.—The term 'Indian tribe' means any Federal or State Indian tribe, band, rancheria, pueblo, colony, or community, including any Alaskan native village or regional village corporation (as defined in or established pursuant to the Alaska Native Claims Settlement Act).

''(20) INDIVIDUAL WITH A DISABILITY.—

''(A) IN GENERAL.—Except as otherwise provided in subparagraph (B), the term 'individual with a disability' means any individual who—

''(i) has a physical or mental impairment which for such individual constitutes or results in a substantial impediment to employment; and

''(ii) can benefit in terms of an employment outcome from vocational rehabilitation services provided pursuant to title I, III, or VI.

''(B) CERTAIN PROGRAMS; LIMITATIONS ON MAJOR LIFE ACTIVITIES.—Subject to subparagraphs (C), (D), (E), and (F), the term 'individual with a disability' means, for purposes of sections 2, 14, and 15, and titles II, IV, V, and VII of this Act, any person who—

''(i) has a physical or mental impairment which substantially limits one or more of such person's major life activities;

''(ii) has a record of such an impairment; or

''(iii) is regarded as having such an impairment.

''(C) RIGHTS AND ADVOCACY PROVISIONS.—

''(i) IN GENERAL; EXCLUSION OF INDIVIDUALS ENGAGING IN DRUG USE.—For purposes of title V, the term 'individual with a disability' does not include an individual who is currently engaging in the illegal use of drugs, when a covered entity acts on the basis of such use.

''(ii) EXCEPTION FOR INDIVIDUALS NO LONGER ENGAGING IN DRUG USE.—Nothing in clause (i) shall be construed to exclude as an individual with a disability an individual who—

''(I) has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;

''(II) is participating in a supervised rehabilitation program and is no longer engaging in such use; or

''(III) is erroneously regarded as engaging in such use, but is not engaging in such use;

except that it shall not be a violation of this Act for a covered entity to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in subclause (I) or (II) is no longer engaging in the illegal use of drugs.

''(iii) EXCLUSION FOR CERTAIN SERVICES.—Notwithstanding clause (i), for purposes of programs and activities providing health services and services provided under titles I, II and III, an individual shall not be excluded from the benefits of such programs or activities on the basis of his or her current illegal use of drugs if he or she is otherwise entitled to such services.

''(iv) DISCIPLINARY ACTION.—For purposes of programs and activities providing educational services, local educational agencies may take disciplinary action pertaining to the use or possession of illegal drugs or alcohol against any student who is an individual with a disability and who currently is engaging in the illegal use of drugs or in the use of alcohol to the same extent that such disciplinary action is taken against students who are not individuals with disabilities. Furthermore, the due process procedures at section 104.36 of title 34, Code of Federal Regulations (or any corresponding similar regulation or ruling) shall not apply to such disciplinary actions.

''(v) EMPLOYMENT; EXCLUSION OF ALCOHOLICS.—For purposes of sections 503 and 504 as such sections relate to employment, the term 'individual with a disability' does not include any individual who is an alcoholic whose current use of alcohol prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol abuse, would constitute a direct threat to property or the safety of others.

''(D) EMPLOYMENT; EXCLUSION OF INDIVIDUALS WITH CERTAIN DISEASES OR INFECTIONS.—For the purposes of sections 503 and 504, as such sections relate to employment, such term does not include an individual who has a currently contagious disease or infection and who, by reason of such disease or infection, would constitute a direct threat to the health or safety of other individuals or who, by reason of the currently contagious disease or infection, is unable to perform the duties of the job.

''(E) RIGHTS PROVISIONS; EXCLUSION OF INDIVIDUALS ON BASIS OF HOMOSEXUALITY OR BISEXUALITY.—For the purposes of sections 501, 503, and 504—

''(i) for purposes of the application of subparagraph (B) to such sections, the term 'impairment' does not include homosexuality or bisexuality; and

''(ii) therefore the term 'individual with a disability' does not include an individual on the basis of homosexuality or bisexuality.

''(F) RIGHTS PROVISIONS; EXCLUSION OF INDIVIDUALS ON BASIS OF CERTAIN DISORDERS.—For the purposes of sections 501, 503, and 504, the term 'individual with a disability' does not include an individual on the basis of—

''(i) transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;

''(ii) compulsive gambling, kleptomania, or pyromania; or

''(iii) psychoactive substance use disorders resulting from current illegal use of drugs.

''(G) INDIVIDUALS WITH DISABILITIES.—The term 'individuals with disabilities' means more than one individual with a disability.

''(21) INDIVIDUAL WITH A SIGNIFICANT DISABILITY.—

''(A) IN GENERAL.—Except as provided in subparagraph (B) or (C), the term 'individual with a significant disability' means an individual with a disability—

''(i) who has a severe physical or mental impairment which seriously limits one or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome;

''(ii) whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and

''(iii) who has one or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental retardation, mental illness, multiple sclerosis, muscular dystrophy, musculo-skeletal disorders, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia, and other spinal cord conditions, sickle cell anemia, specific learning disability, end-stage renal disease, or another disability or combination of disabilities determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs described in subparagraphs (A) and (B) of paragraph (2) to cause comparable substantial functional limitation.

''(B) INDEPENDENT LIVING SERVICES AND CENTERS FOR INDEPENDENT LIVING.—For purposes of title VII, the term 'individual with a significant disability' means an individual with a severe physical or mental impairment

whose ability to function independently in the family or community or whose ability to obtain, maintain, or advance in employment is substantially limited and for whom the delivery of independent living services will improve the ability to function, continue functioning, or move towards functioning independently in the family or community or to continue in employment, respectively.

''(C) RESEARCH AND TRAINING.—For purposes of title II, the term 'individual with a significant disability' includes an individual described in subparagraph (A) or (B).

''(D) INDIVIDUALS WITH SIGNIFICANT DISABILITIES.—The term 'individuals with significant disabilities' means more than one individual with a significant disability.

''(E) INDIVIDUAL WITH A MOST SIGNIFICANT DISABILITY.—

''(i) IN GENERAL.—The term 'individual with a most significant disability', used with respect to an individual in a State, means an individual with a significant disability who meets criteria established by the State under section 101(a)(5)(C).

''(ii) INDIVIDUALS WITH THE MOST SIGNIFICANT DISABILITIES.—The term 'individuals with the most significant disabilities' means more than one individual with a most significant disability.

''(22) INDIVIDUAL'S REPRESENTATIVE; APPLICANT'S REPRESENTATIVE.—

''(A) INDIVIDUAL'S REPRESENTATIVE.—The term 'individual's representative' used with respect to an eligible individual or other individual with a disability, means—

''(i) any representative chosen by the eligible individual or other individual with a disability, including a parent, guardian, other family member, or advocate; or

''(ii) if a representative or legal guardian has been appointed by a court to represent the eligible individual or other individual with a disability, the court-appointed representative or legal guardian.

''(B) APPLICANT'S REPRESENTATIVE.—The term 'applicant's representative' means—

''(i) any representative described in subparagraph (A)(i) chosen by the applicant; or

''(ii) if a representative or legal guardian has been appointed by a court to represent the applicant, the court-appointed representative or legal guardian.

''(23) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given the term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

''(24) LOCAL AGENCY.—The term 'local agency' means an agency of a unit of general local government or of an Indian tribe (or combination of such units or tribes) which has an agreement with the designated State agency to conduct a vocational rehabilitation program under the supervision of such State agency in accordance with the State plan approved under section 101. Nothing in the preceding sentence of this paragraph or in section 101 shall be construed to prevent the local agency from arranging to utilize another local public or nonprofit agency to provide vocational rehabilitation services if such an arrangement is made part of the agreement specified in this paragraph.

''(25) LOCAL WORKFORCE INVESTMENT PARTNERSHIP.—The term 'local workforce investment partnership' means a local workforce investment partnership established under section 308 of the Workforce Investment Partnership Act of 1998.

''(26) NONPROFIT.—The term 'nonprofit', when used with respect to a community rehabilitation program, means a community rehabilitation program carried out by a corporation or association, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual and the income of which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986.

''(27) ONGOING SUPPORT SERVICES.—The term 'ongoing support services' means services—

''(A) provided to individuals with the most significant disabilities;

''(B) provided, at a minimum, twice monthly—

''(i) to make an assessment, regarding the employment situation, at the worksite of each such individual in supported employment, or, under special circumstances, especially at the request of the client, off site; and

''(ii) based on the assessment, to provide for the coordination or provision of specific intensive services, at or away from the worksite, that are needed to maintain employment stability; and

''(C) consisting of—

''(i) a particularized assessment supplementary to the comprehensive assessment described in paragraph (2)(B);

''(ii) the provision of skilled job trainers who accompany the individual for intensive job skill training at the work site;

''(iii) job development, job retention, and placement services;

''(iv) social skills training;

''(v) regular observation or supervision of the individual;

''(vi) followup services such as regular contact with the employers, the individuals, the individuals' representatives, and other appropriate individuals, in order to reinforce and stabilize the job placement;

''(vii) facilitation of natural supports at the worksite;

''(viii) any other service identified in section 103; or

''(ix) a service similar to another service described in this subparagraph.

''(28) PERSONAL ASSISTANCE SERVICES.—The term 'personal assistance services' means a range of services, provided by one or more persons, designed to assist an individual with a disability to perform daily living activities on or off the job that the individual would typically perform if the individual did not have a disability. Such services shall be designed to increase the individual's control in life and ability to perform everyday activities on or off the job.

''(29) PUBLIC OR NONPROFIT.—The term 'public or nonprofit', used with respect to an agency or organization, includes an Indian tribe.

''(30) REHABILITATION TECHNOLOGY.—The term 'rehabilitation technology' means the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of and address the barriers confronted by individuals with disabilities in areas which include education, rehabilitation, employment, transportation, independent living, and recreation. The term includes rehabilitation engineering, assistive technology devices, and assistive technology services.

''(31) REQUIRES VOCATIONAL REHABILITATION SERVICES.—The term 'requires vocational rehabilitation services', used with respect to an individual with a disability as defined in paragraph (20)(A), means that the individual is unable to prepare for, secure, retain, or regain employment consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual without vocational rehabilitation services, because the individual—

''(A) has never been employed;

''(B) has lost employment;

''(C) is underemployed;

''(D) is at immediate risk of losing employment; or

''(E) receives benefits on the basis of disability or blindness pursuant to title II or XVI of the Social Security Act (42 U.S.C. 401 et seq. or 1381 et seq.), in a case in which the individual intends to achieve an employment outcome consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual.

''(32) SECRETARY.—The term 'Secretary', except when the context otherwise requires, means the Secretary of Education.

''(33) STATE.—The term 'State' includes, in addition to each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

''(34) STATEWIDE WORKFORCE INVESTMENT PARTNERSHIP.—The term 'statewide workforce investment partnership' means a partnership established under section 303 of the Workforce Investment Partnership Act of 1998.

''(35) STATEWIDE WORKFORCE INVESTMENT SYSTEM.—The term 'statewide workforce investment system' means a system described in section 301 of the Workforce Investment Partnership Act of 1998.

''(36) SUPPORTED EMPLOYMENT.—

''(A) IN GENERAL.—The term 'supported employment' means competitive work in integrated work settings, or employment in integrated work settings in which individuals are working toward competitive work, consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individuals, for individuals with the most significant disabilities—

''(i)(I) for whom competitive employment has not traditionally occurred; or

''(II) for whom competitive employment has been interrupted or intermittent as a result of a significant disability; and

''(ii) who, because of the nature and severity of their disability, need intensive supported employment services for the period, and any extension, described in paragraph (37)(C) and extended services after the transition described in paragraph (13)(C) in order to perform such work.

''(B) CERTAIN TRANSITIONAL EMPLOYMENT.—Such term includes transitional employment for persons who are individuals with the most significant disabilities due to mental illness.

''(37) SUPPORTED EMPLOYMENT SERVICES.—The term 'supported employment services' means ongoing support services and other appropriate services needed to support and maintain an individual with a most significant disability in supported employment, that—

''(A) are provided singly or in combination and are organized and made available in such a way as to assist an eligible individual to achieve competitive employment;

''(B) are based on a determination of the needs of an eligible individual, as specified in an individualized rehabilitation employment plan; and

''(C) are provided by the designated State unit for a period of time not to extend beyond 18 months, unless under special circumstances the eligible individual and the rehabilitation counselor or coordinator jointly agree to extend the time in order to achieve the rehabilitation objectives identified in the individualized rehabilitation employment plan.

''(38) TRANSITION SERVICES.—The term 'transition services' means a coordinated set of activities for a student, designed within an outcome-oriented process, that promotes

movement from school to post school activities, including postsecondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities shall be based upon the individual student's needs, taking into account the student's preferences and interests, and shall include instruction, community experiences, the development of employment and other post school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

''(39) UNDEREMPLOYED.—The term 'underemployed', used with respect to an individual with a disability, as defined in paragraph (20)(A), means a situation in which the individual is employed in a job that is not consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual.

''(40) VOCATIONAL REHABILITATION SERVICES.—The term 'vocational rehabilitation services' means those services identified in section 103 which are provided to individuals with disabilities under this Act.

''(41) WORKFORCE INVESTMENT ACTIVITIES.—The term 'workforce investment activities' has the meaning given the term in section 2 of the Workforce Investment Partnership Act of 1998 carried out under that Act.

''ALLOTMENT PERCENTAGE

''SEC. 8. (a)(1) For purposes of section 110, the allotment percentage for any State shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States, except that—

''(A) the allotment percentage shall in no case be more than 75 per centum or less than 33⅓ per centum; and

''(B) the allotment percentage for the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands shall be 75 per centum.

''(2) The allotment percentages shall be promulgated by the Secretary between October 1 and December 31 of each even-numbered year, on the basis of the average of the per capita incomes of the States and of the United States for the three most recent consecutive years for which satisfactory data are available from the Department of Commerce. Such promulgation shall be conclusive for each of the two fiscal years in the period beginning on the October 1 next succeeding such promulgation.

''(3) The term 'United States' means (but only for purposes of this subsection) the fifty States and the District of Columbia.

''(b) The population of the several States and of the United States shall be determined on the basis of the most recent data available, to be furnished by the Department of Commerce by October 1 of the year preceding the fiscal year for which funds are appropriated pursuant to statutory authorizations.

''NONDUPLICATION

''SEC. 10. In determining the amount of any State's Federal share of expenditures for planning, administration, and services incurred by it under a State plan approved in accordance with section 101, there shall be disregarded (1) any portion of such expenditures which are financed by Federal funds provided under any other provision of law, and (2) the amount of any non-Federal funds required to be expended as a condition of receipt of such Federal funds. No payment may be made from funds provided under one provision of this Act relating to any cost with respect to which any payment is made under any other provision of this Act, except that this section shall not be construed to limit or reduce fees for services rendered by community rehabilitation programs.

''APPLICATION OF OTHER LAWS

''SEC. 11. The provisions of the Act of December 5, 1974 (Public Law 93–510) and of title V of the Act of October 15, 1977 (Public Law 95–134) shall not apply to the administration of the provisions of this Act or to the administration of any program or activity under this Act.

''ADMINISTRATION OF THE ACT

''SEC. 12. (a) In carrying out the purposes of this Act, the Commissioner may—

''(1) provide consultative services and technical assistance to public or nonprofit private agencies and organizations, including assistance to enable such agencies and organizations to facilitate meaningful and effective participation by individuals with disabilities in workforce investment activities;

''(2) provide short-term training and technical instruction, including training for the personnel of community rehabilitation programs, centers for independent living, and other providers of services (including job coaches);

''(3) conduct special projects and demonstrations;

''(4) collect, prepare, publish, and disseminate special educational or informational materials, including reports of the projects for which funds are provided under this Act; and

''(5) provide monitoring and conduct evaluations.

''(b)(1) In carrying out the duties under this Act, the Commissioner may utilize the services and facilities of any agency of the Federal Government and of any other public or nonprofit agency or organization, in accordance with agreements between the Commissioner and the head thereof, and may pay therefor, in advance or by way of reimbursement, as may be provided in the agreement.

''(2) In carrying out the provisions of this Act, the Commissioner shall appoint such task forces as may be necessary to collect and disseminate information in order to improve the ability of the Commissioner to carry out the provisions of this Act.

''(c) The Commissioner may promulgate such regulations as are considered appropriate to carry out the Commissioner's duties under this Act.

''(d) The Secretary shall promulgate regulations regarding the requirements for the implementation of an order of selection for vocational rehabilitation services under section 101(a)(5)(A) if such services cannot be provided to all eligible individuals with disabilities who apply for such services.

''(e) Not later than 180 days after the date of enactment of the Rehabilitation Act Amendments of 1998, the Secretary shall receive public comment and promulgate regulations to implement the amendments made by the Rehabilitation Act Amendments of 1998.

''(f) In promulgating regulations to carry out this Act, the Secretary shall promulgate only regulations that are necessary to administer and ensure compliance with the specific requirements of this Act.

''(g) There are authorized to be appropriated to carry out this section such sums as may be necessary.

''REPORTS

''SEC. 13. (a) Not later than one hundred and eighty days after the close of each fiscal year, the Commissioner shall prepare and submit to the President and to the Congress a full and complete report on the activities carried out under this Act, including the activities and staffing of the information clearinghouse under section 15.

''(b) The Commissioner shall collect information to determine whether the purposes of this Act are being met and to assess the performance of programs carried out under this Act. The Commissioner shall take whatever action is necessary to assure that the identity of each individual for which information is supplied under this section is kept confidential, except as otherwise required by law (including regulation).

''(c) In preparing the report, the Commissioner shall annually collect and include in the report information based on the information submitted by States in accordance with section 101(a)(10). The Commissioner shall, to the maximum extent appropriate, include in the report all information that is required to be submitted in the reports described in section 321(d) of the Workforce Investment Partnership Act of 1998 and that pertains to the employment of individuals with disabilities.

''EVALUATION

''SEC. 14. (a) For the purpose of improving program management and effectiveness, the Secretary, in consultation with the Commissioner, shall evaluate all the programs authorized by this Act, their general effectiveness in relation to their cost, their impact on related programs, and their structure and mechanisms for delivery of services, using appropriate methodology and evaluative research designs. The Secretary shall establish and use standards for the evaluations required by this subsection. Such an evaluation shall be conducted by a person not immediately involved in the administration of the program evaluated.

''(b) In carrying out evaluations under this section, the Secretary shall obtain the opinions of program and project participants about the strengths and weaknesses of the programs and projects.

''(c) The Secretary shall take the necessary action to assure that all studies, evaluations, proposals, and data produced or developed with Federal funds under this Act shall become the property of the United States.

''(d) Such information as the Secretary may determine to be necessary for purposes of the evaluations conducted under this section shall be made available upon request of the Secretary, by the departments and agencies of the executive branch.

''(e)(1) To assess the linkages between vocational rehabilitation services and economic and noneconomic outcomes, the Secretary shall continue to conduct a longitudinal study of a national sample of applicants for the services.

''(2) The study shall address factors related to attrition and completion of the program through which the services are provided and factors within and outside the program affecting results. Appropriate comparisons shall be used to contrast the experiences of similar persons who do not obtain the services.

''(3) The study shall be planned to cover the period beginning on the application of individuals with disabilities for the services, through the eligibility determination and provision of services for the individuals, and a further period of not less than 2 years after the termination of services.

''(f)(1) The Commissioner shall identify and disseminate information on exemplary practices concerning vocational rehabilitation.

''(2) To facilitate compliance with paragraph (1), the Commissioner shall conduct studies and analyses that identify exemplary practices concerning vocational rehabilitation, including studies in areas relating to providing informed choice in the rehabilitation process, promoting consumer satisfaction, promoting job placement and retention,

providing supported employment, providing services to particular disability populations, financing personal assistance services, providing assistive technology devices and assistive technology services, entering into cooperative agreements, establishing standards and certification for community rehabilitation programs, converting from non-integrated to integrated employment, and providing caseload management.

''(g) There are authorized to be appropriated to carry out this section such sums as may be necessary.

''INFORMATION CLEARINGHOUSE

''SEC. 15. (a) The Secretary shall establish a central clearinghouse for information and resource availability for individuals with disabilities which shall provide information and data regarding—

''(1) the location, provision, and availability of services and programs for individuals with disabilities, including such information and data provided by statewide partnerships established under section 303 of the Workforce Investment Partnership Act of 1998 regarding such services and programs authorized under such Act;

''(2) research and recent medical and scientific developments bearing on disabilities (and their prevention, amelioration, causes, and cures); and

''(3) the current numbers of individuals with disabilities and their needs.

The clearinghouse shall also provide any other relevant information and data which the Secretary considers appropriate.

''(b) The Commissioner may assist the Secretary to develop within the Department of Education a coordinated system of information and data retrieval, which will have the capacity and responsibility to provide information regarding the information and data referred to in subsection (a) of this section to the Congress, public and private agencies and organizations, individuals with disabilities and their families, professionals in fields serving such individuals, and the general public.

''(c) The office established to carry out the provisions of this section shall be known as the 'Office of Information and Resources for Individuals with Disabilities'.

''(d) There are authorized to be appropriated to carry out this section such sums as may be necessary.

''TRANSFER OF FUNDS

''SEC. 16. (a) Except as provided in subsection (b) of this section, no funds appropriated under this Act for any research program or activity may be used for any purpose other than that for which the funds were specifically authorized.

''(b) No more than 1 percent of funds appropriated for discretionary grants, contracts, or cooperative agreements authorized by this Act may be used for the purpose of providing non-Federal panels of experts to review applications for such grants, contracts, or cooperative agreements.

''STATE ADMINISTRATION

''SEC. 17. The application of any State rule or policy relating to the administration or operation of programs funded by this Act (including any rule or policy based on State interpretation of any Federal law, regulation, or guideline) shall be identified as a State imposed requirement.

''REVIEW OF APPLICATIONS

''SEC. 18. Applications for grants in excess of $100,000 in the aggregate authorized to be funded under this Act, other than grants primarily for the purpose of conducting dissemination or conferences, shall be reviewed by panels of experts which shall include a majority of non-Federal members. Non-Federal members may be provided travel, per diem, and consultant fees not to exceed the daily equivalent of the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382 of title 5, United States Code.

**''SEC. 19. CARRYOVER.**

''(a) IN GENERAL.—Except as provided in subsection (b), and notwithstanding any other provision of law—

''(1) any funds appropriated for a fiscal year to carry out any grant program under part B of title I, section 509 (except as provided in section 509(b)), part C of title VI, part B or C of chapter 1 of title VII, or chapter 2 of title VII (except as provided in section 752(b)), including any funds reallotted under any such grant program, that are not obligated and expended by recipients prior to the beginning of the succeeding fiscal year; or

''(2) any amounts of program income, including reimbursement payments under the Social Security Act (42 U.S.C. 301 et seq.), received by recipients under any grant program specified in paragraph (1) that are not obligated and expended by recipients prior to the beginning of the fiscal year succeeding the fiscal year in which such amounts were received,

shall remain available for obligation and expenditure by such recipients during such succeeding fiscal year.

''(b) NON-FEDERAL SHARE.—Such funds shall remain available for obligation and expenditure by a recipient as provided in subsection (a) only to the extent that the recipient complied with any Federal share requirements applicable to the program for the fiscal year for which the funds were appropriated.

**''SEC. 20. CLIENT ASSISTANCE INFORMATION.**

''All programs, including community rehabilitation programs, and projects, that provide services to individuals with disabilities under this Act shall advise such individuals who are applicants for or recipients of the services, or the applicants' representatives or individuals' representatives, of the availability and purposes of the client assistance program under section 112, including information on means of seeking assistance under such program.

**''SEC. 21. TRADITIONALLY UNDERSERVED POPULATIONS.**

''(a) FINDINGS.—With respect to the programs authorized in titles II through VII, the Congress finds as follows:

''(1) RACIAL PROFILE.—The racial profile of America is rapidly changing. While the rate of increase for white Americans is 3.2 percent, the rate of increase for racial and ethnic minorities is much higher: 38.6 percent for Latinos, 14.6 percent for African-Americans, and 40.1 percent for Asian-Americans and other ethnic groups. By the year 2000, the Nation will have 260,000,000 people, one of every three of whom will be either African-American, Latino, or Asian-American.

''(2) RATE OF DISABILITY.—Ethnic and racial minorities tend to have disabling conditions at a disproportionately high rate. The rate of work-related disability for American Indians is about one and one-half times that of the general population. African-Americans are also one and one-half times more likely to be disabled than whites and twice as likely to be significantly disabled.

''(3) INEQUITABLE TREATMENT.—Patterns of inequitable treatment of minorities have been documented in all major junctures of the vocational rehabilitation process. As compared to white Americans, a larger percentage of African-American applicants to the vocational rehabilitation system is denied acceptance. Of applicants accepted for service, a larger percentage of African-American cases is closed without being rehabilitated. Minorities are provided less training than their white counterparts. Consistently, less money is spent on minorities than on their white counterparts.

''(4) RECRUITMENT.—Recruitment efforts within vocational rehabilitation at the level of pre-service training, continuing education, and in-service training must focus on bringing larger numbers of minorities into the profession in order to provide appropriate practitioner knowledge, role models, and sufficient manpower to address the clearly changing demography of vocational rehabilitation.

''(b) OUTREACH TO MINORITIES.—

''(1) IN GENERAL.—For each fiscal year, the Commissioner and the Director of the National Institute on Disability and Rehabilitation Research (referred to in this subsection as the 'Director') shall reserve 1 percent of the funds appropriated for the fiscal year for programs authorized under titles II, III, VI, and VII to carry out this subsection. The Commissioner and the Director shall use the reserved funds to carry out 1 or more of the activities described in paragraph (2) through a grant, contract, or cooperative agreement.

''(2) ACTIVITIES.—The activities carried out by the Commissioner and the Director shall include 1 or more of the following:

''(A) Making awards to minority entities and Indian tribes to carry out activities under the programs authorized under title II, III, VI, and VII.

''(B) Making awards to minority entities and Indian tribes to conduct research, training, technical assistance, or a related activity, to improve services provided under this Act, especially services provided to individuals from minority backgrounds.

''(C) Making awards to entities described in paragraph (3) to provide outreach and technical assistance to minority entities and Indian tribes to promote their participation in activities funded under this Act, including assistance to enhance their capacity to carry out such activities.

''(3) ELIGIBILITY.—To be eligible to receive a award under paragraph (2)(C), an entity shall be a State or a public or private nonprofit agency or organization, such as an institution of higher education or an Indian tribe.

''(4) REPORT.—In each fiscal year, the Commissioner and the Director shall prepare and submit to Congress a report that describes the activities funded under this subsection for the preceding fiscal year.

''(5) DEFINITIONS.—In this subsection:

''(A) HISTORICALLY BLACK COLLEGE OR UNIVERSITY.—The term ''historically Black college or university'' means a part B institution, as defined in section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2)).

''(B) MINORITY ENTITY.—The term ''minority entity' means an entity that is a Historically Black College or University, a Hispanic-serving institution of higher education, an American Indian Tribal College or University, or another institution of higher education whose minority student enrollment is at least 50 percent.

''(c) DEMONSTRATION.—In awarding grants, or entering into contracts or cooperative agreements under titles I, II, III, VI, and VII, and section 509, the Commissioner and the Director, in appropriate cases, shall require applicants to demonstrate how the applicants will address, in whole or in part, the needs of individuals with disabilities from minority backgrounds.''.

**SEC. 4. VOCATIONAL REHABILITATION SERVICES.**

Title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.) is amended to read as follows:

**"TITLE I—VOCATIONAL REHABILITATION SERVICES**

**"PART A—GENERAL PROVISIONS**

**"SEC. 100. DECLARATION OF POLICY; AUTHORIZATION OF APPROPRIATIONS.**

''(a) FINDINGS; PURPOSE; POLICY.—

''(1) FINDINGS.—Congress finds that—

''(A) work—

''(i) is a valued activity, both for individuals and society; and

''(ii) fulfills the need of an individual to be productive, promotes independence, enhances self-esteem, and allows for participation in the mainstream of life in the United States;

''(B) as a group, individuals with disabilities experience staggering levels of unemployment and poverty;

''(C) individuals with disabilities, including individuals with the most significant disabilities, have demonstrated their ability to achieve gainful employment in integrated settings if appropriate services and supports are provided;

''(D) reasons for significant numbers of individuals with disabilities not working, or working at levels not commensurate with their abilities and capabilities, include—

''(i) discrimination;

''(ii) lack of accessible and available transportation;

''(iii) fear of losing health coverage under the medicare and medicaid programs carried out under titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq. and 1396 et seq.) or fear of losing private health insurance; and

''(iv) lack of education, training, and supports to meet job qualification standards necessary to secure, retain, regain, or advance in employment;

''(E) enforcement of title V and of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) holds the promise of ending discrimination for individuals with disabilities;

''(F) the provision of workforce investment activities and vocational rehabilitation services can enable individuals with disabilities, including individuals with the most significant disabilities, to pursue meaningful careers by securing gainful employment commensurate with their abilities and capabilities; and

''(G) linkages between the vocational rehabilitation programs established under this title and other components of the statewide workforce investment system are critical to ensure effective and meaningful participation by individuals with disabilities in workforce investment activities.

''(2) PURPOSE.—The purpose of this title is to assist States in operating statewide comprehensive, coordinated, effective, efficient, and accountable programs of vocational rehabilitation, each of which is—

''(A) an integral part of a statewide workforce investment system; and

''(B) designed to assess, plan, develop, and provide vocational rehabilitation services for individuals with disabilities, consistent with their strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, so that such individuals may prepare for and engage in gainful employment.

''(3) POLICY.—It is the policy of the United States that such a program shall be carried out in a manner consistent with the following principles:

''(A) Individuals with disabilities, including individuals with the most significant disabilities, are generally presumed to be capable of engaging in gainful employment and the provision of individualized vocational rehabilitation services can improve their ability to become gainfully employed.

''(B) Individuals with disabilities must be provided the opportunities to obtain gainful employment in integrated settings.

''(C) Individuals who are applicants for such programs or eligible to participate in such programs must be active and full partners, in collaboration with qualified vocational rehabilitation professionals, in the vocational rehabilitation process, making meaningful and informed choices—

''(i) during assessments for determining eligibility and vocational rehabilitation needs; and

''(ii) in the selection of employment outcomes for the individuals, services needed to achieve the outcomes, entities providing such services, and the methods used to secure such services.

''(D) Families and other natural supports can play important roles in the success of a vocational rehabilitation program, if the individual with a disability involved requests, desires, or needs such supports.

''(E) Vocational rehabilitation counselors that are trained and prepared in accordance with State policies and procedures as described in section 101(a)(7)(A)(iii) (referred to individually in this title as a 'qualified vocational rehabilitation counselor'), other qualified rehabilitation personnel, and other qualified personnel facilitate the accomplishment of the employment outcomes and objectives of an individual.

''(F) Individuals with disabilities and the individuals' representatives are full partners in a vocational rehabilitation program and must be involved on a regular basis and in a meaningful manner with respect to policy development and implementation.

''(G) Accountability measures must facilitate the accomplishment of the goals and objectives of the program, including providing vocational rehabilitation services to, among others, individuals with the most significant disabilities.

''(b) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—For the purpose of making grants to States under part B to assist States in meeting the costs of vocational rehabilitation services provided in accordance with State plans under section 101, there are authorized to be appropriated such sums as may be necessary for fiscal years 1998 through 2004, except that the amount to be appropriated for a fiscal year shall not be less than the amount of the appropriation under this paragraph for the immediately preceding fiscal year, increased by the percentage change in the Consumer Price Index determined under subsection (c) for the immediately preceding fiscal year.

''(2) REFERENCE.—The reference in paragraph (1) to grants to States under part B shall not be considered to refer to grants under section 112.

''(c) CONSUMER PRICE INDEX.—

''(1) PERCENTAGE CHANGE.—No later than November 15 of each fiscal year (beginning with fiscal year 1979), the Secretary of Labor shall publish in the Federal Register the percentage change in the Consumer Price Index published for October of the preceding fiscal year and October of the fiscal year in which such publication is made.

''(2) APPLICATION.—

''(A) INCREASE.—If in any fiscal year the percentage change published under paragraph (1) indicates an increase in the Consumer Price Index, then the amount to be appropriated under subsection (b)(1) for the subsequent fiscal year shall be at least the amount appropriated under subsection (b)(1) for the fiscal year in which the publication is made under paragraph (1) increased by such percentage change.

''(B) NO INCREASE OR DECREASE.—If in any fiscal year the percentage change published under paragraph (1) does not indicate an increase in the Consumer Price Index, then the amount to be appropriated under subsection (b)(1) for the subsequent fiscal year shall be at least the amount appropriated under subsection (b)(1) for the fiscal year in which the publication is made under paragraph (1).

''(3) DEFINITION.—For purposes of this section, the term 'Consumer Price Index' means the Consumer Price Index for All Urban Consumers, published monthly by the Bureau of Labor Statistics.

''(d) EXTENSION.—

''(1) IN GENERAL.—

''(A) AUTHORIZATION OR DURATION OF PROGRAM.—Unless the Congress in the regular session which ends prior to the beginning of the terminal fiscal year—

''(i) of the authorization of appropriations for the program authorized by the State grant program under part B of this title; or

''(ii) of the duration of the program authorized by the State grant program under part B of this title;

has passed legislation which would have the effect of extending the authorization or duration (as the case may be) of such program, such authorization or duration is automatically extended for 1 additional year for the program authorized by this title.

''(B) CALCULATION.—The amount authorized to be appropriated for the additional fiscal year described in subparagraph (A) shall be an amount equal to the amount appropriated for such program for fiscal year 2004, increased by the percentage change in the Consumer Price Index determined under subsection (c) for the immediately preceding fiscal year, if the percentage change indicates an increase.

''(2) CONSTRUCTION.—

''(A) PASSAGE OF LEGISLATION.—For the purposes of paragraph (1)(A), Congress shall not be deemed to have passed legislation unless such legislation becomes law.

''(B) ACTS OR DETERMINATIONS OF COMMISSIONER.—In any case where the Commissioner is required under an applicable statute to carry out certain acts or make certain determinations which are necessary for the continuation of the program authorized by this title, if such acts or determinations are required during the terminal year of such program, such acts and determinations shall be required during any fiscal year in which the extension described in that part of paragraph (1) that follows clause (ii) of paragraph (1)(A) is in effect.

**"SEC. 101. STATE PLANS.**

''(a) PLAN REQUIREMENTS.—

''(1) IN GENERAL.—

''(A) SUBMISSION.—To be eligible to participate in programs under this title, a State shall submit to the Commissioner a State plan for vocational rehabilitation services that meets the requirements of this section, on the same date that the State submits a State plan under section 304 of the Workforce Investment Partnership Act of 1998.

''(B) NONDUPLICATION.—The State shall not be required to submit, in the State plan for vocational rehabilitation services, policies, procedures, or descriptions required under this title that have been previously submitted to the Commissioner and that demonstrate that such State meets the requirements of this title, including any policies, procedures, or descriptions submitted under this title as in effect on the day before the effective date of the Rehabilitation Act Amendments of 1998.

''(C) DURATION.—The State plan shall remain in effect subject to the submission of such modifications as the State determines to be necessary or as the Commissioner may require based on a change in State policy, a change in Federal law (including regulations), an interpretation of this Act by a

Federal court or the highest court of the State, or a finding by the Commissioner of State noncompliance with the requirements of this Act, until the State submits and receives approval of a new State plan.

''(2) DESIGNATED STATE AGENCY; DESIGNATED STATE UNIT.—

''(A) DESIGNATED STATE AGENCY.—The State plan shall designate a State agency as the sole State agency to administer the plan, or to supervise the administration of the plan by a local agency, except that—

''(i) where, under State law, the State agency for individuals who are blind or another agency that provides assistance or services to adults who are blind is authorized to provide vocational rehabilitation services to individuals who are blind, that agency may be designated as the sole State agency to administer the part of the plan under which vocational rehabilitation services are provided for individuals who are blind (or to supervise the administration of such part by a local agency) and a separate State agency may be designated as the sole State agency to administer or supervise the administration of the rest of the State plan;

''(ii) the Commissioner, on the request of a State, may authorize the designated State agency to share funding and administrative responsibility with another agency of the State or with a local agency in order to permit the agencies to carry out a joint program to provide services to individuals with disabilities, and may waive compliance, with respect to vocational rehabilitation services furnished under the joint program, with the requirement of paragraph (4) that the plan be in effect in all political subdivisions of the State; and

''(iii) in the case of American Samoa, the appropriate State agency shall be the Governor of American Samoa.

''(B) DESIGNATED STATE UNIT.—The State agency designated under subparagraph (A) shall be—

''(i) a State agency primarily concerned with vocational rehabilitation, or vocational and other rehabilitation, of individuals with disabilities; or

''(ii) if not such an agency, the State agency (or each State agency if 2 are so designated) shall include a vocational rehabilitation bureau, division, or other organizational unit that—

''(I) is primarily concerned with vocational rehabilitation, or vocational and other rehabilitation, of individuals with disabilities, and is responsible for the vocational rehabilitation program of the designated State agency;

''(II) has a full-time director;

''(III) has a staff employed on the rehabilitation work of the organizational unit all or substantially all of whom are employed full time on such work; and

''(IV) is located at an organizational level and has an organizational status within the designated State agency comparable to that of other major organizational units of the designated State agency.

''(C) RESPONSIBILITY FOR SERVICES FOR THE BLIND.—If the State has designated only 1 State agency pursuant to subparagraph (A), the State may assign responsibility for the part of the plan under which vocational rehabilitation services are provided for individuals who are blind to an organizational unit of the designated State agency and assign responsibility for the rest of the plan to another organizational unit of the designated State agency, with the provisions of subparagraph (B) applying separately to each of the designated State units.

''(3) NON-FEDERAL SHARE.—The State plan shall provide for financial participation by the State, or if the State so elects, by the State and local agencies, to provide the amount of the non-Federal share of the cost of carrying out part B.

''(4) STATEWIDENESS.—The State plan shall provide that the plan shall be in effect in all political subdivisions of the State, except that in the case of any activity that, in the judgment of the Commissioner, is likely to assist in promoting the vocational rehabilitation of substantially larger numbers of individuals with disabilities or groups of individuals with disabilities, the Commissioner may waive compliance with the requirement that the plan be in effect in all political subdivisions of the State to the extent and for such period as may be provided in accordance with regulations prescribed by the Commissioner. The Commissioner may waive compliance with the requirement only if the non-Federal share of the cost of the vocational rehabilitation services is provided from funds made available by a local agency (including, to the extent permitted by such regulations, funds contributed to such agency by a private agency, organization, or individual).

''(5) ORDER OF SELECTION FOR VOCATIONAL REHABILITATION SERVICES.—In the event that vocational rehabilitation services cannot be provided to all eligible individuals with disabilities in the State who apply for the services, the State plan shall—

''(A) show the order to be followed in selecting eligible individuals to be provided vocational rehabilitation services;

''(B) provide the justification for the order of selection;

''(C) include an assurance that, in accordance with criteria established by the State for the order of selection, individuals with the most significant disabilities will be selected first for the provision of vocational rehabilitation services; and

''(D) provide that eligible individuals, who do not meet the order of selection criteria, shall have access to services provided through the information and referral system implemented under paragraph (20).

''(6) METHODS FOR ADMINISTRATION.—

''(A) IN GENERAL.—The State plan shall provide for such methods of administration as are found by the Commissioner to be necessary for the proper and efficient administration of the plan.

''(B) EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES.—The State plan shall provide that the designated State agency, and entities carrying out community rehabilitation programs in the State, who are in receipt of assistance under this title shall take affirmative action to employ and advance in employment qualified individuals with disabilities covered under, and on the same terms and conditions as set forth in, section 503.

''(C) PERSONNEL AND PROGRAM STANDARDS FOR COMMUNITY REHABILITATION PROGRAMS.—The State plan shall provide that the designated State unit shall establish, maintain, and implement minimum standards for community rehabilitation programs providing services to individuals under this title, including—

''(i) standards—

''(I) governing community rehabilitation programs and qualified personnel utilized for the provision of vocational rehabilitation services through such programs; and

''(II) providing, to the extent that providers of vocational rehabilitation services utilize personnel who do not meet the highest requirements in the State applicable to a particular profession or discipline, that the providers shall take steps to ensure the retraining or hiring of personnel so that such personnel meet appropriate professional standards in the State; and

''(ii) minimum standards to ensure the availability of personnel, to the maximum extent feasible, trained to communicate in the native language or mode of communication of an individual receiving services through such programs.

''(D) FACILITIES.—The State plan shall provide that facilities used in connection with the delivery of services assisted under the State plan shall comply with the Act entitled 'An Act to insure that certain buildings financed with Federal funds are so designed and constructed as to be accessible to the physically handicapped', approved on August 12, 1968 (commonly known as the 'Architectural Barriers Act of 1968'), with section 504, and with the Americans with Disabilities Act of 1990.

''(7) COMPREHENSIVE SYSTEM OF PERSONNEL DEVELOPMENT.—The State plan shall include—

''(A) a description, consistent with the purposes of this Act, of a comprehensive system of personnel development for personnel involved in carrying out this title, which, at a minimum, shall consist of—

''(i) a description of the procedures and activities the designated State agency will implement and undertake to address the current and projected needs for personnel, and training needs of such personnel, in the designated State unit to ensure that the personnel are adequately trained and prepared;

''(ii) a plan to coordinate and facilitate efforts between the designated State unit and institutions of higher education and professional associations to recruit, prepare, and retain qualified personnel, including personnel from culturally or linguistically diverse backgrounds, and personnel that include individuals with disabilities;

''(iii) a description of policies and procedures on the establishment and maintenance of reasonable standards to ensure that personnel, including professionals and paraprofessionals, are adequately trained and prepared, including—

''(I) standards that are consistent with any national or State approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which such personnel are providing vocational rehabilitation services; and

''(II) to the extent that such standards are not based on the highest requirements in the State applicable to a particular profession or discipline, the steps the State will take to ensure the retraining or hiring of personnel within the designated State unit so that such personnel meet appropriate professional standards in the State;

''(iv) a description of a system for evaluating the performance of vocational rehabilitation counselors, coordinators, and other personnel used in the State, including a description of how the system facilitates the accomplishment of the purpose and policy of this title, including the policy of serving individuals with the most significant disabilities;

''(v) a description of standards to ensure the availability of personnel within the designated State unit who are, to the maximum extent feasible, trained to communicate in the native language or mode of communication of an applicant or eligible individual; and

''(vi) a detailed description, including a budget, of how the funds reserved under subparagraph (B) will be expended to carry out the comprehensive system for personnel development, including the provision of in-service training for personnel of the designated State unit;

''(B) assurances that—

''(i) at a minimum, the State will reserve from the allotment made to the State under section 110 an amount to carry out the comprehensive system of personnel development, including the provision of in-service training for personnel of the designated State unit;

''(ii) for fiscal year 1999, the amount reserved will be equal to the amount of the funds the State received for fiscal year 1998 to provide in-service training under section 302, or for any State that did not receive those funds for fiscal year 1998, an amount determined by the Commissioner; and

''(iii) for each subsequent year, the amount reserved under this subparagraph will be equal to the amount reserved under this subparagraph for the previous fiscal year, increased by the percentage change in the Consumer Price Index published under section 100(c) in such previous fiscal year, if the percentage change indicates an increase; and

''(C) an assurance that the standards adopted by a State in accordance with subparagraph (A)(iii) shall not permit discrimination on the basis of disability with regard to training and hiring.

''(8) COMPARABLE SERVICES AND BENEFITS.—

''(A) DETERMINATION OF AVAILABILITY.—

''(i) IN GENERAL.—The State plan shall include an assurance that, prior to providing any vocational rehabilitation service to an eligible individual, except those services specified in paragraph (5)(D) and in paragraphs (1) through (4) and (14) of section 103(a), the designated State unit will determine whether comparable services and benefits are available under any other program (other than a program carried out under this title) unless such a determination would interrupt or delay—

''(I) the progress of the individual toward achieving the employment outcome identified in the individualized rehabilitation employment plan of the individual in accordance with section 102(b); or

''(II) the provision of such service to any individual at extreme medical risk.

''(ii) AWARDS AND SCHOLARSHIPS.—For purposes of clause (i), comparable benefits do not include awards and scholarships based on merit.

''(B) INTERAGENCY AGREEMENT.—The State plan shall include an assurance that the Chief Executive Officer of the State or the designee of such officer will ensure that an interagency agreement or other mechanism for interagency coordination takes effect between any appropriate public entity, including a component of the statewide workforce investment system, and the designated State unit, in order to ensure the provision of vocational rehabilitation services described in subparagraph (A) (other than those services specified in paragraph (5)(D), and in paragraphs (1) through (4) and (14) of section 103(a)), that are included in the individualized rehabilitation employment plan of an eligible individual, including the provision of such vocational rehabilitation services during the pendency of any dispute described in clause (iii). Such agreement or mechanism shall include the following:

''(i) AGENCY FINANCIAL RESPONSIBILITY.—An identification of, or a description of a method for defining, the financial responsibility of such public entity for providing such services, and a provision stating that the financial responsibility of such public entity for providing such services, including the financial responsibility of the State agency responsible for administering the medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), other public agencies, and public institutions of higher education, shall precede the financial responsibility of the designated State unit especially with regard to the provision of auxiliary aids and services to the maximum extent allowed by law.

''(ii) CONDITIONS, TERMS, AND PROCEDURES OF REIMBURSEMENT.—Information specifying the conditions, terms, and procedures under which a designated State unit shall pursue and obtain reimbursement by other public agencies for providing such services.

''(iii) INTERAGENCY DISPUTES.—Information specifying procedures for resolving interagency disputes under the agreement or other mechanism (including procedures under which the designated State unit may initiate proceedings to secure reimbursement from other agencies or otherwise implement the provisions of the agreement or mechanism).

''(iv) COORDINATION OF SERVICES PROCEDURES.—Information specifying policies and procedures for agencies to determine and identify the interagency coordination responsibilities of each agency to promote the coordination and timely delivery of vocational rehabilitation services (except those services specified in paragraph (5)(D) and in paragraphs (1) through (4) and (14) of section 103(a)).

''(C) RESPONSIBILITIES OF OTHER AGENCIES.—

''(i) RESPONSIBILITIES UNDER OTHER LAW.—Notwithstanding subparagraph (B), if any public agency other than a designated State unit is obligated under Federal or State law, or assigned responsibility under State policy or under this paragraph, to provide or pay for any services that are also considered to be vocational rehabilitation services (other than those specified in paragraph (5)(D) and in paragraphs (1) through (4) and (14) of section 103(a)), such public agency shall fulfill that obligation or responsibility, either directly or by contract or other arrangement.

''(ii) REIMBURSEMENT.—In a case in which a public agency other than the designated State unit fails to fulfill the financial responsibility of the agency described in this paragraph to provide services described in clause (i), the designated State unit may claim reimbursement from such public agency for such services. Such public agency shall reimburse the designated State unit pursuant to the terms of the interagency agreement or other mechanism in effect under this paragraph according to the procedures established pursuant to subparagraph (B)(ii).

''(D) METHODS.—The Chief Executive Officer of a State may meet the requirements of subparagraph (B) through—

''(i) a State statute or regulation;

''(ii) a signed agreement between the respective agency officials that clearly identifies the responsibilities of each agency relating to the provision of services; or

''(iii) another appropriate method, as determined by the designated State unit.

''(9) INDIVIDUALIZED REHABILITATION EMPLOYMENT PLAN.—

''(A) DEVELOPMENT AND IMPLEMENTATION.—The State plan shall include an assurance that an individualized rehabilitation employment plan meeting the requirements of section 102(b) will be developed and implemented in a timely manner for an individual subsequent to the determination of the eligibility of the individual for services under this title, except that in a State operating under an order of selection described in paragraph (5), the plan will be developed and implemented only for individuals meeting the order of selection criteria of the State.

''(B) PROVISION OF SERVICES.—The State plan shall include an assurance that such services will be provided in accordance with the provisions of the individualized rehabilitation employment plan.

''(10) REPORTING REQUIREMENTS.—

''(A) IN GENERAL.—The State plan shall include an assurance that the designated State agency will submit reports in the form and level of detail and at the time required by the Commissioner regarding applicants for, and eligible individuals receiving, services under this title.

''(B) ANNUAL REPORTING.—In specifying the information to be submitted in the reports, the Commissioner shall require annual reporting on the eligible individuals receiving the services, on those specific data elements described in section 321(d)(2) of the Workforce Investment Partnership Act of 1998 that are determined by the Secretary to be relevant in assessing the performance of designated State units in carrying out the vocational rehabilitation program established under this title.

''(C) ADDITIONAL DATA.—In specifying the information required to be submitted in the reports, the Commissioner shall require additional data with regard to applicants and eligible individuals related to—

''(i) the number of applicants and the number of individuals determined to be eligible or ineligible for the program carried out under this title, including—

''(I) the number of individuals determined to be ineligible because they did not require vocational rehabilitation services, as provided in section 102(a); and

''(II) the number of individuals determined, on the basis of clear and convincing evidence, to be too severely disabled to benefit in terms of an employment outcome from vocational rehabilitation services;

''(ii) the number of individuals who received vocational rehabilitation services through the program, including—

''(I) the number who received services under paragraph (5)(D), but not assistance under an individualized rehabilitation employment plan; and

''(II) the number who received assistance under an individualized rehabilitation employment plan consistent with section 102(b);

''(iii) the number of individuals receiving public assistance and the amount of the public assistance on the date of application and on the last date of participation in the program carried out under this title;

''(iv) the number of individuals with disabilities who ended their participation in the program and the number who achieved employment outcomes after receiving vocational rehabilitation services; and

''(v) the number of individuals who ended their participation in the program and who were employed 6 months and 12 months after securing or regaining employment, or, in the case of individuals whose employment outcome was to retain or advance in employment, who were employed 6 months and 12 months after achieving their employment outcome, including—

''(I) the number of such individuals who earned the minimum wage rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or another wage level set by the Commissioner, during such employment;

''(II) the number of such individuals who received employment benefits from an employer during such employment; and

''(III) the number of such individuals whose public assistance was terminated or reduced after such participation;

''(D) COSTS AND RESULTS.—The Commissioner shall also require that the designated State agency include in the reports information on—

''(i) the costs under this title of conducting administration, providing assessment services, counseling and guidance, and other direct services provided by designated State agency staff, providing services purchased under individualized rehabilitation employment plans, supporting small business enterprises, establishing, developing, and improving community rehabilitation programs, and providing other services to groups; and

''(ii) the results of annual evaluation by the State of program effectiveness under paragraph (15)(E).

''(E) ADDITIONAL INFORMATION.—The Commissioner shall require that each designated State unit include in the reports additional information related to the applicants and eligible individuals, obtained either through a complete count or sampling, including—

''(i) information on—

''(I) age, gender, race, ethnicity, education, type of impairment, severity of disability, and whether the individuals are students described in clause (i) or (ii)(II) of paragraph (11)(D);

''(II) dates of application, determination of eligibility or ineligibility, initiation of the individualized rehabilitation employment plan, and termination of participation in the program;

''(III) earnings at the time of application for the program and termination of participation in the program;

''(IV) work status and occupation;

''(V) types of services, including assistive technology services and assistive technology devices, provided under the program;

''(VI) types of public or private programs or agencies that furnished services under the program; and

''(VII) the reasons for individuals terminating participation in the program without achieving an employment outcome; and

''(ii) information necessary to determine the success of the State in meeting—

''(I) the State performance measures established under section 321(b) of the Workforce Investment Partnership Act of 1998 to the extent the measures are applicable to individuals with disabilities; and

''(II) the standards and indicators established pursuant to section 106.

''(F) COMPLETENESS AND CONFIDENTIALITY.—The State plan shall include an assurance that the information submitted in the reports will include a complete count, except as provided in subparagraph (E), of the applicants and eligible individuals, in a manner permitting the greatest possible cross-classification of data and that the identity of each individual for which information is supplied under this paragraph will be kept confidential.

''(11) COOPERATION, COLLABORATION, AND COORDINATION.—

''(A) COOPERATIVE AGREEMENTS WITH OTHER COMPONENTS OF STATEWIDE WORKFORCE INVESTMENT SYSTEMS.—The State plan shall provide that the designated State unit or designated State agency shall enter into a cooperative agreement with other entities that are components of the statewide workforce investment system of the State, regarding the system, which agreement may provide for—

''(i) provision of intercomponent staff training and technical assistance with regard to—

''(I) the availability and benefits of, and eligibility standards for, vocational rehabilitation services; and

''(II) the promotion of equal, effective, and meaningful participation by individuals with disabilities in workforce investment activities in the State through the promotion of program accessibility, the use of nondiscriminatory policies and procedures, and the provision of reasonable accommodations, auxiliary aids and services, and rehabilitation technology, for individuals with disabilities;

''(ii) use of information and financial management systems that link all components of the statewide workforce investment system, that link the components to other electronic networks, including nonvisual electronic networks, and that relate to such subjects as labor market information, and information on job vacancies, career planning, and workforce investment activities;

''(iii) use of customer service features such as common intake and referral procedures, customer databases, resource information, and human services hotlines;

''(iv) establishment of cooperative efforts with employers to—

''(I) facilitate job placement; and

''(II) carry out any other activities that the designated State unit and the employers determine to be appropriate;

''(v) identification of staff roles, responsibilities, and available resources, and specification of the financial responsibility of each component of the statewide workforce investment system with regard to paying for necessary services (consistent with State law and Federal requirements); and

''(vi) specification of procedures for resolving disputes among such components.

''(B) REPLICATION OF COOPERATIVE AGREEMENTS.—The State plan shall provide for the replication of such cooperative agreements at the local level between individual offices of the designated State unit and local entities carrying out activities through the statewide workforce investment system.

''(C) INTERAGENCY COOPERATION WITH OTHER AGENCIES.—The State plan shall include descriptions of interagency cooperation with, and utilization of the services and facilities of, the Federal, State, and local agencies and programs that are not carrying out activities through the statewide workforce investment system.

''(D) COORDINATION WITH EDUCATION OFFICIALS.—The State plan shall contain plans, policies, and procedures for coordination between the designated State agency and education officials that are designed to facilitate the transition of students who are individuals with disabilities described in section 7(20)(B) from the receipt of educational services in school to the receipt of vocational rehabilitation services under this title, including information on a formal interagency agreement with the State educational agency that, at a minimum, provides for—

''(i) consultation and technical assistance to assist educational agencies in planning for the transition of students who are individuals with disabilities described in section 7(20)(B) from school to post-school activities, including vocational rehabilitation services;

''(ii)(I) transition planning by personnel of the designated State agency and educational agency personnel for students with disabilities described in clause (i) that facilitates the development and completion of their individualized education programs under section 614(d) of the Individuals with Disabilities Education Act (as added by section 101 of Public Law 105–17); and

''(II) transition planning and services for students who are eligible to receive services under this title and who will be exiting school in the school year in which the planning and services are provided;

''(iii) the roles and responsibilities, including financial responsibilities, of each agency, including provisions for determining State lead agencies and qualified personnel responsible for the transition services described in clause (ii)(II); and

''(iv) procedures for outreach to and identification of students with disabilities described in clause (ii)(II) who need the transition services.

''(E) COORDINATION WITH STATEWIDE INDEPENDENT LIVING COUNCILS AND INDEPENDENT LIVING CENTERS.—The State plan shall include an assurance that the designated State unit, the Statewide Independent Living Council established under section 705, and the independent living centers described in part C of title VII within the State have developed working relationships and coordinate their activities.

''(F) COOPERATIVE AGREEMENT WITH RECIPIENTS OF GRANTS FOR SERVICES TO AMERICAN INDIANS.—In applicable cases, the State plan shall include an assurance that the State has entered into a formal cooperative agreement with each grant recipient in the State that receives funds under part C. The agreement shall describe strategies for collaboration and coordination in providing vocational rehabilitation services to American Indians who are individuals with disabilities, including—

''(i) strategies for interagency referral and information sharing that will assist in eligibility determinations and the development of individualized rehabilitation employment plans;

''(ii) procedures for ensuring that American Indians who are individuals with disabilities and are living near a reservation or tribal service area are provided vocational rehabilitation services; and

''(iii) provisions for sharing resources in cooperative studies and assessments, joint training activities, and other collaborative activities designed to improve the provision of services to American Indians who are individuals with disabilities.

''(12) RESIDENCY.—The State plan shall include an assurance that the State will not impose a residence requirement that excludes from services provided under the plan any individual who is present in the State.

''(13) SERVICES TO AMERICAN INDIANS.—The State plan shall include an assurance that, except as otherwise provided in part C, the designated State agency will provide vocational rehabilitation services to American Indians who are individuals with disabilities residing in the State to the same extent as the designated State agency provides such services to other significant populations of individuals with disabilities residing in the State.

''(14) ANNUAL REVIEW OF INDIVIDUALS IN EXTENDED EMPLOYMENT OR OTHER EMPLOYMENT UNDER SPECIAL CERTIFICATE PROVISIONS OF THE FAIR LABOR STANDARDS ACT OF 1938.—The State plan shall provide for—

''(A) an annual review and reevaluation of the status of each individual with a disability served under this title who has achieved an employment outcome either in an extended employment setting in a community rehabilitation program or any other employment under section 14(c) of the Fair Labor Standards Act (29 U.S.C. 214(c)) for 2 years after the achievement of the outcome (and annually thereafter if requested by the individual or, if appropriate, the individual's representative), to determine the interests, priorities, and needs of the individual with respect to competitive employment or training for competitive employment;

''(B) input into the review and reevaluation, and a signed acknowledgement that such review and reevaluation have been conducted, by the individual with a disability, or, if appropriate, the individual's representative; and

''(C) maximum efforts, including the identification and provision of vocational rehabilitation services, reasonable accommodations, and other necessary support services, to assist the individuals described in subparagraph (A) in engaging in competitive employment.

''(15) ANNUAL STATE GOALS AND REPORTS OF PROGRESS.—

''(A) ASSESSMENTS AND ESTIMATES.—The State plan shall—

''(i) include the results of a comprehensive, statewide assessment, jointly conducted by the designated State unit and the State Rehabilitation Council (if the State has such a Council) every 3 years, describing the rehabilitation needs of individuals with disabilities residing within the State, particularly the vocational rehabilitation services needs of—

''(I) individuals with the most significant disabilities, including their need for supported employment services;

''(II) individuals with disabilities who are minorities and individuals with disabilities who have been unserved or underserved by the vocational rehabilitation program carried out under this title; and

''(III) individuals with disabilities served through other components of the statewide workforce investment system (other than the vocational rehabilitation program), as identified by such individuals and personnel assisting such individuals through the components;

''(ii) include an assessment of the need to establish, develop, or improve community rehabilitation programs within the State; and

''(iii) provide that the State shall submit to the Commissioner a report containing information regarding updates to the assessments, for any year in which the State updates the assessments.

''(B) ANNUAL ESTIMATES.—The State plan shall include, and shall provide that the State shall annually submit a report to the Commissioner that includes, State estimates of—

''(i) the number of individuals in the State who are eligible for services under this title;

''(ii) the number of such individuals who will receive services provided with funds provided under part B and under part C of title VI, including, if the designated State agency uses an order of selection in accordance with paragraph (5), estimates of the number of individuals to be served under each priority category within the order; and

''(iii) the costs of the services described in clause (i), including, if the designated State agency uses an order of selection in accordance with paragraph (5), the service costs for each priority category within the order.

''(C) GOALS AND PRIORITIES.—

''(i) IN GENERAL.—The State plan shall identify the goals and priorities of the State in carrying out the program. The goals and priorities shall be jointly developed, agreed to, and reviewed annually by the designated State unit and the State Rehabilitation Council, if the State has such a Council. Any revisions to the goals and priorities shall be jointly agreed to by the designated State unit and the State Rehabilitation Council, if the State has such a Council. The State plan shall provide that the State shall submit to the Commissioner a report containing information regarding revisions in the goals and priorities, for any year in which the State revises the goals and priorities.

''(ii) BASIS.—The State goals and priorities shall be based on an analysis of—

''(I) the comprehensive assessment described in subparagraph (A), including any updates to the assessment;

''(II) the performance of the State on the standards and indicators established under section 106; and

''(III) other available information on the operation and the effectiveness of the vocational rehabilitation program carried out in the State, including any reports received from the State Rehabilitation Council, under section 105(c) and the findings and recommendations from monitoring activities conducted under section 107.

''(iii) SERVICE AND OUTCOME GOALS FOR CATEGORIES IN ORDER OF SELECTION.—If the designated State agency uses an order of selection in accordance with paragraph (5), the State shall also identify in the State plan service and outcome goals and the time within which these goals may be achieved for individuals in each priority category within the order.

''(D) STRATEGIES.—The State plan shall contain a description of the strategies the State will use to address the needs identified in the assessment conducted under subparagraph (A) and achieve the goals and priorities identified in subparagraph (C), including—

''(i) the methods to be used to expand and improve services to individuals with disabilities, including how a broad range of assistive technology services and assistive technology devices will be provided to such individuals at each stage of the rehabilitation process and how such services and devices will be provided to such individuals on a statewide basis;

''(ii) outreach procedures to identify and serve individuals with disabilities who are minorities and individuals with disabilities who have been unserved or underserved by the vocational rehabilitation program;

''(iii) where necessary, the plan of the State for establishing, developing, or improving community rehabilitation programs;

''(iv) strategies to improve the performance of the State with respect to the evaluation standards and performance indicators established pursuant to section 106; and

''(v) strategies for assisting entities carrying out other components of the statewide workforce investment system (other than the vocational rehabilitation program) in assisting individuals with disabilities.

''(E) EVALUATION AND REPORTS OF PROGRESS.—The State plan shall—

''(i) include the results of an evaluation of the effectiveness of the vocational rehabilitation program, and a joint report by the designated State unit and the State Rehabilitation Council, if the State has such a Council, to the Commissioner on the progress made in improving the effectiveness from the previous year, which evaluation and report shall include—

''(I) an evaluation of the extent to which the goals identified in subparagraph (C) were achieved;

''(II) a description of strategies that contributed to achieving the goals;

''(III) to the extent to which the goals were not achieved, a description of the factors that impeded that achievement; and

''(IV) an assessment of the performance of the State on the standards and indicators established pursuant to section 106; and

''(ii) provide that the designated State unit and the State Rehabilitation Council, if the State has such a Council, shall jointly submit to the Commissioner an annual report that contains the information described in clause (i).

''(16) PUBLIC COMMENT.—The State plan shall—

''(A) provide that the designated State agency, prior to the adoption of any policies or procedures governing the provision of vocational rehabilitation services under the State plan (including making any amendment to such policies and procedures), shall conduct public meetings throughout the State, after providing adequate notice of the meetings, to provide the public, including individuals with disabilities, an opportunity to comment on the policies or procedures, and actively consult with the Director of the client assistance program carried out under section 112, and, as appropriate, Indian tribes, tribal organizations, and Native Hawaiian organizations on the policies or procedures; and

''(B) provide that the designated State agency (or each designated State agency if 2 agencies are designated) and any sole agency administering the plan in a political subdivision of the State, shall take into account, in connection with matters of general policy arising in the administration of the plan, the views of—

''(i) individuals and groups of individuals who are recipients of vocational rehabilitation services, or in appropriate cases, the individuals' representatives;

''(ii) personnel working in programs that provide vocational rehabilitation services to individuals with disabilities;

''(iii) providers of vocational rehabilitation services to individuals with disabilities;

''(iv) the director of the client assistance program; and

''(v) the State Rehabilitation Council, if the State has such a Council.

''(17) PROHIBITION ON USE OF FUNDS FOR CONSTRUCTION OF FACILITIES.—The State plan shall contain an assurance that the State will not use any funds made available under this title for the construction of facilities.

''(18) INNOVATION AND EXPANSION ACTIVITIES.—The State plan shall—

''(A) include an assurance that the State will reserve and use a portion of the funds allotted to the State under section 110—

''(i) for the development and implementation of innovative approaches to expand and improve the provision of vocational rehabilitation services to individuals with disabilities under this title, particularly individuals with the most significant disabilities, consistent with the findings of the statewide assessment and goals and priorities of the State as described in paragraph (15); and

''(ii) to support the funding of—

''(I) the State Rehabilitation Council, if the State has such a Council, consistent with the plan prepared under section 105(d)(1); and

''(II) the Statewide Independent Living Council, consistent with the plan prepared under section 705(e)(1);

''(B) include a description of how the reserved funds will be utilized; and

''(C) provide that the State shall submit to the Commissioner an annual report containing a description of how the reserved funds will be utilized.

''(19) CHOICE.—The State plan shall include an assurance that applicants and eligible individuals or, as appropriate, the applicants' representatives or individuals' representatives, will be provided information and support services to assist the applicants and individuals in exercising informed choice throughout the rehabilitation process, consistent with the provisions of section 102(d).

''(20) INFORMATION AND REFERRAL SERVICES.—

''(A) IN GENERAL.—The State plan shall include an assurance that the designated State agency will implement an information and referral system adequate to ensure that individuals with disabilities will be provided accurate vocational rehabilitation information, using appropriate modes of communication, to assist such individuals in preparing for, securing, retaining, or regaining employment, and will be appropriately referred to Federal and State programs (other than the vocational rehabilitation program carried out under this title), including other components of the statewide workforce investment system in the State.

''(B) SERVICES.—In providing activities through the system established under subparagraph (A), the State may include services consisting of the provision of individualized counseling and guidance, individualized vocational exploration, supervised job placement referrals, and assistance in securing reasonable accommodations for eligible individuals who do not meet the order of selection criteria used by the State, to the extent that such services are not purchased by the designated State unit.

''(21) STATE INDEPENDENT CONSUMER-CONTROLLED COMMISSION; STATE REHABILITATION COUNCIL.—

''(A) COMMISSION OR COUNCIL.—The State plan shall provide that either—

''(i) the designated State agency is an independent commission that—

''(I) is responsible under State law for operating, or overseeing the operation of, the vocational rehabilitation program in the State;

''(II) is consumer-controlled by persons who—

''(aa) are individuals with physical or mental impairments that substantially limit major life activities; and

''(bb) represent individuals with a broad range of disabilities, unless the designated State unit under the direction of the commission is the State agency for individuals who are blind;

''(III) includes family members, advocates, or other representatives, of individuals with mental impairments; and

''(IV) undertakes the functions set forth in section 105(c)(4); or

''(ii) the State has established a State Rehabilitation Council that meets the criteria set forth in section 105 and the designated State unit—

''(I) in accordance with paragraph (15), jointly develops, agrees to, and reviews annually State goals and priorities, and jointly submits annual reports of progress with the Council;

''(II) regularly consults with the Council regarding the development, implementation, and revision of State policies and procedures of general applicability pertaining to the provision of vocational rehabilitation services;

''(III) includes in the State plan and in any revision to the State plan, a summary of input provided by the Council, including recommendations from the annual report of the Council described in section 105(c)(5), the review and analysis of consumer satisfaction described in section 105(c)(4), and other reports prepared by the Council, and the response of the designated State unit to such input and recommendations, including explanations for rejecting any input or recommendation; and

''(IV) transmits to the Council—

''(aa) all plans, reports, and other information required under this title to be submitted to the Secretary;

''(bb) all policies, and information on all practices and procedures, of general applicability provided to or used by rehabilitation personnel in carrying out this title; and

''(cc) copies of due process hearing decisions issued under this title, which shall be transmitted in such a manner as to ensure that the identity of the participants in the hearings is kept confidential.

''(B) MORE THAN 1 DESIGNATED STATE AGENCY.—In the case of a State that, under section 101(a)(2), designates a State agency to administer the part of the State plan under which vocational rehabilitation services are provided for individuals who are blind (or to supervise the administration of such part by a local agency) and designates a separate State agency to administer the rest of the State plan, the State shall either establish a State Rehabilitation Council for each of the 2 agencies that does not meet the requirements in subparagraph (A)(i), or establish 1 State Rehabilitation Council for both agencies if neither agency meets the requirements of subparagraph (A)(i).

''(22) SUPPORTED EMPLOYMENT STATE PLAN SUPPLEMENT.—The State plan shall include an assurance that the State has an acceptable plan for carrying out part C of title VI, including the use of funds under that part to supplement funds made available under part B of this title to pay for the cost of services leading to supported employment.

''(23) ELECTRONIC AND INFORMATION TECHNOLOGY REGULATIONS.—The State plan shall include an assurance that the State, and any recipient or subrecipient of funds made available to the State under this title—

''(A) will comply with the requirements of section 508, including the regulations established under that section; and

''(B) will designate an employee to coordinate efforts to comply with section 508 and will adopt grievance procedures that incorporate due process standards and provide for the prompt and equitable resolution of complaints concerning such requirements.

''(24) ANNUAL UPDATES.—The plan shall include an assurance that the State will submit to the Commissioner reports containing annual updates of the information required under paragraph (7) (relating to a comprehensive system of personnel development) and any other updates of the information required under this section that are requested by the Commissioner, and annual reports as provided in paragraphs (15) (relating to assessments, estimates, goals and priorities, and reports of progress) and (18) (relating to innovation and expansion), at such time and in such manner as the Secretary may determine to be appropriate.

''(b) APPROVAL; DISAPPROVAL OF THE STATE PLAN.—

''(1) APPROVAL.—The Commissioner shall approve any plan that the Commissioner finds fulfills the conditions specified in this section, and shall disapprove any plan that does not fulfill such conditions.

''(2) DISAPPROVAL.—Prior to disapproval of the State plan, the Commissioner shall notify the State of the intention to disapprove the plan and shall afford the State reasonable notice and opportunity for a hearing.

**''SEC. 102. ELIGIBILITY AND INDIVIDUALIZED REHABILITATION EMPLOYMENT PLAN.**

''(a) ELIGIBILITY.—

''(1) CRITERION FOR ELIGIBILITY.—An individual is eligible for assistance under this title if the individual—

''(A) is an individual with a disability under section 7(20)(A); and

''(B) requires vocational rehabilitation services to prepare for, secure, retain, or regain employment.

''(2) PRESUMPTION OF BENEFIT.—

''(A) DEMONSTRATION.—For purposes of this section, an individual shall be presumed to be an individual that can benefit in terms of an employment outcome from vocational rehabilitation services under section 7(20)(A), unless the designated State unit involved can demonstrate by clear and convincing evidence that such individual is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services due to the severity of the disability of the individual.

''(B) METHODS.—In making the demonstration required under subparagraph (A), the designated State unit shall explore the individual's abilities, capabilities, and capacity to perform in work situations, through the use of trial work experiences, as described in section 7(2)(D), with appropriate supports provided through the designated State unit, except under limited circumstances when an individual can not take advantage of such experiences. Such experiences shall be of sufficient variety and over a sufficient period of time to determine the eligibility of the individual or to determine the existence of clear and convincing evidence that the individual is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services due to the severity of the disability of the individual.

''(3) PRESUMPTION OF ELIGIBILITY.—For purposes of this section, an individual who has a disability or is blind as determined pursuant to title II or title XVI of the Social Security Act (42 U.S.C. 401 et seq. and 1381 et seq.) shall be—

''(A) considered to be an individual with a significant disability under section 7(21)(A); and

''(B) presumed to be eligible for vocational rehabilitation services under this title (provided that the individual intends to achieve an employment outcome consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual) unless the designated State unit involved can demonstrate by clear and convincing evidence that such individual is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services due to the severity of the disability of the individual in accordance with paragraph (2).

''(4) USE OF EXISTING INFORMATION.—

''(A) IN GENERAL.—To the maximum extent appropriate and consistent with the requirements of this part, for purposes of determining the eligibility of an individual for vocational rehabilitation services under this title and developing the individualized rehabilitation employment plan described in subsection (b) for the individual, the designated State unit shall use information that is existing and current (as of the date of the determination of eligibility or of the development of the individualized rehabilitation employment plan), including information available from other programs and providers, particularly information used by education officials and the Social Security Administration, information provided by the individual and the family of the individual, and information obtained under the assessment for determining eligibility and vocational rehabilitation needs.

''(B) DETERMINATIONS BY OFFICIALS OF OTHER AGENCIES.—Determinations made by officials of other agencies, particularly education officials described in section 101(a)(11)(D), regarding whether an individual satisfies 1 or more factors relating to whether an individual is an individual with a disability under section 7(20)(A) or an individual with a significant disability under section 7(21)(A) shall be used, to the extent appropriate and consistent with the requirements of this part, in assisting the designated State unit in making such determinations.

''(C) BASIS.—The determination of eligibility for vocational rehabilitation services shall be based on—

''(i) the review of existing data described in section 7(2)(A)(i); and

''(ii) to the extent that such data is unavailable or insufficient for determining eligibility, the provision of assessment activities described in section 7(2)(A)(ii).

''(5) DETERMINATION OF INELIGIBILITY.—If an individual who applies for services under this title is determined, based on the review of existing data and, to the extent necessary, the assessment activities described in section 7(2)(A)(ii), not to be eligible for the services, or if an eligible individual receiving services under an individualized rehabilitation employment plan is determined to be no longer eligible for the services—

''(A) the ineligibility determination involved shall be made only after providing an opportunity for full consultation with the individual or, as appropriate, the individual's representative;

''(B) the individual or, as appropriate, the individual's representative, shall be informed in writing (supplemented as necessary by other appropriate modes of communication consistent with the informed choice of the individual) of the ineligibility determination, including—

''(i) the reasons for the determination; and

''(ii) a description of the means by which the individual may express, and seek a remedy for, any dissatisfaction with the determination, including the procedures for review by an impartial hearing officer under subsection (c);

''(C) the individual shall be provided with a description of services available from the client assistance program under section 112 and information on how to contact that program; and

''(D) any ineligibility determination that is based on a finding that the individual is incapable of benefiting in terms of an employment outcome shall be reviewed—

''(i) within 12 months; and

''(ii) annually thereafter, if such a review is requested by the individual or, if appropriate, by the individual's representative.

''(6) TIMEFRAME FOR MAKING AN ELIGIBILITY DETERMINATION.—The designated State unit shall determine whether an individual is eligible for vocational rehabilitation services under this title within a reasonable period of time, not to exceed 60 days, after the individual has submitted an application for the services unless—

''(A) exceptional and unforeseen circumstances beyond the control of the designated State unit preclude making an eligibility determination within 60 days and the designated State unit and the individual agree to a specific extension of time; or

''(B) the designated State unit is exploring an individual's abilities, capabilities, and capacity to perform in work situations under paragraph (2)(B).

''(b) DEVELOPMENT OF AN INDIVIDUALIZED REHABILITATION EMPLOYMENT PLAN.—

''(1) OPTIONS FOR DEVELOPING AN INDIVIDUALIZED REHABILITATION EMPLOYMENT PLAN.—If an individual is determined to be eligible for vocational rehabilitation services as described in subsection (a), the designated State unit shall complete the assessment for determining eligibility and vocational rehabilitation needs, as appropriate, and shall provide the eligible individual or the individual's representative, in writing and in an appropriate mode of communication, with information on the individual's options for developing an individualized rehabilitation employment plan, including—

''(A) information on the availability of assistance, to the extent determined to be appropriate by the eligible individual, from a qualified vocational rehabilitation counselor in developing all or part of the individualized rehabilitation employment plan for the individual, and the availability of technical assistance in developing all or part of the individualized rehabilitation employment plan for the individual;

''(B) a description of the full range of components that shall be included in an individualized rehabilitation employment plan;

''(C) as appropriate—

''(i) an explanation of agency guidelines and criteria associated with financial commitments concerning an individualized rehabilitation employment plan;

''(ii) additional information the eligible individual requests or the designated State unit determines to be necessary; and

''(iii) information on the availability of assistance in completing designated State agency forms required in developing an individualized rehabilitation employment plan; and

''(D)(i) a description of the rights and remedies available to such an individual including, if appropriate, recourse to the processes set forth in subsection (c); and

''(ii) a description of the availability of a client assistance program established pursuant to section 112 and information about how to contact the client assistance program.

''(2) MANDATORY PROCEDURES.—

''(A) WRITTEN DOCUMENT.—An individualized rehabilitation employment plan shall be a written document prepared on forms provided by the designated State unit.

''(B) INFORMED CHOICE.—An individualized rehabilitation employment plan shall be developed and implemented in a manner that affords eligible individuals the opportunity to exercise informed choice in selecting an employment outcome, the specific vocational rehabilitation services to be provided under the plan, the entity that will provide the vocational rehabilitation services, and the methods used to procure the services, consistent with subsection (d).

''(C) SIGNATORIES.—An individualized rehabilitation employment plan shall be—

''(i) agreed to, and signed by, such eligible individual or, as appropriate, the individual's representative; and

''(ii) approved and signed by a qualified vocational rehabilitation counselor employed by the designated State unit.

''(D) COPY.—A copy of the individualized rehabilitation employment plan for an eligible individual shall be provided to the individual or, as appropriate, to the individual's representative, in writing and, if appropriate, in the native language or mode of communication of the individual or, as appropriate, of the individual's representative.

''(E) REVIEW AND AMENDMENT.—The individualized rehabilitation employment plan shall be—

''(i) reviewed at least annually by—

''(I) a qualified vocational rehabilitation counselor; and

''(II) the eligible individual or, as appropriate, the individual's representative; and

''(ii) amended, as necessary, by the individual or, as appropriate, the individual's representative, in collaboration with a representative of the designated State agency or a qualified vocational rehabilitation counselor, if there are substantive changes in the employment outcome, the vocational rehabilitation services to be provided, or the service providers of the services (which amendments shall not take effect until agreed to and signed by the eligible individual or, as appropriate, the individual's representative, and by a qualified vocational rehabilitation counselor).

''(3) MANDATORY COMPONENTS OF AN INDIVIDUALIZED REHABILITATION EMPLOYMENT PLAN.—Regardless of the approach selected by an eligible individual to develop an individualized rehabilitation employment plan, an individualized rehabilitation employment plan shall, at a minimum, contain mandatory components consisting of—

''(A) a description of the specific employment outcome that is chosen by the eligible individual, consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the eligible individual, and, to the maximum extent appropriate, results in employment in an integrated setting;

''(B)(i) a description of the specific vocational rehabilitation services that are—

''(I) needed to achieve the employment outcome, including, as appropriate, the provision of assistive technology devices and assistive technology services, and personal assistance services, including training in the management of such services; and

''(II) provided in the most integrated setting that is appropriate for the service involved and is consistent with the informed choice of the eligible individual; and

''(ii) timelines for the achievement of the employment outcome and for the initiation of the services;

''(C) a description of the entity chosen by the eligible individual or, as appropriate, the individual's representative, that will provide the vocational rehabilitation services, and the methods used to procure such services;

''(D) a description of criteria to evaluate progress toward achievement of the employment outcome;

''(E) the terms and conditions of the individualized rehabilitation employment plan, including, as appropriate, information describing—

''(i) the responsibilities of the designated State unit;

''(ii) the responsibilities of the eligible individual, including—

''(I) the responsibilities the eligible individual will assume in relation to the employment outcome of the individual;

''(II) if applicable, the participation of the eligible individual in paying for the costs of the plan; and

''(III) the responsibility of the eligible individual with regard to applying for and securing comparable benefits as described in section 101(a)(8);

''(iii) the responsibilities of other entities as the result of arrangements made pursuant to comparable services or benefits requirements as described in section 101(a)(8);

''(F) for an eligible individual with the most significant disabilities for whom an employment outcome in a supported employment setting has been determined to be appropriate, information identifying—

''(i) the extended services needed by the eligible individual; and

''(ii) the source of extended services or, to the extent that the source of the extended services cannot be identified at the time of the development of the individualized rehabilitation employment plan, a description of the basis for concluding that there is a reasonable expectation that such source will become available; and

''(G) as determined to be necessary, a statement of projected need for post-employment services.

''(c) PROCEDURES.—

''(1) IN GENERAL.—Each State shall establish procedures for mediation of, and procedures for review through an impartial due process hearing of, determinations made by personnel of the designated State unit that affect the provision of vocational rehabilitation services to applicants or eligible individuals.

''(2) NOTIFICATION.—

''(A) RIGHTS AND ASSISTANCE.—The procedures shall provide that an applicant or an eligible individual or, as appropriate, the applicant's representative or individual's representative shall be notified of—

''(i) the right to obtain review of determinations described in paragraph (1) in an impartial due process hearing under paragraph (5);

''(ii) the right to pursue mediation with respect to the determinations under paragraph (4); and

''(iii) the availability of assistance from the client assistance program under section 112.

''(B) TIMING.—Such notification shall be provided in writing—

''(i) at the time an individual applies for vocational rehabilitation services provided under this title;

''(ii) at the time the individualized rehabilitation employment plan for the individual is developed; and

''(iii) upon reduction, suspension, or cessation of vocational rehabilitation services for the individual.

''(3) EVIDENCE AND REPRESENTATION.—The procedures required under this subsection shall, at a minimum—

''(A) provide an opportunity for an applicant or an eligible individual, or, as appropriate, the applicant's representative or individual's representative, to submit at the mediation session or hearing evidence and information to support the position of the applicant or eligible individual; and

''(B) include provisions to allow an applicant or an eligible individual to be represented in the mediation session or hearing

by a person selected by the applicant or eligible individual.

''(4) MEDIATION.—

''(A) PROCEDURES.—Each State shall ensure that procedures are established and implemented under this subsection to allow parties described in paragraph (1) to disputes involving any determination described in paragraph (1) to resolve such disputes through a mediation process that, at a minimum, shall be available whenever a hearing is requested under this subsection.

''(B) REQUIREMENTS.—Such procedures shall ensure that the mediation process—

''(i) is voluntary on the part of the parties;

''(ii) is not used to deny or delay the right of an individual to a hearing under this subsection, or to deny any other right afforded under this title; and

''(iii) is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.

''(C) LIST OF MEDIATORS.—The State shall maintain a list of individuals who are qualified mediators and knowledgeable in laws (including regulations) relating to the provision of vocational rehabilitation services under this title, from which the mediators described in subparagraph (B) shall be selected.

''(D) COST.—The State shall bear the cost of the mediation process.

''(E) SCHEDULING.—Each session in the mediation process shall be scheduled in a timely manner and shall be held in a location that is convenient to the parties to the dispute.

''(F) AGREEMENT.—An agreement reached by the parties to the dispute in the mediation process shall be set forth in a written mediation agreement.

''(G) CONFIDENTIALITY.—Discussions that occur during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding. The parties to the mediation process may be required to sign a confidentiality pledge prior to the commencement of such process.

''(H) CONSTRUCTION.—Nothing in this subsection shall be construed to preclude the parties to such a dispute from informally resolving the dispute prior to proceedings under this paragraph or paragraph (5), if the informal process used is not used to deny or delay the right of the applicant or eligible individual to a hearing under this subsection or to deny any other right afforded under this title.

''(5) HEARINGS.—

''(A) OFFICER.—A due process hearing described in paragraph (2) shall be conducted by an impartial hearing officer who shall issue a decision based on the provisions of the approved State plan, this Act (including regulations implementing this Act), and State regulations and policies that are consistent with the Federal requirements specified in this title. The officer shall provide the decision in writing to the applicant or eligible individual, or, as appropriate, the applicant's representative or individual's representative, and to the designated State unit.

''(B) LIST.—The designated State unit shall maintain a list of qualified impartial hearing officers who are knowledgeable in laws (including regulations) relating to the provision of vocational rehabilitation services under this title from which the officer described in subparagraph (A) shall be selected. For the purposes of maintaining such list, impartial hearing officers shall be identified jointly by—

''(i) the designated State unit; and

''(ii) members of the Council or commission, as appropriate, described in section 101(a)(21).

''(C) SELECTION.—Such an impartial hearing officer shall be selected to hear a particular case relating to a determination—

''(i) on a random basis; or

''(ii) by agreement between—

''(I) the Director of the designated State unit and the individual with a disability; or

''(II) in appropriate cases, the Director and the individual's representative.

''(D) PROCEDURES FOR SEEKING REVIEW.—A State may establish procedures to enable a party involved in a hearing under this paragraph to seek an impartial review of the decision of the hearing officer under subparagraph (A) by—

''(i) the chief official of the designated State agency if the State has established both a designated State agency and a designated State unit under section 101(a)(2); or

''(ii) an official from the office of the Governor or the chief official of another State office or agency that has supervisory authority over the designated State agency.

''(E) REVIEW REQUEST.—If the State establishes impartial review procedures under subparagraph (D), either party may request the review of the decision of the hearing officer within 20 days after the decision.

''(F) REVIEWING OFFICIAL.—The reviewing official described in subparagraph (D) shall—

''(i) in conducting the review, provide an opportunity for the submission of additional evidence and information relevant to a final decision concerning the matter under review;

''(ii) not overturn or modify the decision of the hearing officer, or part of the decision, that supports the position of the applicant or eligible individual unless the reviewing official concludes, based on clear and convincing evidence, that the decision of the impartial hearing officer is clearly erroneous on the basis of being contrary to the approved State plan, this Act (including regulations implementing this Act) or any State regulation or policy that is consistent with the Federal requirements specified in this title; and

''(iii) make a final decision with respect to the matter in a timely manner and provide such decision in writing to the applicant or eligible individual, or, as appropriate, the applicant's representative or individual's representative, and to the designated State unit, including a full report of the findings and the grounds for such decision.

''(G) FINALITY OF HEARING DECISION.—A decision made after a hearing under subparagraph (A) shall be final, except that a party may request an impartial review if the State has established procedures for such review under subparagraph (D) and a party involved in a hearing may bring a civil action under subparagraph (J).

''(H) FINALITY OF REVIEW.—A decision made under subparagraph (F) shall be final unless such a party brings a civil action under subparagraph (J).

''(I) IMPLEMENTATION.—If a party brings a civil action under subparagraph (J) to challenge a final decision of a hearing officer under subparagraph (A) or to challenge a final decision of a State reviewing official under subparagraph (F), the final decision involved shall be implemented pending review by the court.

''(J) CIVIL ACTION.—

''(i) IN GENERAL.—Any party aggrieved by a final decision described in subparagraph (I), may bring a civil action for review of such decision. The action may be brought in any State court of competent jurisdiction or in a district court of the United States of competent jurisdiction without regard to the amount in controversy.

''(ii) PROCEDURE.—In any action brought under this subparagraph, the court—

''(I) shall receive the records relating to the hearing under subparagraph (A) and the records relating to the State review under subparagraphs (D) through (F), if applicable;

''(II) shall hear additional evidence at the request of a party to the action; and

''(III) basing the decision of the court on the preponderance of the evidence, shall grant such relief as the court determines to be appropriate.

''(6) HEARING BOARD.—

''(A) IN GENERAL.—A fair hearing board, established by a State before January 1, 1985, and authorized under State law to review determinations or decisions under this Act, is authorized to carry out the responsibilities of the impartial hearing officer under this subsection.

''(B) APPLICATION.—The provisions of paragraphs (1), (2), and (3) that relate to due process hearings do not apply, and paragraph (5) (other than subparagraph (J)) does not apply, to any State to which subparagraph (A) applies.

''(7) IMPACT ON PROVISION OF SERVICES.—Unless the individual with a disability so requests, or, in an appropriate case, the individual's representative, so requests, pending a decision by a mediator, hearing officer, or reviewing officer under this subsection, the designated State unit shall not institute a suspension, reduction, or termination of services being provided for the individual, including evaluation and assessment services and plan development, unless such services have been obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the individual, or the individual's representative.

''(8) INFORMATION COLLECTION AND REPORT.—

''(A) IN GENERAL.—The Director of the designated State unit shall collect information described in subparagraph (B) and prepare and submit to the Commissioner a report containing such information. The Commissioner shall prepare a summary of the information furnished under this paragraph and include the summary in the annual report submitted under section 13. The Commissioner shall also collect copies of the final decisions of impartial hearing officers conducting hearings under this subsection and State officials conducting reviews under this subsection.

''(B) INFORMATION.—The information required to be collected under this subsection includes—

''(i) a copy of the standards used by State reviewing officials for reviewing decisions made by impartial hearing officers under this subsection;

''(ii) information on the number of hearings and reviews sought from the impartial hearing officers and the State reviewing officials, including the type of complaints and the issues involved;

''(iii) information on the number of hearing decisions made under this subsection that were not reviewed by the State reviewing officials; and

''(iv) information on the number of the hearing decisions that were reviewed by the State reviewing officials, and, based on such reviews, the number of hearing decisions that were—

''(I) sustained in favor of an applicant or eligible individual;

''(II) sustained in favor of the designated State unit;

''(III) reversed in whole or in part in favor of the applicant or eligible individual; and

''(IV) reversed in whole or in part in favor of the designated State unit.

''(C) CONFIDENTIALITY.—The confidentiality of records of applicants and eligible individuals maintained by the designated State unit shall not preclude the access of the Commissioner to those records for the purposes described in subparagraph (A).

''(d) POLICIES AND PROCEDURES.—Each designated State agency, in consultation with the State Rehabilitation Council, if the State has such a council, shall, consistent with section 100(a)(3)(C), develop and implement written policies and procedures that enable each individual who is an applicant for or eligible to receive vocational rehabilitation services under this title to exercise informed choice throughout the vocational rehabilitation process carried out under this title, including policies and procedures that require the designated State agency—

''(1) to inform each such applicant and eligible individual (including students with disabilities described in section 101(a)(11)(D)(ii)(II) who are making the transition from programs under the responsibility of an educational agency to programs under the responsibility of the designated State unit), through appropriate modes of communication, about the availability of, and opportunities to exercise, informed choice, including the availability of support services for individuals with cognitive or other disabilities who require assistance in exercising informed choice, throughout the vocational rehabilitation process;

''(2) to assist applicants and eligible individuals in exercising informed choice in decisions related to the provision of assessment services under this title;

''(3) to develop and implement flexible procurement policies and methods that facilitate the provision of services, and that afford eligible individuals meaningful choices among the methods used to procure services, under this title;

''(4) to provide or assist eligible individuals in acquiring information that enables those individuals to exercise informed choice under this title in the selection of—

''(A) the employment outcome;

''(B) the specific vocational rehabilitation services needed to achieve the employment outcome;

''(C) the entity that will provide the services;

''(D) the employment setting and the settings in which the services will be provided; and

''(E) the methods available for procuring the services; and

''(5) to ensure that the availability and scope of informed choice provided under this section is consistent with the obligations of the designated State agency under this title.

**''SEC. 103. VOCATIONAL REHABILITATION SERVICES.**

''(a) VOCATIONAL REHABILITATION SERVICES FOR INDIVIDUALS.—Vocational rehabilitation services provided under this title are any services described in an individualized rehabilitation employment plan necessary to assist an individual with a disability in preparing for, securing, retaining, or regaining an employment outcome that is consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual, including—

''(1) an assessment for determining eligibility and vocational rehabilitation needs by qualified personnel, including, if appropriate, an assessment by personnel skilled in rehabilitation technology;

''(2) counseling and guidance, including information and support services to assist an individual in exercising informed choice consistent with the provisions of section 102(d);

''(3) referral and other services to secure needed services from other agencies through agreements developed under section 101(b)(11), if such services are not available under this title;

''(4) job-related services, including job search and placement assistance, job retention services, followup services, and follow-along services;

''(5) vocational and other training services, including the provision of personal and vocational adjustment services, books, tools, and other training materials, except that no training services provided at an institution of higher education shall be paid for with funds under this title unless maximum efforts have been made by the designated State unit and the individual to secure grant assistance, in whole or in part, from other sources to pay for such training;

''(6) to the extent that financial support is not readily available from a source (such as through health insurance of the individual or through comparable services and benefits consistent with section 101(a)(8)(A)), other than the designated State unit, diagnosis and treatment of physical and mental impairments, including—

''(A) corrective surgery or therapeutic treatment necessary to correct or substantially modify a physical or mental condition that constitutes a substantial impediment to employment, but is of such a nature that such correction or modification may reasonably be expected to eliminate or reduce such impediment to employment within a reasonable length of time;

''(B) necessary hospitalization in connection with surgery or treatment;

''(C) prosthetic and orthotic devices;

''(D) eyeglasses and visual services as prescribed by qualified personnel who meet State licensure laws and who are selected by the individual;

''(E) special services (including transplantation and dialysis), artificial kidneys, and supplies necessary for the treatment of individuals with end-stage renal disease; and

''(F) diagnosis and treatment for mental and emotional disorders by qualified personnel who meet State licensure laws;

''(7) maintenance for additional costs incurred while participating in an assessment for determining eligibility and vocational rehabilitation needs or while receiving services under an individualized rehabilitation employment plan;

''(8) transportation, including adequate training in the use of public transportation vehicles and systems, that is provided in connection with the provision of any other service described in this section and needed by the individual to achieve an employment outcome;

''(9) on-the-job or other related personal assistance services provided while an individual is receiving other services described in this section;

''(10) interpreter services provided by qualified personnel for individuals who are deaf or hard of hearing, and reader services for individuals who are determined to be blind, after an examination by qualified personnel who meet State licensure laws;

''(11) rehabilitation teaching services, and orientation and mobility services, for individuals who are blind;

''(12) occupational licenses, tools, equipment, and initial stocks and supplies;

''(13) technical assistance and other consultation services to conduct market analyses, develop business plans, and otherwise provide resources, to the extent such resources are authorized to be provided under the statewide workforce investment system, to eligible individuals who are pursuing self-employment or establishing a small business operation as an employment outcome;

''(14) rehabilitation technology, including telecommunications, sensory, and other technological aids and devices;

''(15) transition services for students with disabilities described in section 101(a)(11)(D)(ii)(II), that facilitate the achievement of the employment outcome identified in the individualized rehabilitation employment plan;

''(16) supported employment services;

''(17) services to the family of an individual with a disability necessary to assist the individual to achieve an employment outcome; and

''(18) specific post-employment services necessary to assist an individual with a disability to, retain, regain, or advance in employment.

''(b) VOCATIONAL REHABILITATION SERVICES FOR GROUPS OF INDIVIDUALS.—Vocational rehabilitation services provided for the benefit of groups of individuals with disabilities may also include the following:

''(1) In the case of any type of small business operated by individuals with significant disabilities the operation of which can be improved by management services and supervision provided by the designated State agency, the provision of such services and supervision, along or together with the acquisition by the designated State agency of vending facilities or other equipment and initial stocks and supplies.

''(2) The establishment, development, or improvement of community rehabilitation programs, that promise to contribute substantially to the rehabilitation of a group of individuals but that are not related directly to the individualized rehabilitation employment plan of any 1 individual with a disability. Such programs shall be used to provide services that promote integration and competitive employment.

''(3) The use of telecommunications systems (including telephone, television, satellite, radio, and other similar systems) that have the potential for substantially improving delivery methods of activities described in this section and developing appropriate programming to meet the particular needs of individuals with disabilities.

''(4)(A) Special services to provide nonvisual access to information for individuals who are blind, including the use of telecommunications, Braille, sound recordings, or other appropriate media.

''(B) Captioned television, films, or video cassettes for individuals who are deaf or hard of hearing.

''(C) Tactile materials for individuals who are deaf-blind.

''(D) Other special services that provide information through tactile, vibratory, auditory, and visual media.

''(5) Technical assistance and support services to businesses that are not subject to title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) and that are seeking to employ individuals with disabilities.

''(6) Consultative and technical assistance services to assist educational agencies in planning for the transition of students with disabilities described in section 101(a)(11)(D)(i) from school to post-school activities, including employment.

**''SEC. 104. NON-FEDERAL SHARE FOR ESTABLISHMENT OF PROGRAM.**

''For the purpose of determining the amount of payments to States for carrying out part B of this title (or to an Indian tribe under part C), the non-Federal share, subject to such limitations and conditions as may be prescribed in regulations by the Commissioner, shall include contributions of funds made by any private agency, organization, or individual to a State or local agency to assist in meeting the costs of establishment of a community rehabilitation program, which would be regarded as State or local funds except for the condition, imposed by the contributor, limiting use of such funds to establishment of such a program.''.

**''SEC. 105. STATE REHABILITATION COUNCIL.**

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—Except as provided in section 101(a)(21)(A)(i), to be eligible to receive financial assistance under this title a State shall establish a State Rehabilitation Council (referred to in this section as the 'Council') in accordance with this section.

''(2) SEPARATE AGENCY FOR INDIVIDUALS WHO ARE BLIND.—A State that designates a State agency to administer the part of the State plan under which vocational rehabilitation services are provided for individuals who are blind under section 101(a)(2)(A)(i) may establish a separate Council in accordance with this section to perform the duties of such a Council with respect to such State agency.

''(b) COMPOSITION AND APPOINTMENT.—

''(1) COMPOSITION.—

''(A) IN GENERAL.—Except in the case of a separate Council established under subsection (a)(2), the Council shall be composed of—

''(i) at least one representative of the Statewide Independent Living Council established under section 705, which representative may be the chairperson or other designee of the Council;

''(ii) at least one representative of a parent training and information center established pursuant to section 682(a) of the Individuals with Disabilities Education Act (as added by section 101 of the Individuals with Disabilities Education Act Amendments of 1997; Public Law 105–17);

''(iii) at least one representative of the client assistance program established under section 112;

''(iv) at least one vocational rehabilitation counselor, with knowledge of and experience with vocational rehabilitation programs, who shall serve as an ex officio, nonvoting member of the Council if the counselor is an employee of the designated State agency;

''(v) at least one representative of community rehabilitation program service providers;

''(vi) four representatives of business, industry, and labor;

''(vii) representatives of disability advocacy groups representing a cross section of—

''(I) individuals with physical, cognitive, sensory, and mental disabilities; and

''(II) individuals' representatives of individuals with disabilities who have difficulty in representing themselves or are unable due to their disabilities to represent themselves;

''(viii) current or former applicants for, or recipients of, vocational rehabilitation services;

''(ix) in a State in which one or more projects are carried out under section 121, at least one representative of the directors of the projects;

''(x) at least one representative of the State educational agency responsible for the public education of students with disabilities who are eligible to receive services under this title and part B of the Individuals with Disabilities Education Act; and

''(xi) at least one representative of the statewide workforce investment partnership.

''(B) SEPARATE COUNCIL.—In the case of a separate Council established under subsection (a)(2), the Council shall be composed of—

''(i) at least one representative described in subparagraph (A)(i);

''(ii) at least one representative described in subparagraph (A)(ii);

''(iii) at least one representative described in subparagraph (A)(iii);

''(iv) at least one vocational rehabilitation counselor described in subparagraph (A)(iv), who shall serve as described in such subparagraph;

''(v) at least one representative described in subparagraph (A)(v);

''(vi) four representatives described in subparagraph (A)(vi);

''(vii) at least one representative of a disability advocacy group representing individuals who are blind;

''(viii) at least one individual's representative, of an individual who—

''(I) is an individual who is blind and has multiple disabilities; and

''(II) has difficulty in representing himself or herself or is unable due to disabilities to represent himself or herself;

''(ix) applicants or recipients described in subparagraph (A)(viii);

''(x) in a State described in subparagraph (A)(ix), at least one representative described in such subparagraph;

''(xi) at least one representative described in subparagraph (A)(x); and

''(xii) at least one representative described in subparagraph (A)(xi).

''(C) EXCEPTION.—In the case of a separate Council established under subsection (a)(2), any Council that is required by State law, as in effect on the date of enactment of the Rehabilitation Act Amendments of 1992, to have fewer than 15 members shall be deemed to be in compliance with subparagraph (B) if the Council—

''(i) meets the requirements of subparagraph (B), other than the requirements of clauses (vi) and (ix) of such subparagraph; and

''(ii) includes at least—

''(I) one representative described in subparagraph (B)(vi); and

''(II) one applicant or recipient described in subparagraph (B)(ix).

''(2) EX OFFICIO MEMBER.—The Director of the designated State unit shall be an ex officio, nonvoting member of the Council.

''(3) APPOINTMENT.—Members of the Council shall be appointed by the Governor. In the case of a State that, under State law, vests appointment authority in an entity in lieu of, or in conjunction with, the Governor, such as one or more houses of the State legislature, or an independent board that has general appointment authority, that entity shall make the appointments. The appointing authority shall select members after soliciting recommendations from representatives of organizations representing a broad range of individuals with disabilities and organizations interested in individuals with disabilities. In selecting members, the appointing authority shall consider, to the greatest extent practicable, the extent to which minority populations are represented on the Council.

''(4) QUALIFICATIONS.—A majority of Council members shall be persons who are—

''(A) individuals with disabilities described in section 7(20)(A); and

''(B) not employed by the designated State unit.

''(5) CHAIRPERSON.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the Council shall select a chairperson from among the membership of the Council.

''(B) DESIGNATION BY GOVERNOR.—In States in which the Governor does not have veto power pursuant to State law, the Governor shall designate a member of the Council to serve as the chairperson of the Council or shall require the Council to so designate such a member.

''(6) TERMS OF APPOINTMENT.—

''(A) LENGTH OF TERM.—Each member of the Council shall serve for a term of not more than 3 years, except that—

''(i) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

''(ii) the terms of service of the members initially appointed shall be (as specified by the appointing authority) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

''(B) NUMBER OF TERMS.—No member of the Council, other than a representative described in clause (iii) or (ix) of paragraph (1)(A), or clause (iii) or (x) of paragraph (1)(B), may serve more than two consecutive full terms.

''(7) VACANCIES.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

''(B) DELEGATION.—The Governor (including an entity described in paragraph (3)) may delegate the authority to fill such a vacancy to the remaining members of the Council after making the original appointment.

''(c) FUNCTIONS OF COUNCIL.—The Council shall, after consulting with the statewide workforce investment partnership—

''(1) review, analyze, and advise the designated State unit regarding the performance of the responsibilities of the unit under this title, particularly responsibilities relating to—

''(A) eligibility (including order of selection);

''(B) the extent, scope, and effectiveness of services provided; and

''(C) functions performed by State agencies that affect or that potentially affect the ability of individuals with disabilities in achieving employment outcomes under this title;

''(2) in partnership with the designated State unit—

''(A) develop, agree to, and review State goals and priorities in accordance with section 101(a)(15)(C); and

''(B) evaluate the effectiveness of the vocational rehabilitation program and submit reports of progress to the Commissioner in accordance with section 101(a)(15)(E);

''(3) advise the designated State agency and the designated State unit regarding activities authorized to be carried out under this title, and assist in the preparation of the State plan and amendments to the plan, applications, reports, needs assessments, and evaluations required by this title;

''(4) to the extent feasible, conduct a review and analysis of the effectiveness of, and consumer satisfaction with—

''(A) the functions performed by the designated State agency;

''(B) vocational rehabilitation services provided by State agencies and other public and private entities responsible for providing vocational rehabilitation services to individuals with disabilities under this Act; and

''(C) employment outcomes achieved by eligible individuals receiving services under this title, including the availability of health and other employment benefits in connection with such employment outcomes;

''(5) prepare and submit an annual report to the Governor or appropriate State entity and the Commissioner on the status of vocational rehabilitation programs operated within the State, and make the report available to the public;

''(6) to avoid duplication of efforts and enhance the number of individuals served, coordinate activities with the activities of other councils within the State, including the Statewide Independent Living Council established under section 705, the advisory panel established under section 612(a)(21) of the Individual with Disabilities Education Act (as amended by section 101 of the Individuals with Disabilities Education Act Amendments of 1997; Public Law 105–17), the State Developmental Disabilities Council described in section 124 of the Developmental

Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6024), the State mental health planning council established under section 1914(a) of the Public Health Service Act (42 U.S.C. 300x–4(a)), and the statewide workforce investment partnership;

''(7) provide for coordination and the establishment of working relationships between the designated State agency and the Statewide Independent Living Council and centers for independent living within the State; and

''(8) perform such other functions, consistent with the purpose of this title, as the State Rehabilitation Council determines to be appropriate, that are comparable to the other functions performed by the Council.

''(d) RESOURCES.—

''(1) PLAN.—The Council shall prepare, in conjunction with the designated State unit, a plan for the provision of such resources, including such staff and other personnel, as may be necessary and sufficient to carry out the functions of the Council under this section. The resource plan shall, to the maximum extent possible, rely on the use of resources in existence during the period of implementation of the plan.

''(2) RESOLUTION OF DISAGREEMENTS.—To the extent that there is a disagreement between the Council and the designated State unit in regard to the resources necessary to carry out the functions of the Council as set forth in this section, the disagreement shall be resolved by the Governor or appointing agency consistent with paragraph (1).

''(3) SUPERVISION AND EVALUATION.—Each Council shall, consistent with State law, supervise and evaluate such staff and other personnel as may be necessary to carry out its functions under this section.

''(4) PERSONNEL CONFLICT OF INTEREST.—While assisting the Council in carrying out its duties, staff and other personnel shall not be assigned duties by the designated State unit or any other agency or office of the State, that would create a conflict of interest.

''(e) CONFLICT OF INTEREST.—No member of the Council shall cast a vote on any matter that would provide direct financial benefit to the member or otherwise give the appearance of a conflict of interest under State law.

''(f) MEETINGS.—The Council shall convene at least 4 meetings a year in such places as it determines to be necessary to conduct Council business and conduct such forums or hearings as the Council considers appropriate. The meetings, hearings, and forums shall be publicly announced. The meetings shall be open and accessible to the general public unless there is a valid reason for an executive session.

''(g) COMPENSATION AND EXPENSES.—The Council may use funds allocated to the Council by the designated State unit under this title (except for funds appropriated to carry out the client assistance program under section 112 and funds reserved pursuant to section 110(c) to carry out part C) to reimburse members of the Council for reasonable and necessary expenses of attending Council meetings and performing Council duties (including child care and personal assistance services), and to pay compensation to a member of the Council, if such member is not employed or must forfeit wages from other employment, for each day the member is engaged in performing the duties of the Council.

''(h) HEARINGS AND FORUMS.—The Council is authorized to hold such hearings and forums as the Council may determine to be necessary to carry out the duties of the Council.

**''SEC. 106. EVALUATION STANDARDS AND PERFORMANCE INDICATORS.**

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—

''(A) ESTABLISHMENT OF STANDARDS AND INDICATORS.—The Commissioner shall, not later than September 30, 1998, establish and publish evaluation standards and performance indicators for the vocational rehabilitation program carried out under this title.

''(B) REVIEW AND REVISION.—Effective September 30, 1998, the Commissioner shall review and, if necessary, revise the evaluation standards and performance indicators every 3 years. Any revisions of the standards and indicators shall be developed with input from State vocational rehabilitation agencies, related professional and consumer organizations, recipients of vocational rehabilitation services, and other interested parties. Any revisions of the standards and indicators shall be subject to the publication, review, and comment provisions of paragraph (3).

''(C) BASES.—Effective July 1, 1999, to the maximum extent practicable, the standards and indicators shall be consistent with the core indicators of performance established under section 321(b) of the Workforce Investment Partnership Act of 1998.

''(2) MEASURES.—The standards and indicators shall include outcome and related measures of program performance that facilitate the accomplishment of the purpose and policy of this title.

''(3) COMMENT.—The standards and indicators shall be developed with input from State vocational rehabilitation agencies, related professional and consumer organizations, recipients of vocational rehabilitation services, and other interested parties. The Commissioner shall publish in the Federal Register a notice of intent to regulate regarding the development of proposed standards and indicators. Proposed standards and indicators shall be published in the Federal Register for review and comment. Final standards and indicators shall be published in the Federal Register.

''(b) COMPLIANCE.—

''(1) STATE REPORTS.—In accordance with regulations established by the Secretary, each State shall report to the Commissioner after the end of each fiscal year the extent to which the State is in compliance with the standards and indicators.

''(2) PROGRAM IMPROVEMENT.—

''(A) PLAN.—If the Commissioner determines that the performance of any State is below established standards, the Commissioner shall provide technical assistance to the State and the State and the Commissioner shall jointly develop a program improvement plan outlining the specific actions to be taken by the State to improve program performance.

''(B) REVIEW.—The Commissioner shall—

''(i) review the program improvement efforts of the State on a biannual basis and, if necessary, request the State to make further revisions to the plan to improve performance; and

''(ii) continue to conduct such reviews and request such revisions until the State sustains satisfactory performance over a period of more than 1 year.

''(c) WITHHOLDING.—If the Commissioner determines that a State whose performance falls below the established standards has failed to enter into a program improvement plan, or is not complying substantially with the terms and conditions of such a program improvement plan, the Commissioner shall, consistent with subsections (c) and (d) of section 107, reduce or make no further payments to the State under this program, until the State has entered into an approved program improvement plan, or satisfies the Commissioner that the State is complying substantially with the terms and conditions of such a program improvement plan, as appropriate.

''(d) REPORT TO CONGRESS.—Beginning in fiscal year 1999, the Commissioner shall include in each annual report to the Congress under section 13 an analysis of program performance, including relative State performance, based on the standards and indicators.

**''SEC. 107. MONITORING AND REVIEW.**

''(a) IN GENERAL.—

''(1) DUTIES.—In carrying out the duties of the Commissioner under this title, the Commissioner shall—

''(A) provide for the annual review and periodic onsite monitoring of programs under this title; and

''(B) determine whether, in the administration of the State plan, a State is complying substantially with the provisions of such plan and with evaluation standards and performance indicators established under section 106.

''(2) PROCEDURES FOR REVIEWS.—In conducting reviews under this section the Commissioner shall consider, at a minimum—

''(A) State policies and procedures;

''(B) guidance materials;

''(C) decisions resulting from hearings conducted in accordance with due process;

''(D) State goals established under section 101(a)(15) and the extent to which the State has achieved such goals;

''(E) plans and reports prepared under section 106(b);

''(F) consumer satisfaction reviews and analyses described in section 105(c)(4);

''(G) information provided by the State Rehabilitation Council established under section 105, if the State has such a Council, or by the commission described in section 101(a)(21)(A)(i), if the State has such a commission;

''(H) reports; and

''(I) budget and financial management data.

''(3) PROCEDURES FOR MONITORING.—In conducting monitoring under this section the Commissioner shall conduct—

''(A) onsite visits, including onsite reviews of records to verify that the State is following requirements regarding the order of selection set forth in section 101(a)(5)(A);

''(B) public hearings and other strategies for collecting information from the public;

''(C) meetings with the State Rehabilitation Council, if the State has such a Council or with the commission described in section 101(a)(21)(A)(i), if the State has such a commission;

''(D) reviews of individual case files, including individualized rehabilitation employment plans and ineligibility determinations; and

''(E) meetings with rehabilitation counselors and other personnel.

''(4) AREAS OF INQUIRY.—In conducting the review and monitoring, the Commissioner shall examine—

''(A) the eligibility process;

''(B) the provision of services, including, if applicable, the order of selection;

''(C) whether the personnel evaluation system described in section 101(a)(7)(A)(iv) facilitates the accomplishments of the program;

''(D) such other areas as may be identified by the public or through meetings with the State Rehabilitation Council, if the State has such a Council or with the commission described in section 101(a)(21)(A)(i), if the State has such a commission; and

''(E) such other areas of inquiry as the Commissioner may consider appropriate.

''(5) REPORTS.—If the Commissioner issues a report detailing the findings of an annual review or onsite monitoring conducted under

this section, the report shall be made available to the State Rehabilitation Council, if the State has such a Council.

''(b) TECHNICAL ASSISTANCE.—The Commissioner shall—

''(1) provide technical assistance to programs under this title regarding improving the quality of vocational rehabilitation services provided; and

''(2) provide technical assistance and establish a corrective action plan for a program under this title if the Commissioner finds that the program fails to comply substantially with the provisions of the State plan, or with evaluation standards or performance indicators established under section 106, in order to ensure that such failure is corrected as soon as practicable.

''(c) FAILURE TO COMPLY WITH PLAN.—

''(1) WITHHOLDING PAYMENTS.—Whenever the Commissioner, after providing reasonable notice and an opportunity for a hearing to the State agency administering or supervising the administration of the State plan approved under section 101, finds that—

''(A) the plan has been so changed that it no longer complies with the requirements of section 101(a); or

''(B) in the administration of the plan there is a failure to comply substantially with any provision of such plan or with an evaluation standard or performance indicator established under section 106,

the Commissioner shall notify such State agency that no further payments will be made to the State under this title (or, in the discretion of the Commissioner, that such further payments will be reduced, in accordance with regulations the Commissioner shall prescribe, or that further payments will not be made to the State only for the projects under the parts of the State plan affected by such failure), until the Commissioner is satisfied there is no longer any such failure.

''(2) PERIOD.—Until the Commissioner is so satisfied, the Commissioner shall make no further payments to such State under this title (or shall reduce payments or limit payments to projects under those parts of the State plan in which there is no such failure).

''(3) DISBURSAL OF WITHHELD FUNDS.—The Commissioner may, in accordance with regulations the Secretary shall prescribe, disburse any funds withheld from a State under paragraph (1) to any public or nonprofit private organization or agency within such State or to any political subdivision of such State submitting a plan meeting the requirements of section 101(a). The Commissioner may not make any payment under this paragraph unless the entity to which such payment is made has provided assurances to the Commissioner that such entity will contribute, for purposes of carrying out such plan, the same amount as the State would have been obligated to contribute if the State received such payment.

''(d) REVIEW.—

''(1) PETITION.—Any State that is dissatisfied with a final determination of the Commissioner under section 101(b) or subsection (c) may file a petition for judicial review of such determination in the United States Court of Appeals for the circuit in which the State is located. Such a petition may be filed only within the 30-day period beginning on the date that notice of such final determination was received by the State. The clerk of the court shall transmit a copy of the petition to the Commissioner or to any officer designated by the Commissioner for that purpose. In accordance with section 2112 of title 28, United States Code, the Commissioner shall file with the court a record of the proceeding on which the Commissioner based the determination being appealed by the State. Until a record is so filed, the Commissioner may modify or set aside any determination made under such proceedings.

''(2) SUBMISSIONS AND DETERMINATIONS.—If, in an action under this subsection to review a final determination of the Commissioner under section 101(b) or subsection (c), the petitioner or the Commissioner applies to the court for leave to have additional oral submissions or written presentations made respecting such determination, the court may, for good cause shown, order the Commissioner to provide within 30 days an additional opportunity to make such submissions and presentations. Within such period, the Commissioner may revise any findings of fact, modify or set aside the determination being reviewed, or make a new determination by reason of the additional submissions and presentations, and shall file such modified or new determination, and any revised findings of fact, with the return of such submissions and presentations. The court shall thereafter review such new or modified determination.

''(3) STANDARDS OF REVIEW.—

''(A) IN GENERAL.—Upon the filing of a petition under paragraph (1) for judicial review of a determination, the court shall have jurisdiction—

''(i) to grant appropriate relief as provided in chapter 7 of title 5, United States Code, except for interim relief with respect to a determination under subsection (c); and

''(ii) except as otherwise provided in subparagraph (B), to review such determination in accordance with chapter 7 of title 5, United States Code.

''(B) SUBSTANTIAL EVIDENCE.—Section 706 of title 5, United States Code, shall apply to the review of any determination under this subsection, except that the standard for review prescribed by paragraph (2)(E) of such section 706 shall not apply and the court shall hold unlawful and set aside such determination if the court finds that the determination is not supported by substantial evidence in the record of the proceeding submitted pursuant to paragraph (1), as supplemented by any additional submissions and presentations filed under paragraph (2).

**''SEC. 108. EXPENDITURE OF CERTAIN AMOUNTS.**

''(a) EXPENDITURE.—Amounts described in subsection (b) may not be expended by a State for any purpose other than carrying out programs for which the State receives financial assistance under this title, under part C of title VI, or under title VII.

''(b) AMOUNTS.—The amounts referred to in subsection (a) are amounts provided to a State under the Social Security Act (42 U.S.C. 301 et seq.) as reimbursement for the expenditure of payments received by the State from allotments under section 110 of this Act.

**''SEC. 109. TRAINING OF EMPLOYERS WITH RESPECT TO AMERICANS WITH DISABILITIES ACT OF 1990.**

''A State may expend payments received under section 111—

''(1) to carry out a program to train employers with respect to compliance with the requirements of title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.); and

''(2) to inform employers of the existence of the program and the availability of the services of the program.

''PART B—BASIC VOCATIONAL REHABILITATION SERVICES

''STATE ALLOTMENTS

''SEC. 110. (a)(1) Subject to the provisions of subsection (c), for each fiscal year beginning before October 1, 1978, each State shall be entitled to an allotment of an amount bearing the same ratio to the amount authorized to be appropriated under section 100(b)(1) for allotment under this section as the product of—

''(A) the population of the State; and

''(B) the square of its allotment percentage,

bears to the sum of the corresponding products for all the States.

''(2)(A) For each fiscal year beginning on or after October 1, 1978, each State shall be entitled to an allotment in an amount equal to the amount such State received under paragraph (1) for the fiscal year ending September 30, 1978, and an additional amount determined pursuant to subparagraph (B) of this paragraph.

''(B) For each fiscal year beginning on or after October 1, 1978, each State shall be entitled to an allotment, from any amount authorized to be appropriated for such fiscal year under section 100(b)(1) for allotment under this section in excess of the amount appropriated under section 100(b)(1)(A) for the fiscal year ending September 30, 1978, in an amount equal to the sum of—

''(i) an amount bearing the same ratio to 50 percent of such excess amount as the product of the population of the State and the square of its allotment percentage bears to the sum of the corresponding products for all the States; and

''(ii) an amount bearing the same ratio to 50 percent of such excess amount as the product of the population of the State and its allotment percentage bears to the sum of the corresponding products for all the States.

''(3) The sum of the payment to any State (other than Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands) under this subsection for any fiscal year which is less than one-third of 1 percent of the amount appropriated under section 100(b)(1), or $3,000,000, whichever is greater, shall be increased to that amount, the total of the increases thereby required being derived by proportionately reducing the allotment to each of the remaining such States under this subsection, but with such adjustments as may be necessary to prevent the sum of the allotments made under this subsection to any such remaining State from being thereby reduced to less than that amount.

''(b)(1) Not later than forty-five days prior to the end of the fiscal year, the Commissioner shall determine, after reasonable opportunity for the submission to the Commissioner of comments by the State agency administering or supervising the program established under this title, that any payment of an allotment to a State under section 111(a) for any fiscal year will not be utilized by such State in carrying out the purposes of this title.

''(2) As soon as practicable but not later than the end of the fiscal year, the Commissioner shall make such amount available for carrying out the purposes of this title to one or more other States to the extent the Commissioner determines such other State will be able to use such additional amount during that fiscal year or the subsequent fiscal year for carrying out such purposes. The Commissioner shall make such amount available only if such other State will be able to make sufficient payments from non-Federal sources to pay for the non-Federal share of the cost of vocational rehabilitation services under the State plan for the fiscal year for which the amount was appropriated.

''(3) For the purposes of this part, any amount made available to a State for any fiscal year pursuant to this subsection shall be regarded as an increase of such State's allotment (as determined under the preceding provisions of this section) for such year.

''(c)(1) For fiscal year 1987 and for each subsequent fiscal year, the Commissioner

shall reserve from the amount appropriated under section 100(b)(1) for allotment under this section a sum, determined under paragraph (2), to carry out the purposes of part C.

''(2) The sum referred to in paragraph (1) shall be, as determined by the Secretary—

''(A) not less than three-quarters of 1 percent and not more than 1.5 percent of the amount referred to in paragraph (1), for fiscal year 1998; and

''(B) not less than 1 percent and not more than 1.5 percent of the amount referred to in paragraph (1), for each of fiscal years 1999 through 2004.

''PAYMENTS TO STATES

''SEC. 111. (a)(1) Except as provided in paragraph (2), from each State's allotment under this part for any fiscal year, the Commissioner shall pay to a State an amount equal to the Federal share of the cost of vocational rehabilitation services under the plan for that State approved under section 101, including expenditures for the administration of the State plan.

''(2)(A) The total of payments under paragraph (1) to a State for a fiscal year may not exceed its allotment under subsection (a) of section 110 for such year.

''(B) For fiscal year 1994 and each fiscal year thereafter, the amount otherwise payable to a State for a fiscal year under this section shall be reduced by the amount by which expenditures from non-Federal sources under the State plan under this title for the previous fiscal year are less than the total of such expenditures for the second fiscal year preceding the previous fiscal year.

''(C) The Commissioner may waive or modify any requirement or limitation under paragraphs (A) and (B) if the Commissioner determines that a waiver or modification is an equitable response to exceptional or uncontrollable circumstances affecting the State.

''(b) The method of computing and paying amounts pursuant to subsection (a) shall be as follows:

''(1) The Commissioner shall, prior to the beginning of each calendar quarter or other period prescribed by the Commissioner, estimate the amount to be paid to each State under the provisions of such subsection for such period, such estimate to be based on such records of the State and information furnished by it, and such other investigation as the Commissioner may find necessary.

''(2) The Commissioner shall pay, from the allotment available therefor, the amount so estimated by the Commissioner for such period, reduced or increased, as the case may be, by any sum (not previously adjusted under this paragraph) by which the Commissioner finds that the estimate of the amount to be paid the State for any prior period under such subsection was greater or less than the amount which should have been paid to the State for such prior period under such subsection. Such payment shall be made prior to audit or settlement by the General Accounting Office, shall be made through the disbursing facilities of the Treasury Department, and shall be made in such installments as the Commissioner may determine.

''CLIENT ASSISTANCE PROGRAM

''SEC. 112. (a) From funds appropriated under subsection (h), the Secretary shall, in accordance with this section, make grants to States to establish and carry out client assistance programs to provide assistance in informing and advising all clients and client applicants of all available benefits under this Act, and, upon request of such clients or client applicants, to assist and advocate for such clients or applicants in their relationships with projects, programs, and services provided under this Act, including assistance and advocacy in pursuing legal, administrative, or other appropriate remedies to ensure the protection of the rights of such individuals under this Act and to facilitate access to the services funded under this Act through individual and systemic advocacy. The client assistance program shall provide information on the available services and benefits under this Act and title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) to individuals with disabilities in the State, especially with regard to individuals with disabilities who have traditionally been unserved or underserved by vocational rehabilitation programs. In providing assistance and advocacy under this subsection with respect to services under this title, a client assistance program may provide the assistance and advocacy with respect to services that are directly related to facilitating the employment of the individual.

''(b) No State may receive payments from its allotment under this Act in any fiscal year unless the State has in effect not later than October 1, 1984, a client assistance program which—

''(1) has the authority to pursue legal, administrative, and other appropriate remedies to ensure the protection of rights of individuals with disabilities who are receiving treatments, services, or rehabilitation under this Act within the State; and

''(2) meets the requirements of designation under subsection (c).

''(c)(1)(A) The Governor shall designate a public or private agency to conduct the client assistance program under this section. Except as provided in the last sentence of this subparagraph, the Governor shall designate an agency which is independent of any agency which provides treatment, services, or rehabilitation to individuals under this Act. If there is an agency in the State which has, or had, prior to the date of enactment of the Rehabilitation Amendments of 1984, served as a client assistance agency under this section and which received Federal financial assistance under this Act, the Governor may, in the initial designation, designate an agency which provides treatment, services, or rehabilitation to individuals with disabilities under this Act.

''(B)(i) The Governor may not redesignate the agency designated under subparagraph (A) without good cause and unless—

''(I) the Governor has given the agency 30 days notice of the intention to make such redesignation, including specification of the good cause for such redesignation and an opportunity to respond to the assertion that good cause has been shown;

''(II) individuals with disabilities or the individuals' representatives have timely notice of the redesignation and opportunity for public comment; and

''(III) the agency has the opportunity to appeal to the Commissioner on the basis that the redesignation was not for good cause.

''(ii) If, after the date of enactment of the Rehabilitation Act Amendments of 1998—

''(I) a designated State agency undergoes any change in the organizational structure of the agency that results in the creation of 1 or more new State agencies or departments or results in the merger of the designated State agency with 1 or more other State agencies or departments; and

''(II) an agency (including an office or other unit) within the designated State agency was conducting a client assistance program before the change under the last sentence of subparagraph (A),

the Governor shall redesignate the agency conducting the program. In conducting the redesignation, the Governor shall designate to conduct the program an agency that is independent of any agency that provides treatment, services, or rehabilitation to individuals with disabilities under this Act.

''(2) In carrying out the provisions of this section, the Governor shall consult with the director of the State vocational rehabilitation agency, the head of the developmental disability protection and advocacy agency, and with representatives of professional and consumer organizations serving individuals with disabilities in the State.

''(3) The agency designated under this subsection shall be accountable for the proper use of funds made available to the agency.

''(4) For the purpose of this subsection, the term 'Governor' means the chief executive of the State.

''(d) The agency designated under subsection (c) of this section may not bring any class action in carrying out its responsibilities under this section.

''(e)(1)(A) The Secretary shall allot the sums appropriated for each fiscal year under this section among the States on the basis of relative population of each State, except that no State shall receive less than $50,000.

''(B) The Secretary shall allot $30,000 each to American Samoa, Guam, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

''(C) For the purpose of this paragraph, the term 'State' does not include American Samoa, Guam, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

''(D)(i) In any fiscal year that the funds appropriated for such fiscal year exceed $7,500,000, the minimum allotment shall be $100,000 for States and $45,000 for territories.

''(ii) For any fiscal year in which the total amount appropriated under subsection (h) exceeds the total amount appropriated under such subsection for the preceding fiscal year, the Secretary shall increase each of the minimum allotments under clause (i) by a percentage that shall not exceed the percentage increase in the total amount appropriated under such subsection between the preceding fiscal year and the fiscal year involved.

''(2) The amount of an allotment to a State for a fiscal year which the Secretary determines will not be required by the State during the period for which it is available for the purpose for which allotted shall be available for reallotment by the Secretary at appropriate times to other States with respect to which such a determination has not been made, in proportion to the original allotments of such States for such fiscal year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use during such period, and the total of such reduction shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any such amount so reallotted to a State for a fiscal year shall be deemed to be a part of its allotment for such fiscal year.

''(3) Except as specifically prohibited by or as otherwise provided in State law, the Secretary shall pay to the agency designated under subsection (c) the amount specified in the application approved under subsection (f).

''(f) No grant may be made under this section unless the State submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary deems necessary to meet the requirements of this section.

''(g) The Secretary shall prescribe regulations applicable to the client assistance program which shall include the following requirements:

''(1) No employees of such programs shall, while so employed, serve as staff or consultants of any rehabilitation project, program,

or facility receiving assistance under this Act in the State.

''(2) Each program shall be afforded reasonable access to policymaking and administrative personnel in the State and local rehabilitation programs, projects, or facilities.

''(3)(A) Each program shall contain provisions designed to assure that to the maximum extent possible alternative means of dispute resolution are available for use at the discretion of an applicant or client of the program prior to resorting to litigation or formal adjudication to resolve a dispute arising under this section.

''(B) In subparagraph (A), the term 'alternative means of dispute resolution' means any procedure, including good faith negotiation, conciliation, facilitation, mediation, fact finding, and arbitration, and any combination of procedures, that is used in lieu of litigation in a court or formal adjudication in an administrative forum, to resolve a dispute arising under this section.

''(4) For purposes of any periodic audit, report, or evaluation of the performance of a client assistance program under this section, the Secretary shall not require such a program to disclose the identity of, or any other personally identifiable information related to, any individual requesting assistance under such program.

''(h) There are authorized to be appropriated such sums as may be necessary for fiscal years 1998 through 2004 to carry out the provisions of this section.

''PART C—AMERICAN INDIAN VOCATIONAL REHABILITATION SERVICES

''VOCATIONAL REHABILITATION SERVICES GRANTS

''SEC. 121. (a) The Commissioner, in accordance with the provisions of this part, may make grants to the governing bodies of Indian tribes located on Federal and State reservations (and consortia of such governing bodies) to pay 90 percent of the costs of vocational rehabilitation services for American Indians who are individuals with disabilities residing on such reservations. The non-Federal share of such costs may be in cash or in kind, fairly valued, and the Commissioner may waive such non-Federal share requirement in order to carry out the purposes of this Act.

''(b)(1) No grant may be made under this part for any fiscal year unless an application therefor has been submitted to and approved by the Commissioner. The Commissioner may not approve an application unless the application—

''(A) is made at such time, in such manner, and contains such information as the Commissioner may require;

''(B) contains assurances that the rehabilitation services provided under this part to American Indians who are individuals with disabilities residing on a reservation in a State shall be, to the maximum extent feasible, comparable to rehabilitation services provided under this title to other individuals with disabilities residing in the State and that, where appropriate, may include services traditionally used by Indian tribes; and

''(C) contains assurances that the application was developed in consultation with the designated State unit of the State.

''(2) The provisions of sections 5, 6, 7, and 102(a) of the Indian Self-Determination and Education Assistance Act shall be applicable to any application submitted under this part. For purposes of this paragraph, any reference in any such provision to the Secretary of Education or to the Secretary of the Interior shall be considered to be a reference to the Commissioner.

''(3) Any application approved under this part shall be effective for not more than 60 months, except as determined otherwise by the Commissioner pursuant to prescribed regulations. The State shall continue to provide vocational rehabilitation services under its State plan to American Indians residing on a reservation whenever such State includes any such American Indians in its State population under section 110(a)(1).

''(4) In making grants under this part, the Secretary shall give priority consideration to applications for the continuation of programs which have been funded under this part.

''(5) Nothing in this section may be construed to authorize a separate service delivery system for Indian residents of a State who reside in non-reservation areas.

''(c) The term 'reservation' includes Indian reservations, public domain Indian allotments, former Indian reservations in Oklahoma, and land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act.

''PART D—VOCATIONAL REHABILITATION SERVICES CLIENT INFORMATION

**''SEC. 131. DATA SHARING.**

''(a) IN GENERAL.—

''(1) MEMORANDUM OF UNDERSTANDING.—The Secretary of Education and the Secretary of Health and Human Services shall enter into a memorandum of understanding for the purposes of exchanging data of mutual importance—

''(A) that concern clients of designated State agencies; and

''(B) that are data maintained either by—

''(i) the Rehabilitation Services Administration, as required by section 13; or

''(ii) the Social Security Administration, from its Summary Earnings and Records and Master Beneficiary Records.

''(2) LABOR MARKET INFORMATION.—The Secretary of Labor shall provide the Commissioner with labor market information that facilitates evaluation by the Commissioner of the program carried out under part B, and allows the Commissioner to compare the progress of individuals with disabilities who are assisted under the program in securing, retaining, regaining, and advancing in employment with the progress made by individuals who are assisted under title III of the Workforce Investment Partnership Act of 1998.

''(b) TREATMENT OF INFORMATION.—For purposes of the exchange described in subsection (a)(1), the data described in subsection (a)(1)(B)(ii) shall not be considered return information (as defined in section 6103(b)(2) of the Internal Revenue Code of 1986) and, as appropriate, the confidentiality of all client information shall be maintained by the Rehabilitation Services Administration and the Social Security Administration.''.

**SEC. 5. RESEARCH AND TRAINING.**

Title II of the Rehabilitation Act of 1973 (29 U.S.C. 760 et seq.) is amended to read as follows:

''TITLE II—RESEARCH AND TRAINING

''DECLARATION OF PURPOSE

''SEC. 200. The purpose of this title is to—

''(1) provide for research, demonstration projects, training, and related activities to maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities of all ages, with particular emphasis on improving the effectiveness of services authorized under this Act;

''(2) provide for a comprehensive and coordinated approach to the support and conduct of such research, demonstration projects, training, and related activities and to ensure that the approach is in accordance with the 5-year plan developed under section 202(h);

''(3) promote the transfer of rehabilitation technology to individuals with disabilities through research and demonstration projects relating to—

''(A) the procurement process for the purchase of rehabilitation technology;

''(B) the utilization of rehabilitation technology on a national basis;

''(C) specific adaptations or customizations of products to enable individuals with disabilities to live more independently; and

''(D) the development or transfer of assistive technology;

''(4) ensure the widespread distribution, in usable formats, of practical scientific and technological information—

''(A) generated by research, demonstration projects, training, and related activities; and

''(B) regarding state-of-the-art practices, improvements in the services authorized under this Act, rehabilitation technology, and new knowledge regarding disabilities,

to rehabilitation professionals, individuals with disabilities, and other interested parties, including the general public;

''(5) identify effective strategies that enhance the opportunities of individuals with disabilities to engage in employment, including employment involving telecommuting and self-employment; and

''(6) increase opportunities for researchers who are members of traditionally underserved populations, including researchers who are members of minority groups and researchers who are individuals with disabilities.

''AUTHORIZATION OF APPROPRIATIONS

''SEC. 201. (a) There are authorized to be appropriated—

''(1) for the purpose of providing for the expenses of the National Institute on Disability and Rehabilitation Research under section 202, which shall include the expenses of the Rehabilitation Research Advisory Council under section 205, and shall not include the expenses of such Institute to carry out section 204, such sums as may be necessary for each of fiscal years 1998 through 2004; and

''(2) to carry out section 204, such sums as may be necessary for each of fiscal years 1998 through 2004.

''(b) Funds appropriated under this title shall remain available until expended.

''NATIONAL INSTITUTE ON DISABILITY AND REHABILITATION RESEARCH

''SEC. 202. (a)(1) There is established within the Department of Education a National Institute on Disability and Rehabilitation Research (hereinafter in this title referred to as the 'Institute'), which shall be headed by a Director (hereinafter in this title referred to as the 'Director'), in order to—

''(A) promote, coordinate, and provide for—

''(i) research;

''(ii) demonstration projects and training; and

''(iii) related activities,

with respect to individuals with disabilities;

''(B) more effectively carry out activities through the programs under section 204 and activities under this section;

''(C) widely disseminate information from the activities described in subparagraphs (A) and (B); and

''(D) provide leadership in advancing the quality of life of individuals with disabilities.

''(2) In the performance of the functions of the office, the Director shall be directly responsible to the Secretary or to the same Under Secretary or Assistant Secretary of the Department of Education to whom the Commissioner is responsible under section 3(a).

''(b) The Director, through the Institute, shall be responsible for—

''(1) administering the programs described in section 204 and activities under this section;

''(2) widely disseminating findings, conclusions, and recommendations, resulting from research, demonstration projects, training, and related activities (referred to in this title as 'covered activities') funded by the Institute, to—

''(A) other Federal, State, tribal, and local public agencies;

''(B) private organizations engaged in research relating to rehabilitation or providing rehabilitation services;

''(C) rehabilitation practitioners; and

''(D) individuals with disabilities and the individuals' representatives;

''(3) coordinating, through the Interagency Committee established by section 203 of this Act, all Federal programs and policies relating to research in rehabilitation;

''(4) widely disseminating educational materials and research results, concerning ways to maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, to—

''(A) public and private entities, including—

''(i) elementary and secondary schools (as defined in section 14101 of the Elementary and Secondary Education Act of 1965; and

''(ii) institutions of higher education;

''(B) rehabilitation practitioners;

''(C) individuals with disabilities (especially such individuals who are members of minority groups or of populations that are unserved or underserved by programs under this Act); and

''(D) the individuals' representatives for the individuals described in subparagraph (C);

''(5)(A) conducting an education program to inform the public about ways of providing for the rehabilitation of individuals with disabilities, including information relating to—

''(i) family care;

''(ii) self-care; and

''(iii) assistive technology devices and assistive technology services; and

''(B) as part of the program, disseminating engineering information about assistive technology devices;

''(6) conducting conferences, seminars, and workshops (including in-service training programs and programs for individuals with disabilities) concerning advances in rehabilitation research and rehabilitation technology (including advances concerning the selection and use of assistive technology devices and assistive technology services), pertinent to the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities;

''(7) taking whatever action is necessary to keep the Congress fully and currently informed with respect to the implementation and conduct of programs and activities carried out under this title, including dissemination activities;

''(8) producing, in conjunction with the Department of Labor, the National Center for Health Statistics, the Bureau of the Census, the Health Care Financing Administration, the Social Security Administration, the Bureau of Indian Affairs, the Indian Health Service, and other Federal departments and agencies, as may be appropriate, statistical reports and studies on the employment, health, income, and other demographic characteristics of individuals with disabilities, including information on individuals with disabilities who live in rural or inner-city settings, with particular attention given to underserved populations, and widely disseminating such reports and studies to rehabilitation professionals, individuals with disabilities, the individuals' representatives, and others to assist in the planning, assessment, and evaluation of vocational and other rehabilitation services for individuals with disabilities;

''(9) conducting research on consumer satisfaction with vocational rehabilitation services for the purpose of identifying effective rehabilitation programs and policies that promote the independence of individuals with disabilities and achievement of long-term vocational goals;

''(10) conducting research to examine the relationship between the provision of specific services and successful, sustained employment outcomes, including employment outcomes involving self-employment; and

''(11) coordinating activities with the Attorney General regarding the provision of information, training, or technical assistance regarding the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) to ensure consistency with the plan for technical assistance required under section 506 of such Act (42 U.S.C. 12206).

''(c)(1) The Director, acting through the Institute or 1 or more entities funded by the Institute, shall provide for the development and dissemination of models to address consumer-driven information needs related to assistive technology devices and assistive technology services.

''(2) The development and dissemination of models may include—

''(A) convening groups of individuals with disabilities, family members and advocates of such individuals, commercial producers of assistive technology, and entities funded by the Institute to develop, assess, and disseminate knowledge about information needs related to assistive technology;

''(B) identifying the types of information regarding assistive technology devices and assistive technology services that individuals with disabilities find especially useful;

''(C) evaluating current models, and developing new models, for transmitting the information described in subparagraph (B) to consumers and to commercial producers of assistive technology; and

''(D) disseminating through 1 or more entities funded by the Institute, the models described in subparagraph (C) and findings regarding the information described in subparagraph (B) to consumers and commercial producers of assistive technology.

''(d)(1) The Director of the Institute shall be appointed by the Secretary. The Director shall be an individual with substantial experience in rehabilitation and in research administration. The Director shall be compensated at the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code. The Director shall not delegate any of his functions to any officer who is not directly responsible to the Director.

''(2) There shall be a Deputy Director of the Institute (referred to in this section as the 'Deputy Director') who shall be appointed by the Secretary. The Deputy Director shall be an individual with substantial experience in rehabilitation and in research administration. The Deputy Director shall be compensated at the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382 of title 5, United States Code, and shall act for the Director during the absence of the Director or the inability of the Director to perform the essential functions of the job, exercising such powers as the Director may prescribe. In the case of any vacancy in the office of the Director, the Deputy Director shall serve as Director until a Director is appointed under paragraph (1). The position created by this paragraph shall be a Senior Executive Service position, as defined in section 3132 of title 5, United States Code.

''(3) The Director, subject to the approval of the President, may appoint, for terms not to exceed three years, without regard to the provisions of title 5, United States Code, governing appointment in the competitive service, and may compensate, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, such technical and professional employees of the Institute as the Director determines to be necessary to accomplish the functions of the Institute and also appoint and compensate without regard to such provisions, in a number not to exceed one-fifth of the number of full-time, regular technical and professional employees of the Institute.

''(4) The Director may obtain the services of consultants, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

''(e) The Director, pursuant to regulations which the Secretary shall prescribe, may establish and maintain fellowships with such stipends and allowances, including travel and subsistence expenses provided for under title 5, United States Code, as the Director considers necessary to procure the assistance of highly qualified research fellows, including individuals with disabilities, from the United States and foreign countries.

''(f)(1) The Director shall, pursuant to regulations that the Secretary shall prescribe, provide for scientific peer review of all applications for financial assistance for research, training, and demonstration projects over which the Director has authority. The Director shall provide for the review by utilizing, to the maximum extent possible, appropriate peer review panels established within the Institute. The panels shall be standing panels if the grant period involved or the duration of the program involved is not more than 3 years. The panels shall be composed of individuals who are not Federal employees, who are scientists or other experts in the rehabilitation field (including the independent living field), including knowledgeable individuals with disabilities, and the individuals' representatives, and who are competent to review applications for the financial assistance.

''(2) The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the panels.

''(3) The Director shall solicit nominations for such panels from the public and shall publish the names of the individuals selected. Individuals comprising each panel shall be selected from a pool of qualified individuals to facilitate knowledgeable, cost-effective review.

''(4) In providing for such scientific peer review, the Secretary shall provide for training, as necessary and appropriate, to facilitate the effective participation of those individuals selected to participate in such review.

''(g) Not less than 90 percent of the funds appropriated under this title for any fiscal year shall be expended by the Director to carry out activities under this title through grants, contracts, or cooperative agreements. Up to 10 percent of the funds appropriated under this title for any fiscal year may be expended directly for the purpose of carrying out the functions of the Director under this section.

''(h)(1) The Director shall—

''(A) by October 1, 1998 and every fifth October 1 thereafter, prepare and publish in the Federal Register for public comment a draft of a 5-year plan that outlines priorities for rehabilitation research, demonstration projects, training, and related activities and explains the basis for such priorities;

''(B) by June 1, 1999, and every fifth June 1 thereafter, after considering public comments, submit the plan in final form to the appropriate committees of Congress;

''(C) at appropriate intervals, prepare and submit revisions in the plan to the appropriate committees of Congress; and

''(D) annually prepare and submit progress reports on the plan to the appropriate committees of Congress.

''(2) Such plan shall—

''(A) identify any covered activity that should be conducted under this section and section 204 respecting the full inclusion and integration into society of individuals with disabilities, especially in the area of employment;

''(B) determine the funding priorities for covered activities to be conducted under this section and section 204;

''(C) specify appropriate goals and timetables for covered activities to be conducted under this section and section 204;

''(D) be developed by the Director—

''(i) after consultation with the Rehabilitation Research Advisory Council established under section 205;

''(ii) in coordination with the Commissioner;

''(iii) after consultation with the National Council on Disability established under title IV, the Secretary of Education, officials responsible for the administration of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.), and the Interagency Committee on Disability Research established under section 203; and

''(iv) after full consideration of the input of individuals with disabilities and the individuals' representatives, organizations representing individuals with disabilities, providers of services furnished under this Act, researchers in the rehabilitation field, and any other persons or entities the Director considers to be appropriate;

''(E) specify plans for widespread dissemination of the results of covered activities, in accessible formats, to rehabilitation practitioners, individuals with disabilities, and the individuals' representatives; and

''(F) specify plans for widespread dissemination of the results of covered activities that concern individuals with disabilities who are members of minority groups or of populations that are unserved or underserved by programs carried out under this Act.

''(i) In order to promote cooperation among Federal departments and agencies conducting research programs, the Director shall consult with the administrators of such programs, and with the Interagency Committee established by section 203, regarding the design of research projects conducted by such entities and the results and applications of such research.

''(j)(1) The Director shall take appropriate actions to provide for a comprehensive and coordinated research program under this title. In providing such a program, the Director may undertake joint activities with other Federal entities engaged in research and with appropriate private entities. Any Federal entity proposing to establish any research project related to the purposes of this Act shall consult, through the Interagency Committee established by section 203, with the Director as Chairperson of such Committee and provide the Director with sufficient prior opportunity to comment on such project.

''(2) Any person responsible for administering any program of the National Institutes of Health, the Department of Veterans Affairs, the National Science Foundation, the National Aeronautics and Space Administration, the Office of Special Education and Rehabilitative Services, or of any other Federal entity, shall, through the Interagency Committee established by section 203, consult and cooperate with the Director in carrying out such program if the program is related to the purposes of this title.

''(k) The Director shall make grants to institutions of higher education for the training of rehabilitation researchers, including individuals with disabilities, with particular attention to research areas that support the implementation and objectives of this Act and that improve the effectiveness of services authorized under this Act.

''INTERAGENCY COMMITTEE

''SEC. 203. (a)(1) In order to promote coordination and cooperation among Federal departments and agencies conducting rehabilitation research programs, there is established within the Federal Government an Interagency Committee on Disability Research (hereinafter in this section referred to as the 'Committee'), chaired by the Director and comprised of such members as the President may designate, including the following (or their designees): the Director, the Commissioner of the Rehabilitation Services Administration, the Assistant Secretary for Special Education and Rehabilitative Services, the Secretary of Education, the Secretary of Veterans Affairs, the Director of the National Institutes of Health, the Director of the National Institute of Mental Health, the Administrator of the National Aeronautics and Space Administration, the Secretary of Transportation, the Assistant Secretary of the Interior for Indian Affairs, the Director of the Indian Health Service, and the Director of the National Science Foundation.

''(2) The Committee shall meet not less than four times each year.

''(b) After receiving input from individuals with disabilities and the individuals' representatives, the Committee shall identify, assess, and seek to coordinate all Federal programs, activities, and projects, and plans for such programs, activities, and projects with respect to the conduct of research related to rehabilitation of individuals with disabilities.

''(c) The Committee shall annually submit to the President and to the appropriate committees of the Congress a report making such recommendations as the Committee deems appropriate with respect to coordination of policy and development of objectives and priorities for all Federal programs relating to the conduct of research related to rehabilitation of individuals with disabilities.

''RESEARCH AND OTHER COVERED ACTIVITIES

''SEC. 204. (a)(1) To the extent consistent with priorities established in the 5-year plan described in section 202(h), the Director may make grants to and contracts with States and public or private agencies and organizations, including institutions of higher education, Indian tribes, and tribal organizations, to pay part of the cost of projects for the purpose of planning and conducting research, demonstration projects, training, and related activities, the purposes of which are to develop methods, procedures, and rehabilitation technology, that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most significant disabilities, and improve the effectiveness of services authorized under this Act.

''(2)(A) In carrying out this section, the Director shall emphasize projects that support the implementation of titles I, III, V, VI, and VII, including projects addressing the needs described in the State plans submitted under section 101 or 704 by State agencies.

''(B) Such projects, as described in the State plans submitted by State agencies, may include—

''(i) medical and other scientific, technical, methodological, and other investigations into the nature of disability, methods of analyzing it, and restorative techniques, including basic research where related to rehabilitation techniques or services;

''(ii) studies and analysis of industrial, vocational, social, recreational, psychiatric, psychological, economic, and other factors affecting rehabilitation of individuals with disabilities;

''(iii) studies and analysis of special problems of individuals who are homebound and individuals who are institutionalized;

''(iv) studies, analyses, and demonstrations of architectural and engineering design adapted to meet the special needs of individuals with disabilities;

''(v) studies, analyses, and other activities related to supported employment;

''(vi) related activities which hold promise of increasing knowledge and improving methods in the rehabilitation of individuals with disabilities and individuals with the most significant disabilities, particularly individuals with disabilities, and individuals with the most significant disabilities, who are members of populations that are unserved or underserved by programs under this Act; and

''(vii) studies, analyses, and other activities related to job accommodations, including the use of rehabilitation engineering and assistive technology.

''(b)(1) In addition to carrying out projects under subsection (a), the Director may make grants under this subsection (referred to in this subsection as 'research grants') to pay part or all of the cost of the research or other specialized covered activities described in paragraphs (2) through (18). A research grant made under any of paragraphs (2) through (18) may only be used in a manner consistent with priorities established in the 5-year plan described in section 202(h).

''(2)(A) Research grants may be used for the establishment and support of Rehabilitation Research and Training Centers, for the purpose of providing an integrated program of research, which Centers shall—

''(i) be operated in collaboration with institutions of higher education or providers of rehabilitation services or other appropriate services; and

''(ii) serve as centers of national excellence and national or regional resources for providers and individuals with disabilities and the individuals' representatives.

''(B) The Centers shall conduct research and training activities by—

''(i) conducting coordinated and advanced programs of research in rehabilitation targeted toward the production of new knowledge that will improve rehabilitation methodology and service delivery systems, alleviate or stabilize disabling conditions, and promote maximum social and economic independence of individuals with disabilities, especially promoting the ability of the individuals to prepare for, secure, retain, regain, or advance in employment;

''(ii) providing training (including graduate, pre-service, and in-service training) to assist individuals to more effectively provide rehabilitation services;

''(iii) providing training (including graduate, pre-service, and in-service training) for rehabilitation research personnel and other rehabilitation personnel; and

''(iv) serving as an informational and technical assistance resource to providers, individuals with disabilities, and the individuals' representatives, through conferences, workshops, public education programs, in-service training programs, and similar activities.

''(C) The research to be carried out at each such Center may include—

''(i) basic or applied medical rehabilitation research;

''(ii) research regarding the psychological and social aspects of rehabilitation, including disability policy;

''(iii) research related to vocational rehabilitation;

''(iv) continuation of research that promotes the emotional, social, educational, and functional growth of children who are individuals with disabilities;

''(v) continuation of research to develop and evaluate interventions, policies, and services that support families of those children and adults who are individuals with disabilities; and

''(vi) continuation of research that will improve services and policies that foster the productivity, independence, and social integration of individuals with disabilities, and enable individuals with disabilities, including individuals with mental retardation and other developmental disabilities, to live in their communities.

''(D) Training of students preparing to be rehabilitation personnel shall be an important priority for such a Center.

''(E) The Director shall make grants under this paragraph to establish and support both comprehensive centers dealing with multiple disabilities and centers primarily focused on particular disabilities.

''(F) Grants made under this paragraph may be used to provide funds for services rendered by such a Center to individuals with disabilities in connection with the research and training activities.

''(G) Grants made under this paragraph may be used to provide faculty support for teaching—

''(i) rehabilitation-related courses of study for credit; and

''(ii) other courses offered by the Centers, either directly or through another entity.

''(H) The research and training activities conducted by such a Center shall be conducted in a manner that is accessible to and usable by individuals with disabilities.

''(I) The Director shall encourage the Centers to develop practical applications for the findings of the research of the Centers.

''(J) In awarding grants under this paragraph, the Director shall take into consideration the location of any proposed Center and the appropriate geographic and regional allocation of such Centers.

''(K) To be eligible to receive a grant under this paragraph, each such institution or provider described in subparagraph (A) shall—

''(i) be of sufficient size, scope, and quality to effectively carry out the activities in an efficient manner consistent with appropriate State and Federal law; and

''(ii) demonstrate the ability to carry out the training activities either directly or through another entity that can provide such training.

''(L) The Director shall make grants under this paragraph for periods of 5 years, except that the Director may make a grant for a period of less than 5 years if—

''(i) the grant is made to a new recipient; or

''(ii) the grant supports new or innovative research.

''(M) Grants made under this paragraph shall be made on a competitive basis. To be eligible to receive a grant under this paragraph, a prospective grant recipient shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require.

''(N) In conducting scientific peer review under section 202(f) of an application for the renewal of a grant made under this paragraph, the peer review panel shall take into account the past performance of the applicant in carrying out the grant and input from individuals with disabilities and the individuals' representatives.

''(O) An institution or provider that receives a grant under this paragraph to establish such a Center may not collect more than 15 percent of the amount of the grant received by the Center in indirect cost charges.

''(3)(A) Research grants may be used for the establishment and support of Rehabilitation Engineering Research Centers, operated by or in collaboration with institutions of higher education or nonprofit organizations, to conduct research or demonstration activities, and training activities, regarding rehabilitation technology, including rehabilitation engineering, assistive technology devices, and assistive technology services, for the purposes of enhancing opportunities for better meeting the needs of, and addressing the barriers confronted by, individuals with disabilities in all aspects of their lives.

''(B) In order to carry out the purposes set forth in subparagraph (A), such a Center shall carry out the research or demonstration activities by—

''(i) developing and disseminating innovative methods of applying advanced technology, scientific achievement, and psychological and social knowledge to—

''(I) solve rehabilitation problems and remove environmental barriers through planning and conducting research, including cooperative research with public or private agencies and organizations, designed to produce new scientific knowledge, and new or improved methods, equipment, and devices; and

''(II) study new or emerging technologies, products, or environments, and the effectiveness and benefits of such technologies, products, or environments;

''(ii) demonstrating and disseminating—

''(I) innovative models for the delivery, to rural and urban areas, of cost-effective rehabilitation technology services that promote utilization of assistive technology devices; and

''(II) other scientific research to assist in meeting the employment and independent living needs of individuals with significant disabilities; or

''(iii) conducting research or demonstration activities that facilitate service delivery systems change by demonstrating, evaluating, documenting, and disseminating—

''(I) consumer responsive and individual and family-centered innovative models for the delivery to both rural and urban areas, of innovative cost-effective rehabilitation technology services that promote utilization of rehabilitation technology; and

''(II) other scientific research to assist in meeting the employment and independent living needs of, and addressing the barriers confronted by, individuals with disabilities, including individuals with significant disabilities.

''(C) To the extent consistent with the nature and type of research or demonstration activities described in subparagraph (B), each Center established or supported through a grant made available under this paragraph shall—

''(i) cooperate with programs established under the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2201 et seq.) and other regional and local programs to provide information to individuals with disabilities and the individuals' representatives to—

''(I) increase awareness and understanding of how rehabilitation technology can address their needs; and

''(II) increase awareness and understanding of the range of options, programs, services, and resources available, including financing options for the technology and services covered by the area of focus of the Center;

''(ii) provide training opportunities to individuals, including individuals with disabilities, to become researchers of rehabilitation technology and practitioners of rehabilitation technology in conjunction with institutions of higher education and nonprofit organizations; and

''(iii) respond, through research or demonstration activities, to the needs of individuals with all types of disabilities who may benefit from the application of technology within the area of focus of the Center.

''(D)(i) In establishing Centers to conduct the research or demonstration activities described in subparagraph (B)(iii), the Director may establish one Center in each of the following areas of focus:

''(I) Early childhood services, including early intervention and family support.

''(II) Education at the elementary and secondary levels, including transition from school to postschool activities.

''(III) Employment, including supported employment, and reasonable accommodations and the reduction of environmental barriers as required by the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and title V.

''(IV) Independent living, including transition from institutional to community living, maintenance of community living on leaving the work force, self-help skills, and activities of daily living.

''(ii) Each Center conducting the research or demonstration activities described in subparagraph (B)(iii) shall have an advisory committee, of which the majority of members are individuals with disabilities who are users of rehabilitation technology, and the individuals' representatives.

''(E) Grants made under this paragraph shall be made on a competitive basis and shall be for a period of 5 years, except that the Director may make a grant for a period of less than 5 years if—

''(i) the grant is made to a new recipient; or

''(ii) the grant supports new or innovative research.

''(F) To be eligible to receive a grant under this paragraph, a prospective grant recipient shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require.

''(G) Each Center established or supported through a grant made available under this paragraph shall—

''(i) cooperate with State agencies and other local, State, regional, and national programs and organizations developing or delivering rehabilitation technology, including State programs funded under the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2201 et seq.); and

''(ii) prepare and submit to the Director as part of an application for continuation of a grant, or as a final report, a report that documents the outcomes of the program of the Center in terms of both short- and long-term impact on the lives of individuals with disabilities, and such other information as may be requested by the Director.

''(4)(A) Research grants may be used to conduct a program for spinal cord injury research, including conducting such a program by making grants to public or private agencies and organizations to pay part or all of the costs of special projects and demonstration projects for spinal cord injuries, that will—

''(i) ensure widespread dissemination of research findings among all Spinal Cord Injury Centers, to rehabilitation practitioners, individuals with spinal cord injury, the individuals' representatives, and organizations receiving financial assistance under this paragraph;

''(ii) provide encouragement and support for initiatives and new approaches by individual and institutional investigators; and

''(iii) establish and maintain close working relationships with other governmental and voluntary institutions and organizations engaged in similar efforts in order to unify and coordinate scientific efforts, encourage joint planning, and promote the interchange of data and reports among spinal cord injury investigations.

''(B) Any agency or organization carrying out a project or demonstration project assisted by a grant under this paragraph that provides services to individuals with spinal cord injuries shall—

''(i) establish, on an appropriate regional basis, a multidisciplinary system of providing vocational and other rehabilitation services, specifically designed to meet the special needs of individuals with spinal cord injuries, including acute care as well as periodic inpatient or outpatient followup and services;

''(ii) demonstrate and evaluate the benefits to individuals with spinal cord injuries served in, and the degree of cost effectiveness of, such a regional system;

''(iii) demonstrate and evaluate existing, new, and improved methods and rehabilitation technology essential to the care, management, and rehabilitation of individuals with spinal cord injuries; and

''(iv) demonstrate and evaluate methods of community outreach for individuals with spinal cord injuries and community education in connection with the problems of such individuals in areas such as housing, transportation, recreation, employment, and community activities.

''(C) In awarding grants under this paragraph, the Director shall take into account the location of any proposed Spinal Cord Injury Center and the appropriate geographic and regional allocation of such Centers.

''(5) Research grants may be used to conduct a program for end-stage renal disease research, to include support of projects and demonstrations for providing special services (including transplantation and dialysis), artificial kidneys, and supplies necessary for the rehabilitation of individuals with such disease and which will—

''(A) insure dissemination of research findings;

''(B) provide encouragement and support for initiatives and new approaches by individuals and institutional investigators; and

''(C) establish and maintain close working relationships with other governmental and voluntary institutions and organizations engaged in similar efforts,

in order to unify and coordinate scientific efforts, encourage joint planning, and promote the interchange of data and reports among investigators in the field of end-stage renal disease. No person shall be selected to participate in such program who is eligible for services for such disease under any other provision of law.

''(6) Research grants may be used to conduct a program for international rehabilitation research, demonstration, and training for the purpose of developing new knowledge and methods in the rehabilitation of individuals with disabilities in the United States, cooperating with and assisting in developing and sharing information found useful in other nations in the rehabilitation of individuals with disabilities, and initiating a program to exchange experts and technical assistance in the field of rehabilitation of individuals with disabilities with other nations as a means of increasing the levels of skill of rehabilitation personnel.

''(7) Research grants may be used to conduct a research program concerning the use of existing telecommunications systems (including telephone, television, satellite, radio, and other similar systems) which have the potential for substantially improving service delivery methods, and the development of appropriate programing to meet the particular needs of individuals with disabilities.

''(8) Research grants may be used to conduct a program of joint projects with the National Institutes of Health, the National Institute of Mental Health, the Health Services Administration, the Administration on Aging, the National Science Foundation, the Veterans' Administration, the Department of Health and Human Services, the National Aeronautics and Space Administration, other Federal agencies, and private industry in areas of joint interest involving rehabilitation.

''(9) Research grants may be used to conduct a program of research related to the rehabilitation of children, or older individuals, who are individuals with disabilities, including older American Indians who are individuals with disabilities. Such research program may include projects designed to assist the adjustment of, or maintain as residents in the community, older workers who are individuals with disabilities on leaving the work force.

''(10) Research grants may be used to conduct a research program to develop and demonstrate innovative methods to attract and retain professionals to serve in rural areas in the rehabilitation of individuals with disabilities, including individuals with significant disabilities.

''(11) Research grants may be used to conduct a model research and demonstration project designed to assess the feasibility of establishing a center for producing and distributing to individuals who are deaf or hard of hearing captioned video cassettes providing a broad range of educational, cultural, scientific, and vocational programing.

''(12) Research grants may be used to conduct a model research and demonstration program to develop innovative methods of providing services for preschool age children who are individuals with disabilities, including the—

''(A) early intervention, assessment, parent counseling, infant stimulation, early identification, diagnosis, and evaluation of children who are individuals with significant disabilities up to the age of five, with a special emphasis on children who are individuals with significant disabilities up to the age of three;

''(B) such physical therapy, language development, pediatric, nursing, psychological, and psychiatric services as are necessary for such children; and

''(C) appropriate services for the parents of such children, including psychological and psychiatric services, parent counseling, and training.

''(13) Research grants may be used to conduct a model research and training program under which model training centers shall be established to develop and use more advanced and effective methods of evaluating and addressing the employment needs of individuals with disabilities, including programs which—

''(A) provide training and continuing education for personnel involved with the employment of individuals with disabilities;

''(B) develop model procedures for testing and evaluating the employment needs of individuals with disabilities;

''(C) develop model training programs to teach individuals with disabilities skills which will lead to appropriate employment;

''(D) develop new approaches for job placement of individuals with disabilities, including new followup procedures relating to such placement;

''(E) provide information services regarding education, training, employment, and job placement for individuals with disabilities; and

''(F) develop new approaches and provide information regarding job accommodations, including the use of rehabilitation engineering and assistive technology.

''(14) Research grants may be used to conduct a rehabilitation research program under which financial assistance is provided in order to—

''(A) test new concepts and innovative ideas;

''(B) demonstrate research results of high potential benefits;

''(C) purchase prototype aids and devices for evaluation;

''(D) develop unique rehabilitation training curricula; and

''(E) be responsive to special initiatives of the Director.

No single grant under this paragraph may exceed $50,000 in any fiscal year and all payments made under this paragraph in any fiscal year may not exceed 5 percent of the amount available for this section to the National Institute on Disability and Rehabilitation Research in any fiscal year. Regulations and administrative procedures with respect to financial assistance under this paragraph shall, to the maximum extent possible, be expedited.

''(15) Research grants may be used to conduct studies of the rehabilitation needs of American Indian populations and of effective mechanisms for the delivery of rehabilitation services to Indians residing on and off reservations.

''(16) Research grants may be used to conduct a demonstration program under which one or more projects national in scope shall be established to develop procedures to provide incentives for the development, manufacturing, and marketing of orphan technological devices, including technology transfer concerning such devices, designed to enable individuals with disabilities to achieve independence and access to gainful employment.

''(17)(A) Research grants may be used to conduct a research program related to quality assurance in the area of rehabilitation technology.

''(B) Activities carried out under the research program may include—

''(i) the development of methodologies to evaluate rehabilitation technology products and services and the dissemination of the methodologies to consumers and other interested parties;

''(ii) identification of models for service provider training and evaluation and certification of the effectiveness of the models;

''(iii) identification and dissemination of outcome measurement models for the assessment of rehabilitation technology products and services; and

''(iv) development and testing of research-based tools to enhance consumer decision-making about rehabilitation technology products and services.

''(C) The Director shall develop the quality assurance research program after consultation with representatives of all types of organizations interested in rehabilitation technology quality assurance.

''(18) Research grants may be used to provide for research and demonstration projects and related activities that explore the use and effectiveness of specific alternative or complementary medical practices for individuals with disabilities. Such projects and activities may include projects and activities designed to—

''(A) determine the use of specific alternative or complementary medical practices

among individuals with disabilities and the perceived effectiveness of the practices;

''(B) determine the specific information sources, decisionmaking methods, and methods of payment used by individuals with disabilities who access alternative or complementary medical services;

''(C) develop criteria to screen and assess the validity of research studies of such practices for individuals with disabilities; and

''(D) determine the effectiveness of specific alternative or complementary medical practices that show promise for promoting increased functioning, prevention of secondary disabilities, or other positive outcomes for individuals with certain types of disabilities, by conducting controlled research studies.

''(c)(1) In carrying out evaluations of covered activities under this section, the Director is authorized to make arrangements for site visits to obtain information on the accomplishments of the projects.

''(2) The Director shall not make a grant under this section which exceeds $499,999 unless the peer review of the grant application has included a site visit.

''REHABILITATION RESEARCH ADVISORY COUNCIL

''SEC. 205. (a) ESTABLISHMENT.—Subject to the availability of appropriations, the Secretary shall establish in the Department of Education a Rehabilitation Research Advisory Council (referred to in this section as the 'Council') composed of 12 members appointed by the Secretary.

''(b) DUTIES.—The Council shall advise the Director with respect to research priorities and the development and revision of the 5-year plan required by section 202(h).

''(c) QUALIFICATIONS.—Members of the Council shall be generally representative of the community of rehabilitation professionals, the community of rehabilitation researchers, the community of individuals with disabilities, and the individuals' representatives. At least one-half of the members shall be individuals with disabilities or the individuals' representatives.

''(d) TERMS OF APPOINTMENT.—

''(1) LENGTH OF TERM.—Each member of the Council shall serve for a term of up to 3 years, determined by the Secretary, except that—

''(A) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

''(B) the terms of service of the members initially appointed shall be (as specified by the Secretary) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

''(2) NUMBER OF TERMS.—No member of the Council may serve more than two consecutive full terms. Members may serve after the expiration of their terms until their successors have taken office.

''(e) VACANCIES.—Any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment for the position being vacated. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

''(f) PAYMENT AND EXPENSES.—

''(1) PAYMENT.—Each member of the Council who is not an officer or full-time employee of the Federal Government shall receive a payment of $150 for each day (including travel time) during which the member is engaged in the performance of duties for the Council. All members of the Council who are officers or full-time employees of the United States shall serve without compensation in addition to compensation received for their services as officers or employees of the United States.

''(2) TRAVEL EXPENSES.—Each member of the Council may receive travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for employees serving intermittently in the Government service, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

''(g) DETAIL OF FEDERAL EMPLOYEES.—On the request of the Council, the Secretary may detail, with or without reimbursement, any of the personnel of the Department of Education to the Council to assist the Council in carrying out its duties. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

''(h) TECHNICAL ASSISTANCE.—On the request of the Council, the Secretary shall provide such technical assistance to the Council as the Council determines to be necessary to carry out its duties.

''(i) TERMINATION.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the Council.''.

**SEC. 6. PROFESSIONAL DEVELOPMENT AND SPECIAL PROJECTS AND DEMONSTRATIONS.**

Title III of the Rehabilitation Act of 1973 (29 U.S.C. 770 et seq.) is amended to read as follows:

**''TITLE III—PROFESSIONAL DEVELOPMENT AND SPECIAL PROJECTS AND DEMONSTRATIONS**

**''SEC. 301. DECLARATION OF PURPOSE AND COMPETITIVE BASIS OF GRANTS AND CONTRACTS.**

''(a) PURPOSE.—It is the purpose of this title to authorize grants and contracts to—

''(1)(A) provide academic training to ensure that skilled personnel are available to provide rehabilitation services to individuals with disabilities through vocational, medical, social, and psychological rehabilitation programs (including supported employment programs), through independent living services programs, and through client assistance programs; and

''(B) provide training to maintain and upgrade basic skills and knowledge of personnel employed to provide state-of-the-art service delivery and rehabilitation technology services;

''(2) conduct special projects and demonstrations that expand and improve the provision of rehabilitation and other services authorized under this Act, or that otherwise further the purposes of this Act, including related research and evaluation;

''(3) provide vocational rehabilitation services to individuals with disabilities who are migrant or seasonal farmworkers;

''(4) initiate recreational programs to provide recreational activities and related experiences for individuals with disabilities to aid such individuals in employment, mobility, socialization, independence, and community integration; and

''(5) provide training and information to individuals with disabilities and the individuals' representatives, and other appropriate parties to develop the skills necessary for individuals with disabilities to gain access to the rehabilitation system and workforce investment system and to become active decisionmakers in the rehabilitation process.

''(b) COMPETITIVE BASIS OF GRANTS AND CONTRACTS.—The Secretary shall ensure that all grants and contracts are awarded under this title on a competitive basis.

**''SEC. 302. TRAINING.**

''(a) GRANTS AND CONTRACTS FOR PERSONNEL TRAINING.—

''(1) AUTHORITY.—The Commissioner shall make grants to, and enter into contracts with, States and public or nonprofit agencies and organizations (including institutions of higher education) to pay part of the cost of projects to provide training, traineeships, and related activities, including the provision of technical assistance, that are designed to assist in increasing the numbers of, and upgrading the skills of, qualified personnel (especially rehabilitation counselors) who are trained in providing vocational, medical, social, and psychological rehabilitation services, who are trained to assist individuals with communication and related disorders, who are trained to provide other services provided under this Act, to individuals with disabilities, and who may include—

''(A) personnel specifically trained in providing employment assistance to individuals with disabilities through job development and job placement services;

''(B) personnel specifically trained to identify, assess, and meet the individual rehabilitation needs of individuals with disabilities, including needs for rehabilitation technology;

''(C) personnel specifically trained to deliver services to individuals who may benefit from receiving independent living services;

''(D) personnel specifically trained to deliver services in the client assistance programs;

''(E) personnel specifically trained to deliver services, through supported employment programs, to individuals with a most significant disability;

''(F) personnel providing vocational rehabilitation services specifically trained in the use of braille, the importance of braille literacy, and in methods of teaching braille; and

''(G) personnel trained in performing other functions necessary to the provision of vocational, medical, social, and psychological rehabilitation services, and other services provided under this Act.

''(2) AUTHORITY TO PROVIDE SCHOLARSHIPS.—Grants and contracts under paragraph (1) may be expended for scholarships and may include necessary stipends and allowances.

''(3) RELATED FEDERAL STATUTES.—In carrying out this subsection, the Commissioner may make grants to and enter into contracts with States and public or nonprofit agencies and organizations, including institutions of higher education, to furnish training regarding related Federal statutes (other than this Act).

''(4) TRAINING FOR STATEWIDE WORKFORCE SYSTEMS PERSONNEL.—The Commissioner may make grants to and enter into contracts under this subsection with States and public or nonprofit agencies and organizations, including institutions of higher education, to furnish training to personnel providing services to individuals with disabilities under the Workforce Investment Partnership Act of 1998. Under this paragraph, personnel may be trained—

''(A) in evaluative skills to determine whether an individual with a disability may be served by the State vocational rehabilitation program or another component of the statewide workforce investment system; or

''(B) to assist individuals with disabilities seeking assistance through one-stop customer service centers established under section 315 of the Workforce Investment Partnership Act of 1998.

''(5) JOINT FUNDING.—Training and other activities provided under paragraph (4) for personnel may be jointly funded with the Department of Labor, using funds made available under title III of the Workforce Investment Partnership Act of 1998.

''(b) GRANTS AND CONTRACTS FOR ACADEMIC DEGREES AND ACADEMIC CERTIFICATE GRANTING TRAINING PROJECTS.—

''(1) AUTHORITY.—

''(A) IN GENERAL.—The Commissioner may make grants to, and enter into contracts with, States and public or nonprofit agencies and organizations (including institutions of higher education) to pay part of the costs of academic training projects to provide training that leads to an academic degree or academic certificate. In making such grants or entering into such contracts, the Commissioner shall target funds to areas determined under subsection (e) to have shortages of qualified personnel.

''(B) TYPES OF PROJECTS.—Academic training projects described in this subsection may include—

''(i) projects to train personnel in the areas of vocational rehabilitation counseling, rehabilitation technology, rehabilitation medicine, rehabilitation nursing, rehabilitation social work, rehabilitation psychiatry, rehabilitation psychology, rehabilitation dentistry, physical therapy, occupational therapy, speech pathology and audiology, physical education, therapeutic recreation, community rehabilitation programs, or prosthetics and orthotics;

''(ii) projects to train personnel to provide—

''(I) services to individuals with specific disabilities or individuals with disabilities who have specific impediments to rehabilitation, including individuals who are members of populations that are unserved or underserved by programs under this Act;

''(II) job development and job placement services to individuals with disabilities;

''(III) supported employment services, including services of employment specialists for individuals with disabilities;

''(IV) specialized services for individuals with significant disabilities; or

''(V) recreation for individuals with disabilities;

''(iii) projects to train personnel in other fields contributing to the rehabilitation of individuals with disabilities; and

''(iv) projects to train personnel in the use, applications, and benefits of rehabilitation technology.

''(2) APPLICATION.—No grant shall be awarded or contract entered into under this subsection unless the applicant has submitted to the Commissioner an application at such time, in such form, in accordance with such procedures, and including such information as the Secretary may require, including—

''(A) a description of how the designated State unit or units will participate in the project to be funded under the grant or contract, including, as appropriate, participation on advisory committees, as practicum sites, in curriculum development, and in other ways so as to build closer relationships between the applicant and the designated State unit and to encourage students to pursue careers in public vocational rehabilitation programs;

''(B) the identification of potential employers that would meet the requirements of paragraph (4)(A)(i); and

''(C) an assurance that data on the employment of graduates or trainees who participate in the project is accurate.

''(3) LIMITATION.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), no grant or contract under this subsection may be used to provide any one course of study to an individual for a period of more than 4 years.

''(B) EXCEPTION.—If a grant or contract recipient under this subsection determines that an individual has a disability which seriously affects the completion of training under this subsection, the grant or contract recipient may extend the period referred to in subparagraph (A).

''(4) REQUIRED AGREEMENTS.—

''(A) IN GENERAL.—A recipient of a grant or contract under this subsection shall provide assurances to the Commissioner that each individual who receives a scholarship, for the first academic year after the date of enactment of the Rehabilitation Act Amendments of 1998, utilizing funds provided under such grant or contract shall enter into an agreement with the recipient under which the individual shall—

''(i) maintain employment—

''(I) with an employer that is a State rehabilitation or other agency or organization (including a professional corporation or practice group) that provides services to individuals with disabilities under this Act, or with an institution of higher education or other organization that conducts rehabilitation education, training, or research under this Act;

''(II) on a full- or part-time basis; and

''(III) for a period of not less than the full-time equivalent of 2 years for each year for which assistance under this subsection was received by the individual, within a period, beginning after the recipient completes the training for which the scholarship was awarded, of not more than the sum of the number of years in the period described in this subclause and 2 additional years;

''(ii) directly provide or administer services, conduct research, or furnish training, funded under this Act; and

''(iii) repay all or part of the amount of any scholarship received under the grant or contract, plus interest, if the individual does not fulfill the requirements of clauses (i) and (ii), except that the Commissioner may by regulation provide for repayment exceptions and deferrals.

''(B) ENFORCEMENT.—The Commissioner shall be responsible for the enforcement of each agreement entered into under subparagraph (A) upon the completion of the training involved with respect to such agreement.

''(c) GRANTS TO HISTORICALLY BLACK COLLEGES AND UNIVERSITIES.—The Commissioner, in carrying out this section, shall make grants to Historically Black Colleges and Universities and other institutions of higher education whose minority student enrollment is at least 50 percent of the total enrollment of the institution.

''(d) APPLICATION.—A grant may not be awarded to a State or other organization under this section unless the State or organization has submitted an application to the Commissioner at such time, in such form, in accordance with such procedures, and containing such information as the Commissioner may require, including a detailed description of strategies that will be utilized to recruit and train individuals so as to reflect the diverse populations of the United States as part of the effort to increase the number of individuals with disabilities, and individuals who are from linguistically and culturally diverse backgrounds, who are available to provide rehabilitation services.

''(e) EVALUATION AND COLLECTION OF DATA.—The Commissioner shall evaluate the impact of the training programs conducted under this section, and collect information on the training needs of, and data on shortages of qualified personnel necessary to provide services to individuals with disabilities.

''(f) GRANTS FOR THE TRAINING OF INTERPRETERS.—

''(1) AUTHORITY.—

''(A) IN GENERAL.—For the purpose of training a sufficient number of qualified interpreters to meet the communications needs of individuals who are deaf or hard of hearing, and individuals who are deaf-blind, the Commissioner, acting through a Federal office responsible for deafness and communicative disorders, may award grants to public or private nonprofit agencies or organizations to pay part of the costs—

''(i) for the establishment of interpreter training programs; or

''(ii) to enable such agencies or organizations to provide financial assistance for ongoing interpreter training programs.

''(B) GEOGRAPHIC AREAS.—The Commissioner shall award grants under this subsection for programs in geographic areas throughout the United States that the Commissioner considers appropriate to best carry out the objectives of this section.

''(C) PRIORITY.—In awarding grants under this subsection, the Commissioner shall give priority to public or private nonprofit agencies or organizations with existing programs that have a demonstrated capacity for providing interpreter training services.

''(D) FUNDING.—The Commissioner may award grants under this subsection through the use of—

''(i) amounts appropriated to carry out this section; or

''(ii) pursuant to an agreement with the Director of the Office of the Special Education Program (established under section 603 of the Individuals with Disabilities Education Act (as amended by section 101 of the Individuals with Disabilities Education Act Amendments of 1997 (Public Law 105-17))), amounts appropriated under section 686 of the Individuals with Disabilities Education Act.

''(2) APPLICATION.—A grant may not be awarded to an agency or organization under paragraph (1) unless the agency or organization has submitted an application to the Commissioner at such time, in such form, in accordance with such procedures, and containing such information as the Commissioner may require, including—

''(A) a description of the manner in which an interpreter training program will be developed and operated during the 5-year period following the date on which a grant is received by the applicant under this subsection;

''(B) a demonstration of the applicant's capacity or potential for providing training for interpreters for individuals who are deaf or hard of hearing, and individuals who are deaf-blind;

''(C) assurances that any interpreter trained or retrained under a program funded under the grant will meet such minimum standards of competency as the Commissioner may establish for purposes of this subsection; and

''(D) such other information as the Commissioner may require.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1998 through 2004.

''(h) PROVISION OF INFORMATION.—The Commissioner, subject to the provisions of section 306, may require that recipients of grants or contracts under this section provide information, including data, with regard to the impact of activities funded under this section.

**''SEC. 303. SPECIAL DEMONSTRATION PROGRAM.**

''(a) AUTHORITY.—The Commissioner, subject to the provisions of section 306, may award grants or contracts to eligible entities to pay all or part of the cost of programs that expand and improve the provision of rehabilitation and other services authorized under this Act or that further the purposes of the Act, including related research and evaluation activities.

''(b) ELIGIBLE ENTITIES AND TERMS AND CONDITIONS.—

''(1) ELIGIBLE ENTITIES.—To be eligible to receive a grant or contract under subsection

(a), an entity shall be a State vocational rehabilitation agency, community rehabilitation program, Indian tribe or tribal organization, or other public or nonprofit agency or organization, or as the Commissioner determines appropriate, a for-profit organization. The Commissioner may limit competitions to 1 or more types of organizations described in this paragraph.

''(2) TERMS AND CONDITIONS.—Awards under this section shall contain such terms and conditions as the Commissioner may require.

''(c) APPLICATION.—An eligible entity that desires to receive an award under this section shall submit an application to the Secretary at such time, in such form, and containing such information and assurances as the Commissioner may require, including, if the Commissioner determines appropriate, a description of how the proposed project or demonstration program—

''(1) is based on current research findings, which may include research conducted by the National Institute on Disability and Rehabilitation Research, the National Institutes of Health, and other public or private organizations; and

''(2) is of national significance.

''(d) TYPES OF PROJECTS.—The programs that may be funded under this section include—

''(1) special projects and demonstrations of service delivery;

''(2) model demonstration projects;

''(3) technical assistance projects;

''(4) systems change projects;

''(5) special studies and evaluations; and

''(6) dissemination and utilization activities.

''(e) PRIORITY FOR COMPETITIONS.—

''(1) IN GENERAL.—In announcing competitions for grants and contracts under this section, the Commissioner shall give priority consideration to—

''(A) projects to provide training, information, and technical assistance that will enable individuals with disabilities and the individuals' representatives, to participate more effectively in meeting the vocational, independent living, and rehabilitation needs of the individuals with disabilities;

''(B) special projects and demonstration programs of service delivery for adults who are either low-functioning and deaf or low-functioning and hard of hearing;

''(C) innovative methods of promoting consumer choice in the rehabilitation process;

''(D) supported employment, including community-based supported employment programs to meet the needs of individuals with the most significant disabilities or to provide technical assistance to States and community organizations to improve and expand the provision of supported employment services; and

''(E) model transitional planning services for youths with disabilities;

''(2) ELIGIBILITY AND COORDINATION.—

''(A) ELIGIBILITY.—Eligible applicants for grants and contracts under this section for projects described in paragraph (1)(A) include—

''(i) Parent Training and Information Centers funded under section 682 of the Individuals with Disabilities Education Act (as amended by section 101 of the Individuals with Disabilities Education Act Amendments of 1997 (Public Law 105-17));

''(ii) organizations that meet the definition of a parent organization in section 682 of such Act; and

''(iii) private nonprofit organizations assisting parent training and information centers.

''(B) COORDINATION.—Recipients of grants and contracts under this section for projects described in paragraph (1)(A) shall, to the extent practicable, coordinate training and information activities with Centers for Independent Living.

''(3) ADDITIONAL COMPETITIONS.—In announcing competitions for grants and contracts under this section, the Commissioner may require that applicants address 1 or more of the following:

''(A) Age ranges.

''(B) Types of disabilities.

''(C) Types of services.

''(D) Models of service delivery.

''(E) Stage of the rehabilitation process.

''(F) The needs of—

''(i) underserved populations;

''(ii) unserved and underserved areas;

''(iii) individuals with significant disabilities;

''(iv) low-incidence disability populations; and

''(v) individuals residing in federally designated empowerment zones and enterprise communities.

''(G) Expansion of employment opportunities for individuals with disabilities.

''(H) Systems change projects to promote meaningful access of individual with disabilities to employment related services under the Workforce Investment Partnership Act of 1998 and under other Federal laws.

''(I) Innovative methods of promoting the achievement of high-quality employment outcomes.

''(J) The demonstration of the effectiveness of early intervention activities in improving employment outcomes.

''(K) Alternative methods of providing affordable transportation services to individuals with disabilities who are employed, seeking employment, or receiving vocational rehabilitation services from public or private organizations and who reside in geographic areas in which public transportation or paratransit service is not available.

''(f) USE OF FUNDS FOR CONTINUATION AWARDS.—The Commissioner may use funds made available to carry out this section for continuation awards for projects that were funded under sections 12 and 311 (as such sections were in effect on the day prior to the date of the enactment of the Rehabilitation Act Amendments of 1998).

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1998 through 2004.

**''SEC. 304. MIGRANT AND SEASONAL FARMWORKERS.**

''(a) GRANTS.—

''(1) AUTHORITY.—The Commissioner, subject to the provisions of section 306, may make grants to eligible entities to pay up to 90 percent of the cost of projects or demonstration programs for the provision of vocational rehabilitation services to individuals with disabilities who are migrant or seasonal farmworkers, as determined in accordance with rules prescribed by the Secretary of Labor, and to the family members who are residing with such individuals (whether or not such family members are individuals with disabilities).

''(2) ELIGIBLE ENTITIES.—To be eligible to receive a grant under paragraph (1), an entity shall be—

''(A) a State designated agency;

''(B) a nonprofit agency working in collaboration with a State agency described in subparagraph (A); or

''(C) a local agency working in collaboration with a State agency described in subparagraph (A).

''(3) MAINTENANCE AND TRANSPORTATION.—

''(A) IN GENERAL.—Amounts provided under a grant under this section may be used to provide for the maintenance of and transportation for individuals and family members described in paragraph (1) as necessary for the rehabilitation of such individuals.

''(B) REQUIREMENT.—Maintenance payments under this paragraph shall be provided in a manner consistent with any maintenance payments provided to other individuals with disabilities in the State under this Act.

''(4) ASSURANCE OF COOPERATION.—To be eligible to receive a grant under this section an entity shall provide assurances (satisfactory to the Commissioner) that in the provision of services under the grant there will be appropriate cooperation between the grantee and other public or nonprofit agencies and organizations having special skills and experience in the provision of services to migrant or seasonal farmworkers or their families.

''(5) COORDINATION WITH OTHER PROGRAMS.—The Commissioner shall administer this section in coordination with other programs serving migrant and seasonal farmworkers, including programs under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), section 330 of the Public Health Service Act (42 U.S.C. 254b), the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.), and the Workforce Investment Partnership Act of 1998.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section, for each of the fiscal years 1998 through 2004.

**''SEC. 305. RECREATIONAL PROGRAMS.**

''(a) GRANTS.—

''(1) AUTHORITY.—

''(A) IN GENERAL.—The Commissioner, subject to the provisions of section 306, shall make grants to States, public agencies, and nonprofit private organizations to pay the Federal share of the cost of the establishment and operation of recreation programs to provide individuals with disabilities with recreational activities and related experiences to aid in the employment, mobility, socialization, independence, and community integration of such individuals.

''(B) RECREATION PROGRAMS.—The recreation programs that may be funded using assistance provided under a grant under this section may include vocational skills development, leisure education, leisure networking, leisure resource development, physical education and sports, scouting and camping, 4-H activities, music, dancing, handicrafts, art, and homemaking. When possible and appropriate, such programs and activities should be provided in settings with peers who are not individuals with disabilities.

''(C) DESIGN OF PROGRAM.—Programs and activities carried out under this section shall be designed to demonstrate ways in which such programs assist in maximizing the independence and integration of individuals with disabilities.

''(2) MAXIMUM TERM OF GRANT.—A grant under this section shall be made for a period of not more than 3 years.

''(3) AVAILABILITY OF NON GRANT RESOURCES.—

''(A) IN GENERAL.—A grant may not be made to an applicant under this section unless the applicant provides assurances that, with respect to costs of the recreation program to be carried out under the grant, the applicant, to the maximum extent practicable, will make available non-Federal resources (in cash or in-kind) to pay the non-Federal share of such costs.

''(B) FEDERAL SHARE.—The Federal share of the costs of the recreation programs carried out under this section shall be—

''(i) with respect to the first year in which assistance is provided under a grant under this section, 100 percent;

''(ii) with respect to the second year in which assistance is provided under a grant under this section, 75 percent; and

''(iii) with respect to the third year in which assistance is provided under a grant under this section, 50 percent.

''(4) APPLICATION.—To be eligible to receive a grant under this section, a State, agency, or organization shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require, including a description of—

''(A) the manner in which the findings and results of the project to be funded under the grant, particularly information that facilitates the replication of the results of such projects, will be made generally available; and

''(B) the manner in which the service program funded under the grant will be continued after Federal assistance ends.

''(5) LEVEL OF SERVICES.—Recreation programs funded under this section shall maintain, at a minimum, the same level of services over a 3-year project period.

''(6) REPORTS BY GRANTEES.—

''(A) REQUIREMENT.—The Commissioner shall require that each recipient of a grant under this section annually prepare and submit to the Commissioner a report concerning the results of the activities funded under the grant.

''(B) LIMITATION.—The Commissioner may not make financial assistance available to a grant recipient for a subsequent year until the Commissioner has received and evaluated the annual report of the recipient under subparagraph (A) for the current year.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of the fiscal years 1998 through 2004.

**''SEC. 306. MEASURING OF PROJECT OUTCOMES AND PERFORMANCE.**

''The Commissioner may require that recipients of grants under this title submit information, including data, as determined by the Commissioner to be necessary to measure project outcomes and performance, including any data needed to comply with the Government Performance and Results Act.''.

**SEC. 7. NATIONAL COUNCIL ON DISABILITY.**

Title IV of the Rehabilitation Act of 1973 (29 U.S.C. 780 et seq.) is amended to read as follows:

''TITLE IV—NATIONAL COUNCIL ON DISABILITY

''ESTABLISHMENT OF NATIONAL COUNCIL ON DISABILITY

''SEC. 400. (a)(1)(A) There is established within the Federal Government a National Council on Disability (hereinafter in this title referred to as the 'National Council'), which shall be composed of fifteen members appointed by the President, by and with the advice and consent of the Senate.

''(B) The President shall select members of the National Council after soliciting recommendations from representatives of—

''(i) organizations representing a broad range of individuals with disabilities; and

''(ii) organizations interested in individuals with disabilities.

''(C) The members of the National Council shall be individuals with disabilities, parents or guardians of individuals with disabilities, or other individuals who have substantial knowledge or experience relating to disability policy or programs. The members of the National Council shall be appointed so as to be representative of individuals with disabilities, national organizations concerned with individuals with disabilities, providers and administrators of services to individuals with disabilities, individuals engaged in conducting medical or scientific research relating to individuals with disabilities, business concerns, and labor organizations. A majority of the members of the National Council shall be individuals with disabilities. The members of the National Council shall be broadly representative of minority and other individuals and groups.

''(2) The purpose of the National Council is to promote policies, programs, practices, and procedures that—

''(A) guarantee equal opportunity for all individuals with disabilities, regardless of the nature or severity of the disability; and

''(B) empower individuals with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.

''(b)(1) Each member of the National Council shall serve for a term of 3 years, except that the terms of service of the members initially appointed after the date of enactment of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 shall be (as specified by the President) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

''(2)(A) No member of the National Council may serve more than two consecutive full terms beginning on the date of commencement of the first full term on the Council. Members may serve after the expiration of their terms until their successors have taken office.

''(B) As used in this paragraph, the term 'full term' means a term of 3 years.

''(3) Any member appointed to fill a vacancy occurring before the expiration of the term for which such member's predecessor was appointed shall be appointed only for the remainder of such term.

''(c) The President shall designate the Chairperson from among the members appointed to the National Council. The National Council shall meet at the call of the Chairperson, but not less often than four times each year.

''(d) Eight members of the National Council shall constitute a quorum and any vacancy in the National Council shall not affect its power to function.

''DUTIES OF NATIONAL COUNCIL

''SEC. 401. (a) The National Council shall—

''(1) provide advice to the Director with respect to the policies and conduct of the National Institute on Disability and Rehabilitation Research, including ways to improve research concerning individuals with disabilities and the methods of collecting and disseminating findings of such research;

''(2) provide advice to the Commissioner with respect to the policies of and conduct of the Rehabilitation Services Administration;

''(3) advise the President, the Congress, the Commissioner, the appropriate Assistant Secretary of the Department of Education, and the Director of the National Institute on Disability and Rehabilitation Research on the development of the programs to be carried out under this Act;

''(4) provide advice regarding priorities for the activities of the Interagency Disability Coordinating Council and review the recommendations of such Council for legislative and administrative changes to ensure that such recommendations are consistent with the purposes of the Council to promote the full integration, independence, and productivity of individuals with disabilities;

''(5) review and evaluate on a continuing basis—

''(A) policies, programs, practices, and procedures concerning individuals with disabilities conducted or assisted by Federal departments and agencies, including programs established or assisted under this Act or under the Developmental Disabilities Assistance and Bill of Rights Act; and

''(B) all statutes and regulations pertaining to Federal programs which assist such individuals with disabilities;

in order to assess the effectiveness of such policies, programs, practices, procedures, statutes, and regulations in meeting the needs of individuals with disabilities;

''(6) assess the extent to which such policies, programs, practices, and procedures facilitate or impede the promotion of the policies set forth in subparagraphs (A) and (B) of section 400(a)(2);

''(7) gather information about the implementation, effectiveness, and impact of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

''(8) make recommendations to the President, the Congress, the Secretary, the Director of the National Institute on Disability and Rehabilitation Research, and other officials of Federal agencies or other Federal entities, respecting ways to better promote the policies set forth in section 400(a)(2);

''(9) provide to the Congress on a continuing basis advice, recommendations, legislative proposals, and any additional information which the National Council or the Congress deems appropriate; and

''(10) review and evaluate on a continuing basis new and emerging disability policy issues affecting individuals with disabilities at the international, Federal, State, and local levels, and in the private sector, including the need for and coordination of adult services, access to personal assistance services, school reform efforts and the impact of such efforts on individuals with disabilities, access to health care, and policies that operate as disincentives for the individuals to seek and retain employment.

''(b)(1) Not later than July 26, 1998, and annually thereafter, the National Council shall prepare and submit to the President and the appropriate committees of the Congress a report entitled 'National Disability Policy: A Progress Report'.

''(2) The report shall assess the status of the Nation in achieving the policies set forth in section 400(a)(2), with particular focus on the new and emerging issues impacting on the lives of individuals with disabilities. The report shall present, as appropriate, available data on health, housing, employment, insurance, transportation, recreation, training, prevention, early intervention, and education. The report shall include recommendations for policy change.

''(3) In determining the issues to focus on and the findings, conclusions, and recommendations to include in the report, the National Council shall seek input from the public, particularly individuals with disabilities, representatives of organizations representing a broad range of individuals with disabilities, and organizations and agencies interested in individuals with disabilities.

''COMPENSATION OF NATIONAL COUNCIL MEMBERS

''SEC. 402. (a) Members of the National Council shall be entitled to receive compensation at a rate equal to the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382 of title 5, United States Code, including travel time, for each day they are engaged in the performance of their duties as members of the National Council.

''(b) Members of the National Council who are full-time officers or employees of the United States shall receive no additional pay on account of their service on the National Council except for compensation for travel expenses as provided under subsection (c) of this section.

''(c) While away from their homes or regular places of business in the performance of

services for the National Council, members of the National Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

''STAFF OF NATIONAL COUNCIL

''SEC. 403. (a)(1) The Chairperson of the National Council may appoint and remove, without regard to the provisions of title 5, United States Code, governing appointments, the provisions of chapter 75 of such title (relating to adverse actions), the provisions of chapter 77 of such title (relating to appeals), or the provisions of chapter 51 and subchapter III of chapter 53 of such title (relating to classification and General Schedule pay rates), an Executive Director to assist the National Council to carry out its duties. The Executive Director shall be appointed from among individuals who are experienced in the planning or operation of programs for individuals with disabilities.

''(2) The Executive Director is authorized to hire technical and professional employees to assist the National Council to carry out its duties.

''(b)(1) The National Council may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code (but at rates for individuals not to exceed the daily equivalent of the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382 of title 5, United States Code).

''(2) The National Council may—

''(A) accept voluntary and uncompensated services, notwithstanding the provisions of section 1342 of title 31, United States Code;

''(B) in the name of the Council, solicit, accept, employ, and dispose of, in furtherance of this Act, any money or property, real or personal, or mixed, tangible or nontangible, received by gift, devise, bequest, or otherwise; and

''(C) enter into contracts and cooperative agreements with Federal and State agencies, private firms, institutions, and individuals for the conduct of research and surveys, preparation of reports and other activities necessary to the discharge of the Council's duties and responsibilities.

''(3) Not more than 10 per centum of the total amounts available to the National Council in each fiscal year may be used for official representation and reception.

''(c) The Administrator of General Services shall provide to the National Council on a reimbursable basis such administrative support services as the Council may request.

''(d)(1) It shall be the duty of the Secretary of the Treasury to invest such portion of the amounts made available under subsection (a)(2)(B) as is not, in the Secretary's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

''(2) The amounts described in paragraph (1), and the interest on, and the proceeds from the sale or redemption of, the obligations described in paragraph (1) shall be available to the National Council to carry out this title.

''ADMINISTRATIVE POWERS OF NATIONAL COUNCIL

''SEC. 404. (a) The National Council may prescribe such bylaws and rules as may be necessary to carry out its duties under this title.

''(b) The National Council may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as it deems advisable.

''(c) The National Council may appoint advisory committees to assist the National Council in carrying out its duties. The members thereof shall serve without compensation.

''(d) The National Council may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

''(e) The National Council may use, with the consent of the agencies represented on the Interagency Disability Coordinating Council, and as authorized in title V, such services, personnel, information, and facilities as may be needed to carry out its duties under this title, with or without reimbursement to such agencies.

''AUTHORIZATION OF APPROPRIATIONS

''SEC. 405. There are authorized to be appropriated to carry out this title such sums as may be necessary for each of the fiscal years 1998 through 2004.''.

**SEC. 8. RIGHTS AND ADVOCACY.**

(a) CONFORMING AMENDMENTS TO RIGHTS AND ADVOCACY PROVISIONS.—

(1) EMPLOYMENT.—Section 501 (29 U.S.C. 791) is amended—

(A) in the third sentence of subsection (a), by striking ''President's Committees on Employment of the Handicapped'' and inserting ''President's Committees on Employment of People With Disabilities''; and

(B) in subsection (e), by striking ''individualized written rehabilitation program'' and inserting ''individualized rehabilitation employment plan''.

(2) ACCESS BOARD.—Section 502 (29 U.S.C. 792) is amended—

(A) in subsection (b)—

(i) in paragraph (9), by striking ''; and'' and inserting a semicolon;

(ii) in paragraph (10), by striking the period and inserting ''; and''; and

(iii) by adding at the end the following:

''(11) carry out the responsibilities specified for the Access Board in section 508'';

(B) in subsection (d)(2)(A), by inserting before the semicolon the following: ''and section 508(d)(2)(C)'';

(C) in subsection (g)(2), by striking ''Committee on Education and Labor'' and inserting ''Committee on Education and the Workforce''; and

(D) in subsection (i), by striking ''fiscal years 1993 through 1997'' and inserting ''fiscal years 1998 through 2004''.

(3) FEDERAL GRANTS AND CONTRACTS.—Section 504(a) (29 U.S.C. ) is amended in the first sentence by striking ''section 7(8)'' and inserting ''section 7(20)''.

(4) SECRETARIAL RESPONSIBILITIES.—Section 506(a) (29 U.S.C. 794b(a)) is amended—

(A) by striking the second sentence and inserting the following: ''Any concurrence of the Access Board under paragraph (2) shall reflect its consideration of cost studies carried out by States.''; and

(B) in the second sentence of subsection (c), by striking ''provided under this paragraph'' and inserting ''provided under this subsection''.

(b) ELECTRONIC AND INFORMATION TECHNOLOGY REGULATIONS.—Section 508 (29 U.S.C. 794d) is amended to read as follows:

**''SEC. 508. ELECTRONIC AND INFORMATION TECHNOLOGY REGULATIONS.**

''(a) DEFINITION.—In this section, the term 'electronic and information technology' includes—

''(1) any equipment, software, interface system, operating system, or interconnected system or subsystem of equipment, whether or not accessed remotely, that is used in the acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information; and

''(2) any related service (including a support service) and any related resource.

''(b) PROMULGATION OF RULES AND REGULATIONS.—

''(1) PROCUREMENT, MAINTENANCE, AND USE OF ELECTRONIC AND INFORMATION TECHNOLOGY.—Consistent with paragraph (2), each Federal agency shall procure, maintain, and use electronic and information technology that allows, regardless of the type of medium of the technology, individuals with disabilities to produce information and data, and have access to information and data, comparable to the information and data, and access, respectively, of individuals who are not individuals with disabilities.

''(2) REGULATIONS.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of the Rehabilitation Act Amendments of 1998, the Access Board, after consultation with the Secretary of Education, the Administrator of the General Services Administration, and the head of any other Federal agency that the Access Board may determine to be appropriate, and after consultation with the electronic and information technology industry and appropriate public or nonprofit agencies or organizations, shall issue regulations, including criteria for procurement of accessible electronic and information technology, to implement this section.

''(B) CRITERIA.—The Access Board shall consult with the Director of the National Institute on Disability and Rehabilitation Research and the heads of other Federal agencies that conduct applicable research, regarding relevant research findings to assist the Access Board in developing and updating the criteria for procurement of accessible technology required under subparagraph (A).

''(C) REVIEWS AND AMENDMENTS.—The Access Board shall review and amend the regulations periodically to reflect technological advances or changes in electronic and information technology.

''(c) TECHNICAL ASSISTANCE.—The Access Board shall provide technical assistance to individuals and Federal agencies concerning the rights and responsibilities provided under this section. The Administrator of the General Services Administration shall provide technical assistance to Federal agencies concerning the rights and responsibilities provided under this section, in coordination with the activities of the Access Board.

''(d) COMPLIANCE.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Rehabilitation Act Amendments of 1998, the Access Board shall establish, by regulation issued under subsection (b), procedures for ensuring the compliance of Federal agencies with this section (including the regulation).

''(2) PROCEDURES.—At a minimum the regulation shall establish procedures by which—

''(A) the head of each Federal agency shall assess the compliance of the agency with this section and report periodically to the Access Board and the Director of the Office of Management and Budget on such compliance;

''(B) any aggrieved person may file a complaint with the Access Board regarding noncompliance by a Federal agency with this section; and

''(C) the Access Board may, after providing notice and an opportunity for a hearing, issue an order requiring compliance with this section, which shall be final and binding on the affected Federal agency.

''(3) OFFICE OF MANAGEMENT AND BUDGET OVERSIGHT.—

''(A) OVERSIGHT AND COORDINATION.—The Director of the Office of Management and Budget shall oversee and coordinate the procurement, financial management, information, and regulatory policies of the executive

branch of the Federal Government relating to electronic and information technology.

''(B) ISSUANCE OF POLICIES.—In issuing circulars, bulletins, directives, memoranda, and other policies affecting the procurement, maintenance, and use of electronic and information technology, by Federal agencies, as appropriate, the Director of the Office of Management and Budget shall require compliance with this section, including the regulations and criteria described in subsection (b).

''(e) RELATIONSHIP TO OTHER LAWS.—This section shall not be construed to limit a remedy, right, or procedure available under any other provision of Federal law (including title V and the Americans with Disabilities Act of 1990), or State or local law (including State common law) that provides greater or equal protection for the rights of individuals with disabilities.''.

(c) PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS.—Section 509 (29 U.S.C. 794e) is amended to read as follows:

**''SEC. 509. PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS.**

''(a) PURPOSE.—The purpose of this section is to support a system in each State to protect the legal and human rights of individuals with disabilities who—

''(1) need services that are beyond the scope of services authorized to be provided by the client assistance program under section 112; and

''(2) are ineligible for protection and advocacy programs under part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.) because the individuals do not have a developmental disability, as defined in section 102 of such Act (42 U.S.C. 6002) and the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.) because the individuals are not individuals with mental illness, as defined in section 102 of such Act (42 U.S.C. 10802).

''(b) APPROPRIATIONS LESS THAN $5,500,000.—For any fiscal year in which the amount appropriated to carry out this section is less than $5,500,000, the Commissioner may make grants from such amount to eligible systems within States to plan for, develop outreach strategies for, and carry out protection and advocacy programs authorized under this section for individuals with disabilities who meet the requirements of paragraphs (1) and (2) of subsection (a).

''(c) APPROPRIATIONS OF $5,500,000 OR MORE.—

''(1) RESERVATIONS.—

''(A) TECHNICAL ASSISTANCE.—For any fiscal year in which the amount appropriated to carry out this section equals or exceeds $5,500,000, the Commissioner shall set aside not less than 1.8 percent and not more than 2.2 percent of the amount to provide training and technical assistance to the systems established under this section.

''(B) GRANT FOR THE ELIGIBLE SYSTEM SERVING THE AMERICAN INDIAN CONSORTIUM.—For any fiscal year in which the amount appropriated to carry out this section equals or exceeds $10,500,000, the Commissioner shall reserve a portion, and use the portion to make a grant for the eligible system serving the American Indian consortium. The Commission shall make the grant in an amount of not less than $50,000 for the fiscal year.

''(2) ALLOTMENTS.—For any such fiscal year, after the reservations required by paragraph (1) have been made, the Commissioner shall make allotments from the remainder of such amount in accordance with paragraph (3) to eligible systems within States to enable such systems to carry out protection and advocacy programs authorized under this section for such individuals.

''(3) SYSTEMS WITHIN STATES.—

''(A) POPULATION BASIS.—Except as provided in subparagraph (B), from such remainder for each such fiscal year, the Commissioner shall make an allotment to the eligible system within a State of an amount bearing the same ratio to such remainder as the population of the State bears to the population of all States.

''(B) MINIMUMS.—Subject to the availability of appropriations to carry out this section, and except as provided in paragraph (4), the allotment to any system under subparagraph (A) shall be not less than $100,000 or one-third of one percent of the remainder for the fiscal year for which the allotment is made, whichever is greater, and the allotment to any system under this section for any fiscal year that is less than $100,000 or one-third of one percent of such remainder shall be increased to the greater of the two amounts.

''(4) SYSTEMS WITHIN OTHER JURISDICTIONS.—

''(A) IN GENERAL.—For the purposes of paragraph (3)(B), Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands shall not be considered to be States.

''(B) ALLOTMENT.—The eligible system within a jurisdiction described in subparagraph (A) shall be allotted under paragraph (3)(A) not less than $50,000 for the fiscal year for which the allotment is made.

''(5) ADJUSTMENT FOR INFLATION.—For any fiscal year, beginning in fiscal year 1999, in which the total amount appropriated to carry out this section exceeds the total amount appropriated to carry out this section for the preceding fiscal year, the Commissioner shall increase each of the minimum grants or allotments under paragraphs (1)(B), (3)(B), and (4)(B) by a percentage that shall not exceed the percentage increase in the total amount appropriated to carry out this section between the preceding fiscal year and the fiscal year involved.

''(d) PROPORTIONAL REDUCTION.—To provide minimum allotments to systems within States (as increased under subsection (c)(5)) under subsection (c)(3)(B), or to provide minimum allotments to systems within States (as increased under subsection (c)(5)) under subsection (c)(4)(B), the Commissioner shall proportionately reduce the allotments of the remaining systems within States under subsection (c)(3), with such adjustments as may be necessary to prevent the allotment of any such remaining system within a State from being reduced to less than the minimum allotment for a system within a State (as increased under subsection (c)(5)) under subsection (c)(3)(B), or the minimum allotment for a State (as increased under subsection (c)(5)) under subsection (c)(4)(B), as appropriate.

''(e) REALLOTMENT.—Whenever the Commissioner determines that any amount of an allotment to a system within a State for any fiscal year described in subsection (c)(1) will not be expended by such system in carrying out the provisions of this section, the Commissioner shall make such amount available for carrying out the provisions of this section to one or more of the systems that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a system for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the system (as determined under the preceding provisions of this section) for such year.

''(f) APPLICATION.—In order to receive assistance under this section, an eligible system shall submit an application to the Commissioner, at such time, in such form and manner, and containing such information and assurances as the Commissioner determines necessary to meet the requirements of this section, including assurances that the eligible system will—

''(1) have in effect a system to protect and advocate the rights of individuals with disabilities;

''(2) have the same general authorities, including access to records and program income, as are set forth in part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.);

''(3) have the authority to pursue legal, administrative, and other appropriate remedies or approaches to ensure the protection of, and advocacy for, the rights of such individuals within the State or the American Indian consortium who are individuals described in subsection (a);

''(4) provide information on and make referrals to programs and services addressing the needs of individuals with disabilities in the State or the American Indian consortium;

''(5) develop a statement of objectives and priorities on an annual basis, and provide to the public, including individuals with disabilities and, as appropriate, the individuals' representatives, an opportunity to comment on the objectives and priorities established by, and activities of, the system including—

''(A) the objectives and priorities for the activities of the system for each year and the rationale for the establishment of such objectives and priorities; and

''(B) the coordination of programs provided through the system under this section with the advocacy programs of the client assistance program under section 112, the State long-term care ombudsman program established under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.), the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.), and the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.);

''(6) establish a grievance procedure for clients or prospective clients of the system to ensure that individuals with disabilities are afforded equal opportunity to access the services of the system;

''(7) provide assurances to the Commissioner that funds made available under this section will be used to supplement and not supplant the non-Federal funds that would otherwise be made available for the purpose for which Federal funds are provided; and

''(8) not use allotments or grants provided under this section in a manner inconsistent with section 5 of the Assisted Suicide Funding Restriction Act of 1997.

''(g) CARRYOVER AND DIRECT PAYMENT.—

''(1) DIRECT PAYMENT.—Notwithstanding any other provision of law, the Commissioner shall pay directly to any system that complies with the provisions of this section, the amount of the allotment of the State or the grant for the eligible system that serves the American Indian consortium involved under this section, unless the State or American Indian consortium provides otherwise.

''(2) CARRYOVER.—Any amount paid to an eligible system that serves a State or American Indian consortium for a fiscal year that remains unobligated at the end of such year shall remain available to such system that serves the State or American Indian consortium for obligation during the next fiscal year for the purposes for which such amount was paid.

''(h) LIMITATION ON DISCLOSURE REQUIREMENTS.—For purposes of any audit, report, or evaluation of the performance of the program established under this section, the Commissioner shall not require such a program to disclose the identity of, or any other personally identifiable information related

to, any individual requesting assistance under such program.

''(i) ADMINISTRATIVE COST.—In any State in which an eligible system is located within a State agency, a State may use a portion of any allotment under subsection (c) for the cost of the administration of the system required by this section. Such portion may not exceed 5 percent of the allotment.

''(j) DELEGATION.—The Commissioner may delegate the administration of this program to the Commissioner of the Administration on Developmental Disabilities within the Department of Health and Human Services.

''(k) REPORT.—The Commissioner shall annually prepare and submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report describing the types of services and activities being undertaken by programs funded under this section, the total number of individuals served under this section, the types of disabilities represented by such individuals, and the types of issues being addressed on behalf of such individuals.

''(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1998 through 2004.

''(m) DEFINITIONS.—As used in this section:

''(1) ELIGIBLE SYSTEM.—The term 'eligible system' means a protection and advocacy system that is established under part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.) and that meets the requirements of subsection (f).

''(2) AMERICAN INDIAN CONSORTIUM.—The term 'American Indian consortium' means a consortium established as described in section 142 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6042).''.

**SEC. 9. EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES.**

Title VI of the Rehabilitation Act of 1973 (29 U.S.C. 795 et seq.) is amended to read as follows:

**''TITLE VI—EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES**

**''SEC. 601. SHORT TITLE.**

''This title may be cited as the ''Employment Opportunities for Individuals With Disabilities Act.

**''PART A—PROJECTS IN TELECOMMUTING AND SELF-EMPLOYMENT FOR INDIVIDUALS WITH DISABILITIES**

**''SEC. 611. FINDINGS, POLICIES, AND PURPOSES.**

''(a) FINDINGS.—Congress makes the following findings:

''(1) It is in the best interest of the United States to identify and promote increased employment opportunities for individuals with disabilities.

''(2) Telecommuting is one of the most rapidly expanding forms of employment. In 1990 there were 4,000,000 telecommuters and that number has risen to 11,100,000 in 1997.

''(3) It is in the best interest of the United States to ensure that individuals with disabilities have access to telecommuting employment opportunities. It has been estimated that 10 percent of individuals with disabilities, who are unemployed, could benefit from telecommuting opportunities.

''(4) It is in the interest of employers to recognize that individuals with disabilities are excellent candidates for telecommuting employment opportunities.

''(5) Individuals with disabilities, especially those living in rural areas, often do not have access to accessible transportation, and in such cases telecommuting presents an excellent opportunity for the employment of such individuals.

''(6) It is in the best interests of economic development agencies, venture capitalists, and financial institutions for the Federal Government to demonstrate that individuals with disabilities, who wish to become or who are self-employed, can meet the criteria for assistance, investment of capital, and business that other entrepreneurs meet.

''(b) POLICIES.—It is the policy of the United States to—

''(1) promote opportunities for individuals with disabilities to—

''(A) secure, retain, regain, or advance in employment involving telecommuting;

''(B) gain access to employment opportunities; and

''(C) demonstrate their abilities, capabilities, interests, and preferences regarding employment in positions that are increasingly being offered to individuals in the workplace; and

''(2) promote opportunities for individuals with disabilities to engage in self-employment enterprises that permit these individuals to achieve significant levels of independence, participate in and contribute to the life of their communities, and offer employment opportunities to others.

''(c) PURPOSES.—It is the purpose of this part to—

''(1) through the awarding of 1-time, time-limited grants, contracts, or cooperative agreements to public and private entities—

''(A) provide funds, in accordance with section 612, to enable individuals with disabilities to identify and secure employment opportunities involving telecommuting; and

''(B) encourage employers to become partners in providing telecommuting placements for individuals with disabilities through the involvement of such employers in telecommuting projects that continue and expand opportunities for the provision of telecommuting placements to individuals with disabilities beyond those opportunities that are currently facilitated by the telecommuting projects; and

''(2) through the awarding of 1-time, time-limited grants, contracts, cooperative agreements, or other appropriate mechanisms of providing assistance to public or private entities—

''(A) assist individuals with disabilities to engage in self-employment enterprises in accordance with section 613; and

''(B) encourage entities to assist more individuals with disabilities to engage in self-employment enterprises.

**''SEC. 612. PROJECTS IN TELECOMMUTING FOR INDIVIDUALS WITH DISABILITIES.**

''(a) IN GENERAL.—The Commissioner shall, on a competitive basis, award 1-time, time-limited grants, contracts, or cooperative agreements to eligible entities for the establishment and operation of projects in telecommuting for individuals with disabilities.

''(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant, contract, or cooperative agreement under subsection (a) an entity shall—

''(1) be—

''(A) an entity carrying out a Project With Industry described in part B;

''(B) a designated State agency;

''(C) a statewide workforce investment partnership or local workforce investment partnership;

''(D) a public educational agency;

''(E) a training institution, which may include an institution of higher education;

''(F) a private organization, with priority given to organizations of or for individuals with disabilities;

''(G) a public or private employer;

''(H) any other entity that the Commissioner determines to be appropriate; or

''(I) a combination or consortium of the entities described in subparagraphs (A) through (H);

''(2) have 3 or more years of experience in assisting individuals with disabilities in securing, retaining, regaining, or advancing in employment;

''(3) demonstrate that such entity has the capacity to secure full- and part-time employment involving telecommuting for individuals with disabilities; and

''(4) submit an application that meets the requirements of subsection (c).

''(c) APPLICATION REQUIREMENTS.—To be eligible to receive a grant, contract, or cooperative agreement under subsection (a), an entity shall submit to the Commissioner at such time, in such manner, and containing such information concerning the telecommuting project to be funded under the grant, contract, or agreement as the Commissioner may require, including—

''(1) a description of how and the extent to which the applicant meets the requirement of subsection (b)(2);

''(2) with respect to any partners who will participate in the implementation of activities under the telecommuting project, a description of—

''(A) the identity of such partners; and

''(B) the roles and responsibilities of each partner in preparing the application, and if funded, the roles and responsibility of each partner during the telecommuting project;

''(3) a description of the geographic region that will be the focus of activity under the telecommuting project;

''(4) a projection for each year of a 3-year period of the grant, contract, or agreement, of the number of individuals with disabilities who will be employed as the result of the assistance provided by the telecommuting project;

''(5) with respect to any employers that have indicated an interest in offering telecommuting employment opportunities to individuals with disabilities, a description of—

''(A) the identity of such employers; and

''(B) the manner in which additional employers would be recruited under the telecommuting project;

''(6) a description of the manner in which individuals with disabilities will be identified and selected to participate in the telecommuting project;

''(7) a description of the jobs that will be targeted by the telecommuting project;

''(8) a description of the process by which individuals with disabilities will be matched with employers for telecommuting placements;

''(9) a description of the manner in which the project will become self-sustaining in the third year of the telecommuting project; and

''(10) a description of the nature and amount of funding, including in-kind support, other than funds received under this part, that will be available to be used by the telecommuting project.

''(d) USE OF FUNDS.—Amounts received under a grant, contract, or cooperative agreement under subsection (a) shall be used for—

''(1) the recruitment of individuals with disabilities for telecommuting placements;

''(2) the conduct of marketing activities with respect to employers;

''(3) the purchase of training services for an individual with a disability who is going to assume a telecommuting placement;

''(4) the purchase of equipment, materials, telephone lines, auxiliary aids, and services related to telecommuting placements;

''(5) the provision of orientation services and training to the supervisors of employers participating in the project and to co-workers of individuals with disabilities who are selected for telecommuting placements;

''(6) the provision of technical assistance to employers, including technical assistance regarding reasonable accommodations with regard to individuals with disabilities participating in telecommuting placements; and

''(7) other uses determined appropriate by the Commissioner.

''(e) PROJECT REQUIREMENTS.—Telecommuting projects funded under this section shall—

''(1) establish criteria for safety with regard to the telecommuting work space, which at a minimum meet guidelines established by the Occupational Safety and Health Administration for a work space of comparable size and function;

''(2) on an annual basis, enter into agreements with the Commissioner that contain goals concerning the number of individuals with disabilities that the project will place in telecommuting positions;

''(3) establish procedures for ensuring that prospective employers and individuals with disabilities, who are to assume telecommuting placements, have a clear understanding of how the individual's work performance will be monitored and evaluated by the employer;

''(4) identify and make available support services for individuals with disabilities in telecommuting placements;

''(5) develop procedures that allow the telecommuting project, the employer, and the individual with a disability to reach agreement on their respective responsibilities with regard to establishing and maintaining the telecommuting placement;

''(6) for each year of a telecommuting project, submit an annual report to the Commissioner concerning—

''(A) the number of individuals with disabilities placed in telecommuting positions and whether the goal described in the agreement entered into paragraph (2) was met;

''(B) the number of individuals with disabilities employed as salaried employees and their annual salaries;

''(C) the number of individuals with disabilities employed as independent contractors and their annual incomes;

''(D) the number of individuals with disabilities that received benefits from their employers;

''(E) the number of individuals with disabilities in telecommuting placements still working after—

''(i) 6 months; and

''(ii) 12 months; and

''(F) any reports filed with the Occupational Safety and Health Administration.

''(f) LIMITATIONS.—

''(1) PERIOD OF AWARD.—A grant, contract, or cooperative agreement under subsection (a) shall be for a 3-year period.

''(2) AMOUNT.—The amount of a grant, contract, or cooperative agreement under subsection (a) shall not be less than $250,000 nor more than $1,000,000.

**''SEC. 613. PROJECTS IN SELF-EMPLOYMENT FOR INDIVIDUALS WITH DISABILITIES.**

''(a) IN GENERAL.—The Commissioner shall, on a competitive basis, award 1-time, time-limited grants, contracts, or cooperative agreements to eligible entities for the establishment and operation of projects in self-employment for individuals with disabilities.

''(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant, contract, or cooperative agreement under subsection (a) an entity shall—

''(1) be—

''(A) a financial institution;

''(B) an economic development agency;

''(C) a venture capitalist;

''(D) an entity carrying out a Project With Industry described in part B;

''(E) a designated State agency, or other public entity;

''(F) a private organization, including employers and organizations related to individuals with disabilities;

''(G) any other entity that the Commissioner determines to be appropriate; or

''(H) a combination or consortium of the entities described in subparagraphs (A) through (G);

''(2) demonstrate that such entity has the capacity to assist clients, including clients with disabilities, to successfully engage in self-employment enterprises; and

''(3) submit an application that meets the requirements of subsection (c).

''(c) APPLICATION REQUIREMENTS.—To be eligible to receive a grant, contract, or cooperative agreement under subsection (a), an entity shall submit to the Commissioner at such time, in such manner, and containing such information concerning the self-employment project to be funded under the grant, contract, or agreement as the Commissioner may require, including—

''(1) a description of how and the extent to which the applicant has assisted individuals, including individuals with disabilities, if appropriate, to successfully engage in self-employment enterprises;

''(2) with respect to any partners who will participate in the implementation of activities under the self-employment project, a description of—

''(A) the identity of such partners; and

''(B) the roles and responsibilities of each partner in preparing the application, and if funded, the roles and responsibility of each partner during the self-employment project;

''(3) a description of the geographic region that will be the focus of activity in the self-employment project;

''(4) a projection for each year of a 3-year period of the grant, contract, or agreement, of the number of clients who will be assisted to engage in self-employment enterprises through the self-employment project;

''(5) a description of the manner in which potential clients will be identified and selected to be assisted by the self-employment project;

''(6) a description of the manner in which self-employment enterprises (or market niches) will be identified for the geographic areas to be targeted in the self-employment project;

''(7) a description of the process by which prospective clients will be matched with self-employment opportunities;

''(8) a description of the manner in which the project will become self-sustaining in the third year of the self-employment project; and

''(9) a description of the nature and amount of funding, including in-kind support, other than funds received under this part, that will be available to be used during the self-employment project.

''(d) USE OF FUNDS.—Amounts received under a grant, contract, or cooperative agreement under subsection (a) shall be used—

''(1) for the preparation of marketing analyses to identify self-employment opportunities;

''(2) for the conduct of marketing activities with respect to financial institutions or venture capitalists concerning the benefits of investing in individuals with disabilities who are engaged in self-employment enterprises;

''(3) for the conduct of marketing activities with respect to potential clients who engage in or might engage in self-employment enterprises;

''(4) for the provision of training for clients to be assisted through the project who seek to engage or are engaging in self-employment enterprises;

''(5) to cover the costs of business expenses specifically related to an individual's disability;

''(6) to provide assistance for clients in developing business plans for capital investment;

''(7) to provide assistance for clients in securing capital to engage in a self-employment enterprise;

''(8) to provide technical assistance to clients engaged in self-employment enterprises who seek such assistance in order to sustain or expand their enterprises; and

''(9) for other uses as determined appropriate by the Commissioner.

''(e) PROJECT REQUIREMENTS.—Self-employment projects funded under this section shall—

''(1) establish criteria for and apply such criteria in selecting clients to be assisted through the project;

''(2) on an annual basis, enter into agreements with the Commissioner that contain goals concerning the number of individuals with disabilities that the project will assist in starting and sustaining self-employment enterprises;

''(3) establish and apply criteria to determine whether an enterprise is a viable option in which to invest project funds;

''(4) establish and apply criteria to determine when and if the project would provide assistance in sustaining an ongoing enterprise engaged in by a client or potential client;

''(5) establish and apply criteria to determine when and if the project would provide assistance in expanding an ongoing enterprise engaged in by a client or potential client;

''(6) establish and apply procedures to ensure that a potential client has a clear understanding of the scope and limits of assistance from the project that will be applicable in such client's case;

''(7) develop procedures, which include a written agreement, that provides for the documentation of the respective responsibilities of the self-employment project and any client with regard to the creation, maintenance, or expansion of the client's self-employment enterprise; and

''(8) with respect to the project, submit a report to the Commissioner—

''(A) for each project year, concerning the number of clients assisted by the project who are engaging in self-employment enterprises and whether the goal described in the agreement entered into under paragraph (2) was met; and

''(B) the number of clients assisted by the project who are still engaged in such an enterprise on the date that is—

''(i) 6 months after the date on which assistance provided by the project was terminated; and

''(ii) 12 months after the date of which assistance provided by the project was terminated.

''(f) DURATION OF AWARDS.—A grant, contract, or cooperative agreement under subsection (a) shall be for a 3-year period.

''(g) DEFINITION.—For the purpose of this section, the term 'client' means 1 or more individuals with disabilities who engage in or seek to engage in a self-employment enterprise.

**''SEC. 614. DISCRETIONARY AUTHORITY FOR DUAL-PURPOSE APPLICATIONS.**

''(a) IN GENERAL.—The Commissioner may establish procedures to permit applicants for grants, contracts, or cooperative agreements under this part to submit applications that serve dual purposes, so long as such applications meet the requirements of sections 612 and section 613.

''(b) AMOUNT OF ASSISTANCE.—In a case described in subsection (a), the minimum

amount of a grant, contract, or cooperative agreement awarded under a dual-purpose application may, at the discretion of the Commissioner, exceed the limitations described in section 612(f)(2).

**"SEC. 615. AUTHORIZATION OF APPROPRIATIONS.**

''There is authorized to be appropriated to carry out this part, $10,000,000 for fiscal year 1998, and such sums as may be necessary for each of the fiscal years 1999 through 2004.

''PART B—PROJECTS WITH INDUSTRY

''PROJECTS WITH INDUSTRY

''SEC. 621. (a)(1) The purpose of this part is to create and expand job and career opportunities for individuals with disabilities in the competitive labor market by engaging the talent and leadership of private industry as partners in the rehabilitation process, to identify competitive job and career opportunities and the skills needed to perform such jobs, to create practical job and career readiness and training programs, and to provide job placements and career advancement.

''(2) The Commissioner, in consultation with the Secretary of Labor and with designated State units, may award grants to individual employers, community rehabilitation program providers, labor unions, trade associations, Indian tribes, tribal organizations, designated State units, and other entities to establish jointly financed Projects With Industry to create and expand job and career opportunities for individuals with disabilities, which projects shall—

''(A) provide for the establishment of business advisory councils, which shall—

''(i) be comprised of—

''(I) representatives of private industry, business concerns, and organized labor;

''(II) individuals with disabilities and representatives of individuals with disabilities; and

''(III) a representative of the appropriate designated State unit;

''(ii) identify job and career availability within the community, consistent with the current and projected local employment opportunities identified by the local workforce investment partnership for the community under section 308(e)(6) of the Workforce Investment Partnership Act of 1998;

''(iii) identify the skills necessary to perform the jobs and careers identified; and

''(iv) prescribe training programs designed to develop appropriate job and career skills, or job placement programs designed to identify and develop job placement and career advancement opportunities, for individuals with disabilities in fields related to the job and career availability identified under clause (ii);;

''(B) provide job development, job placement, and career advancement services;

''(C) to the extent appropriate, provide for—

''(i) training in realistic work settings in order to prepare individuals with disabilities for employment and career advancement in the competitive market; and

''(ii) the modification of any facilities or equipment of the employer involved that are used primarily by individuals with disabilities, except that a project shall not be required to provide for such modification if the modification is required as a reasonable accommodation under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.); and

''(D) provide individuals with disabilities with such support services as may be required in order to maintain the employment and career advancement for which the individuals have received training under this part.

''(3)(A) An individual shall be eligible for services described in paragraph (2) if the individual is determined to be an individual described in section 102(a)(1), and if the determination is made in a manner consistent with section 102(a).

''(B) Such a determination may be made by the recipient of a grant under this part, to the extent the determination is appropriate and available and consistent with the requirements of section 102(a).

''(4) The Commissioner shall enter into an agreement with the grant recipient regarding the establishment of the project. Any agreement shall be jointly developed by the Commissioner, the grant recipient, and, to the extent practicable, the appropriate designated State unit and the individuals with disabilities (or the individuals' representatives) involved. Such agreements shall specify the terms of training and employment under the project, provide for the payment by the Commissioner of part of the costs of the project (in accordance with subsection (c)), and contain the items required under subsection (b) and such other provisions as the parties to the agreement consider to be appropriate.

''(5) Any agreement shall include a description of a plan to annually conduct a review and evaluation of the operation of the project in accordance with standards developed by the Commissioner under subsection (d), and, in conducting the review and evaluation, to collect data and information of the type described in subparagraphs (A) through (C) of section 101(a)(10), as determined to be appropriate by the Commissioner.

''(6) The Commissioner may include, as part of agreements with grant recipients, authority for such grant recipients to provide technical assistance to—

''(A) assist employers in hiring individuals with disabilities; or

''(B) improve or develop relationships between—

''(i) grant recipients or prospective grant recipients; and

''(ii) employers or organized labor; or

''(C) assist employers in understanding and meeting the requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) as the Act relates to employment of individuals with disabilities.

''(b) No payment shall be made by the Commissioner under any agreement with a grant recipient entered into under subsection (a) unless such agreement—

''(1) provides an assurance that individuals with disabilities placed under such agreement shall receive at least the applicable minimum wage;

''(2) provides an assurance that any individual with a disability placed under this part shall be afforded terms and benefits of employment equal to terms and benefits that are afforded to the similarly situated nondisabled co-workers of the individual, and that such individuals with disabilities shall not be segregated from their co-workers; and

''(3) provides an assurance that an annual evaluation report containing information specified under subsection (a)(5) shall be submitted as determined to be appropriate by the Commissioner.

''(c) Payments under this section with respect to any project may not exceed 80 per centum of the costs of the project.

''(d)(1) The Commissioner shall develop standards for the evaluation described in subsection (a)(5) and shall review and revise the evaluation standards as necessary, subject to paragraphs (2) and (3).

''(2) In revising the standards for evaluation to be used by the grant recipients, the Commissioner shall obtain and consider recommendations for such standards from State vocational rehabilitation agencies, current and former grant recipients, professional organizations representing business and industry, organizations representing individuals with disabilities, individuals served by grant recipients, organizations representing community rehabilitation program providers, and labor organizations.

''(3) No standards may be established under this subsection unless the standards are approved by the National Council on Disability. The Council shall be afforded adequate time to review and approve the standards.

''(e)(1)(A) A grant may be awarded under this section for a period of up to 5 years and such grant may be renewed.

''(B) Grants under this section shall be awarded on a competitive basis. To be eligible to receive such a grant, a prospective grant recipient shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

''(2) The Commissioner shall to the extent practicable ensure an equitable distribution of payments made under this section among the States. To the extent funds are available, the Commissioner shall award grants under this section to new projects that will serve individuals with disabilities in States, portions of States, Indian tribes, or tribal organizations, that are currently unserved or underserved by projects.

''(f)(1) The Commissioner shall, as necessary, develop and publish in the Federal Register in final form indicators of what constitutes minimum compliance consistent with the evaluation standards under subsection (d)(1).

''(2) Each grant recipient shall report to the Commissioner at the end of each project year the extent to which the grant recipient is in compliance with the evaluation standards.

''(3)(A) The Commissioner shall annually conduct on-site compliance reviews of at least 15 percent of grant recipients. The Commissioner shall select grant recipients for review on a random basis.

''(B) The Commissioner shall use the indicators in determining compliance with the evaluation standards.

''(C) The Commissioner shall ensure that at least one member of a team conducting such a review shall be an individual who—

''(i) is not an employee of the Federal Government; and

''(ii) has experience or expertise in conducting projects.

''(D) The Commissioner shall ensure that—

''(i) a representative of the appropriate designated State unit shall participate in the review; and

''(ii) no person shall participate in the review of a grant recipient if—

''(I) the grant recipient provides any direct financial benefit to the reviewer; or

''(II) participation in the review would give the appearance of a conflict of interest.

''(4) In making a determination concerning any subsequent grant under this section, the Commissioner shall consider the past performance of the applicant, if applicable. The Commissioner shall use compliance indicators developed under this subsection that are consistent with program evaluation standards developed under subsection (d) to assess minimum project performance for purposes of making continuation awards in the third, fourth, and fifth years.

''(5) Each fiscal year the Commissioner shall include in the annual report to Congress required by section 13 an analysis of the extent to which grant recipients have complied with the evaluation standards. The Commissioner may identify individual grant recipients in the analysis. In addition, the Commissioner shall report the results of on-site compliance reviews, identifying individual grant recipients.

''(g) The Commissioner may provide, directly or by way of grant, contract, or cooperative agreement, technical assistance to—

''(1) entities conducting projects for the purpose of assisting such entities in—

''(A) the improvement of or the development of relationships with private industry or labor; or

''(B) the improvement of relationships with State vocational rehabilitation agencies; and

''(2) entities planning the development of new projects.

''(h) As used in this section:

''(1) The term 'agreement' means an agreement described in subsection (a)(4).

''(2) The term 'project' means a Project With Industry established under subsection (a)(2).

''(3) The term 'grant recipient' means a recipient of a grant under subsection (a)(2).

''AUTHORIZATION OF APPROPRIATIONS

''SEC. 622. There are authorized to be appropriated to carry out the provisions of this part, such sums as may be necessary for each of fiscal years 1998 through 2004.

''PART C—SUPPORTED EMPLOYMENT SERVICES FOR INDIVIDUALS WITH THE MOST SIGNIFICANT DISABILITIES

**''SEC. 631. PURPOSE.**

''It is the purpose of this part to authorize allotments, in addition to grants for vocational rehabilitation services under title I, to assist States in developing collaborative programs with appropriate entities to provide supported employment services for individuals with the most significant disabilities to enable such individuals to achieve the employment outcome of supported employment.

**''SEC. 632. ALLOTMENTS.**

''(a) IN GENERAL.—

''(1) STATES.—The Secretary shall allot the sums appropriated for each fiscal year to carry out this part among the States on the basis of relative population of each State, except that—

''(A) no State shall receive less than $250,000, or one-third of one percent of the sums appropriated for the fiscal year for which the allotment is made, whichever is greater; and

''(B) if the sums appropriated to carry out this part for the fiscal year exceed by $1,000,000 or more the sums appropriated to carry out this part in fiscal year 1992, no State shall receive less than $300,000, or one-third of one percent of the sums appropriated for the fiscal year for which the allotment is made, whichever is greater.

''(2) CERTAIN TERRITORIES.—

''(A) IN GENERAL.—For the purposes of this subsection, Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands shall not be considered to be States.

''(B) ALLOTMENT.—Each jurisdiction described in subparagraph (A) shall be allotted not less than one-eighth of one percent of the amounts appropriated for the fiscal year for which the allotment is made.

''(b) REALLOTMENT.—Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be expended by such State for carrying out the provisions of this part, the Commissioner shall make such amount available for carrying out the provisions of this part to one or more of the States that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the State (as determined under the preceding provisions of this section) for such year.

**''SEC. 633. AVAILABILITY OF SERVICES.**

''Funds provided under this part may be used to provide supported employment services to individuals who are eligible under this part. Funds provided under this part, or title I, may not be used to provide extended services to individuals who are eligible under this part or title I.

**''SEC. 634. ELIGIBILITY.**

''An individual shall be eligible under this part to receive supported employment services authorized under this Act if—

''(1) the individual is eligible for vocational rehabilitation services;

''(2) the individual is determined to be an individual with a most significant disability; and

''(3) a comprehensive assessment of rehabilitation needs of the individual described in section 7(2)(B), including an evaluation of rehabilitation, career, and job needs, identifies supported employment as the appropriate employment outcome for the individual.

**''SEC. 635. STATE PLAN.**

''(a) STATE PLAN SUPPLEMENTS.—To be eligible for an allotment under this part, a State shall submit to the Commissioner, as part of the State plan under section 101, a State plan supplement for providing supported employment services authorized under this Act to individuals who are eligible under this Act to receive the services. Each State shall make such annual revisions in the plan supplement as may be necessary.

''(b) CONTENTS.—Each such plan supplement shall—

''(1) designate each designated State agency as the agency to administer the program assisted under this part;

''(2) summarize the results of the comprehensive, statewide assessment conducted under section 101(a)(15)(A)(i), with respect to the rehabilitation needs of individuals with significant disabilities and the need for supported employment services, including needs related to coordination;

''(3) describe the quality, scope, and extent of supported employment services authorized under this Act to be provided to individuals who are eligible under this Act to receive the services and specify the goals and plans of the State with respect to the distribution of funds received under section 632;

''(4) demonstrate evidence of the efforts of the designated State agency to identify and make arrangements (including entering into cooperative agreements) with other State agencies and other appropriate entities to assist in the provision of supported employment services;

''(5) demonstrate evidence of the efforts of the designated State agency to identify and make arrangements (including entering into cooperative agreements) with other public or nonprofit agencies or organizations within the State, employers, natural supports, and other entities with respect to the provision of extended services;

''(6) provide assurances that—

''(A) funds made available under this part will only be used to provide supported employment services authorized under this Act to individuals who are eligible under this part to receive the services;

''(B) the comprehensive assessments of individuals with significant disabilities conducted under section 102(b)(1) and funded under title I will include consideration of supported employment as an appropriate employment outcome;

''(C) an individualized rehabilitation employment plan, as required by section 102, will be developed and updated using funds under title I in order to—

''(i) specify the supported employment services to be provided;

''(ii) specify the expected extended services needed; and

''(iii) identify the source of extended services, which may include natural supports, or to the extent that it is not possible to identify the source of extended services at the time the individualized rehabilitation employment plan is developed, a statement describing the basis for concluding that there is a reasonable expectation that such sources will become available;

''(D) the State will use funds provided under this part only to supplement, and not supplant, the funds provided under title I, in providing supported employment services specified in the individualized rehabilitation employment plan;

''(E) services provided under an individualized rehabilitation employment plan will be coordinated with services provided under other individualized plans established under other Federal or State programs;

''(F) to the extent jobs skills training is provided, the training will be provided onsite; and

''(G) supported employment services will include placement in an integrated setting for the maximum number of hours possible based on the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of individuals with the most significant disabilities;

''(7) provide assurances that the State agencies designated under paragraph (1) will expend not more than 5 percent of the allotment of the State under this part for administrative costs of carrying out this part; and

''(8) contain such other information and be submitted in such manner as the Commissioner may require.

**''SEC. 636. RESTRICTION.**

''Each State agency designated under section 635(b)(1) shall collect the information required by section 101(a)(10) separately for eligible individuals receiving supported employment services under this part and for eligible individuals receiving supported employment services under title I.

**''SEC. 637. SAVINGS PROVISION.**

''(a) SUPPORTED EMPLOYMENT SERVICES.—Nothing in this Act shall be construed to prohibit a State from providing supported employment services in accordance with the State plan submitted under section 101 by using funds made available through a State allotment under section 110.

''(b) POSTEMPLOYMENT SERVICES.—Nothing in this part shall be construed to prohibit a State from providing discrete postemployment services in accordance with the State plan submitted under section 101 by using funds made available through a State allotment under section 110 to an individual who is eligible under this part.

**''SEC. 638. AUTHORIZATION OF APPROPRIATIONS.**

''There are authorized to be appropriated to carry out this part such sums as may be necessary for each of fiscal years 1998 through 2004.''.

**SEC. 10. INDEPENDENT LIVING SERVICES AND CENTERS FOR INDEPENDENT LIVING.**

Title VII of the Rehabilitation Act of 1973 (29 U.S.C. 796 et seq.) is amended to read as follows:

**''TITLE VII—INDEPENDENT LIVING SERVICES AND CENTERS FOR INDEPENDENT LIVING**

**''CHAPTER 1—INDIVIDUALS WITH SIGNIFICANT DISABILITIES**

**''PART A—GENERAL PROVISIONS**

**''SEC. 701. PURPOSE.**

''The purpose of this chapter is to promote a philosophy of independent living, including a philosophy of consumer control, peer support, self-help, self-determination, equal access, and individual and system advocacy, in order to maximize the leadership, empowerment, independence, and productivity of individuals with disabilities, and the integration and full inclusion of individuals with

disabilities into the mainstream of American society, by—

''(1) providing financial assistance to States for providing, expanding, and improving the provision of independent living services;

''(2) providing financial assistance to develop and support statewide networks of centers for independent living; and

''(3) providing financial assistance to States for improving working relationships among State independent living rehabilitation service programs, centers for independent living, Statewide Independent Living Councils established under section 705, State vocational rehabilitation programs receiving assistance under title I, State programs of supported employment services receiving assistance under part C of title VI, client assistance programs receiving assistance under section 112, programs funded under other titles of this Act, programs funded under other Federal law, and programs funded through non-Federal sources.

**''SEC. 702. DEFINITIONS.**

''As used in this chapter:

''(1) CENTER FOR INDEPENDENT LIVING.—The term 'center for independent living' means a consumer-controlled, community-based, cross-disability, nonresidential private nonprofit agency that—

''(A) is designed and operated within a local community by individuals with disabilities; and

''(B) provides an array of independent living services.

''(2) CONSUMER CONTROL.—The term 'consumer control' means, with respect to a center for independent living, that the center vests power and authority in individuals with disabilities.

**''SEC. 703. ELIGIBILITY FOR RECEIPT OF SERVICES.**

''Services may be provided under this chapter to any individual with a significant disability, as defined in section 7(21)(B).

**''SEC. 704. STATE PLAN.**

''(a) IN GENERAL.—

''(1) REQUIREMENT.—To be eligible to receive financial assistance under this chapter, a State shall submit to the Commissioner, and obtain approval of, a State plan containing such provisions as the Commissioner may require, including, at a minimum, the provisions required in this section.

''(2) JOINT DEVELOPMENT.—The plan under paragraph (1) shall be jointly developed and signed by—

''(A) the director of the designated State unit; and

''(B) the chairperson of the Statewide Independent Living Council, acting on behalf of and at the direction of the Council.

''(3) PERIODIC REVIEW AND REVISION.—The plan shall provide for the review and revision of the plan, not less than once every 3 years, to ensure the existence of appropriate planning, financial support and coordination, and other assistance to appropriately address, on a statewide and comprehensive basis, needs in the State for—

''(A) the provision of State independent living services;

''(B) the development and support of a statewide network of centers for independent living; and

''(C) working relationships between—

''(i) programs providing independent living services and independent living centers; and

''(ii) the vocational rehabilitation program established under title I, and other programs providing services for individuals with disabilities.

''(4) DATE OF SUBMISSION.—The State shall submit the plan to the Commissioner 90 days before the completion date of the preceding plan. If a State fails to submit such a plan that complies with the requirements of this section, the Commissioner may withhold financial assistance under this chapter until such time as the State submits such a plan.

''(b) STATEWIDE INDEPENDENT LIVING COUNCIL.—The plan shall provide for the establishment of a Statewide Independent Living Council in accordance with section 705.

''(c) DESIGNATION OF STATE UNIT.—The plan shall designate the designated State unit of such State as the agency that, on behalf of the State, shall—

''(1) receive, account for, and disburse funds received by the State under this chapter based on the plan;

''(2) provide administrative support services for a program under part B, and a program under part C in a case in which the program is administered by the State under section 723;

''(3) keep such records and afford such access to such records as the Commissioner finds to be necessary with respect to the programs; and

''(4) submit such additional information or provide such assurances as the Commissioner may require with respect to the programs.

''(d) OBJECTIVES.—The plan shall—

''(1) specify the objectives to be achieved under the plan and establish timelines for the achievement of the objectives; and

''(2) explain how such objectives are consistent with and further the purpose of this chapter.

''(e) INDEPENDENT LIVING SERVICES.—The plan shall provide that the State will provide independent living services under this chapter to individuals with significant disabilities, and will provide the services to such an individual in accordance with an independent living plan mutually agreed upon by an appropriate staff member of the service provider and the individual, unless the individual signs a waiver stating that such a plan is unnecessary.

''(f) SCOPE AND ARRANGEMENTS.—The plan shall describe the extent and scope of independent living services to be provided under this chapter to meet such objectives. If the State makes arrangements, by grant or contract, for providing such services, such arrangements shall be described in the plan.

''(g) NETWORK.—The plan shall set forth a design for the establishment of a statewide network of centers for independent living that comply with the standards and assurances set forth in section 725.

''(h) CENTERS.—In States in which State funding for centers for independent living equals or exceeds the amount of funds allotted to the State under part C, as provided in section 723, the plan shall include policies, practices, and procedures governing the awarding of grants to centers for independent living and oversight of such centers consistent with section 723.

''(i) COOPERATION, COORDINATION, AND WORKING RELATIONSHIPS AMONG VARIOUS ENTITIES.—The plan shall set forth the steps that will be taken to maximize the cooperation, coordination, and working relationships among—

''(1) the independent living rehabilitation service program, the Statewide Independent Living Council, and centers for independent living; and

''(2) the designated State unit, other State agencies represented on such Council, other councils that address the needs of specific disability populations and issues, and other public and private entities determined to be appropriate by the Council.

''(j) COORDINATION OF SERVICES.—The plan shall describe how services funded under this chapter will be coordinated with, and complement, other services, in order to avoid unnecessary duplication with other Federal, State, and local programs.

''(k) COORDINATION BETWEEN FEDERAL AND STATE SOURCES.—The plan shall describe efforts to coordinate Federal and State funding for centers for independent living and independent living services.

''(l) OUTREACH.—With respect to services and centers funded under this chapter, the plan shall set forth steps to be taken regarding outreach to populations that are unserved or underserved by programs under this title, including minority groups and urban and rural populations.

''(m) REQUIREMENTS.—The plan shall provide satisfactory assurances that all recipients of financial assistance under this chapter will—

''(1) notify all individuals seeking or receiving services under this chapter about the availability of the client assistance program under section 112, the purposes of the services provided under such program, and how to contact such program;

''(2) take affirmative action to employ and advance in employment qualified individuals with disabilities on the same terms and conditions required with respect to the employment of such individuals under the provisions of section 503;

''(3) adopt such fiscal control and fund accounting procedures as may be necessary to ensure the proper disbursement of and accounting for funds paid to the State under this chapter;

''(4)(A) maintain records that fully disclose—

''(i) the amount and disposition by such recipient of the proceeds of such financial assistance;

''(ii) the total cost of the project or undertaking in connection with which such financial assistance is given or used; and

''(iii) the amount of that portion of the cost of the project or undertaking supplied by other sources;

''(B) maintain such other records as the Commissioner determines to be appropriate to facilitate an effective audit;

''(C) afford such access to records maintained under subparagraphs (A) and (B) as the Commissioner determines to be appropriate; and

''(D) submit such reports with respect to such records as the Commissioner determines to be appropriate;

''(5) provide access to the Commissioner and the Comptroller General or any of their duly authorized representatives, for the purpose of conducting audits and examinations, of any books, documents, papers, and records of the recipients that are pertinent to the financial assistance received under this chapter; and

''(6) provide for public hearings regarding the contents of the plan during both the formulation and review of the plan.

''(n) EVALUATION.—The plan shall establish a method for the periodic evaluation of the effectiveness of the plan in meeting the objectives established in subsection (d), including evaluation of satisfaction by individuals with disabilities.

**''SEC. 705. STATEWIDE INDEPENDENT LIVING COUNCIL.**

''(a) ESTABLISHMENT.—To be eligible to receive financial assistance under this chapter, each State shall establish a Statewide Independent Living Council (referred to in this section as the 'Council'). The Council shall not be established as an entity within a State agency.

''(b) COMPOSITION AND APPOINTMENT.—

''(1) APPOINTMENT.—Members of the Council shall be appointed by the Governor or the appropriate entity within the State responsible for making appointments. The appointing authority shall select members after soliciting recommendations from representatives of organizations representing a broad

range of individuals with disabilities and organizations interested in individuals with disabilities.

''(2) COMPOSITION.—The Council shall include—

''(A) at least one director of a center for independent living chosen by the directors of centers for independent living within the State;

''(B) as ex officio, nonvoting members—

''(i) a representative from the designated State unit; and

''(ii) representatives from other State agencies that provide services for individuals with disabilities; and

''(C) in a State in which 1 or more projects are carried out under section 121, at least 1 representative of the directors of the projects.

''(3) ADDITIONAL MEMBERS.—The Council may include—

''(A) other representatives from centers for independent living;

''(B) parents and guardians of individuals with disabilities;

''(C) advocates of and for individuals with disabilities;

''(D) representatives from private businesses;

''(E) representatives from organizations that provide services for individuals with disabilities; and

''(F) other appropriate individuals.

''(4) QUALIFICATIONS.—

''(A) IN GENERAL.—The Council shall be composed of members—

''(i) who provide statewide representation;

''(ii) who represent a broad range of individuals with disabilities from diverse backgrounds;

''(iii) who are knowledgeable about centers for independent living and independent living services; and

''(iv) a majority of whom are persons who are—

''(I) individuals with disabilities described in section 7(20)(B); and

''(II) not employed by any State agency or center for independent living.

''(B) VOTING MEMBERS.—A majority of the voting members of the Council shall be—

''(i) individuals with disabilities described in section 7(20)(B); and

''(ii) not employed by any State agency or center for independent living.

''(5) CHAIRPERSON.—The Council shall select a chairperson from among the voting membership of the Council.

''(6) TERMS OF APPOINTMENT.—

''(A) LENGTH OF TERM.—Each member of the Council shall serve for a term of 3 years, except that—

''(i) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

''(ii) the terms of service of the members initially appointed shall be (as specified by the appointing authority) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

''(B) NUMBER OF TERMS.—No member of the Council may serve more than two consecutive full terms.

''(7) VACANCIES.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

''(B) DELEGATION.—The Governor (including an entity described in paragraph (1)) may delegate the authority to fill such a vacancy to the remaining voting members of the Council after making the original appointment.

''(c) DUTIES.—The Council shall—

''(1) jointly develop and sign (in conjunction with the designated State unit) the State plan required in section 704;

''(2) monitor, review, and evaluate the implementation of the State plan;

''(3) coordinate activities with the State Rehabilitation Council established under section 105, if the State has such a Council, or the commission described in section 101(a)(21)(A), if the State has such a commission, and councils that address the needs of specific disability populations and issues under other Federal law;

''(4) ensure that all regularly scheduled meetings of the Statewide Independent Living Council are open to the public and sufficient advance notice is provided; and

''(5) submit to the Commissioner such periodic reports as the Commissioner may reasonably request, and keep such records, and afford such access to such records, as the Commissioner finds necessary to verify such reports.

''(d) HEARINGS AND FORUMS.—The Council is authorized to hold such hearings and forums as the Council may determine to be necessary to carry out the duties of the Council.

''(e) PLAN.—

''(1) IN GENERAL.—The Council shall prepare, in conjunction with the designated State unit, a plan for the provision of such resources, including such staff and personnel, as may be necessary and sufficient to carry out the functions of the Council under this section, with funds made available under this chapter, and under section 110 (consistent with section 101(a)(18)), and from other public and private sources. The resource plan shall, to the maximum extent possible, rely on the use of resources in existence during the period of implementation of the plan.

''(2) SUPERVISION AND EVALUATION.—Each Council shall, consistent with State law, supervise and evaluate such staff and other personnel as may be necessary to carry out the functions of the Council under this section.

''(3) CONFLICT OF INTEREST.—While assisting the Council in carrying out its duties, staff and other personnel shall not be assigned duties by the designated State agency or any other agency or office of the State, that would create a conflict of interest.

''(f) COMPENSATION AND EXPENSES.—The Council may use such resources to reimburse members of the Council for reasonable and necessary expenses of attending Council meetings and performing Council duties (including child care and personal assistance services), and to pay compensation to a member of the Council, if such member is not employed or must forfeit wages from other employment, for each day the member is engaged in performing Council duties.

**"SEC. 706. RESPONSIBILITIES OF THE COMMISSIONER.**

''(a) APPROVAL OF STATE PLANS.—

''(1) IN GENERAL.—The Commissioner shall approve any State plan submitted under section 704 that the Commissioner determines meets the requirements of section 704, and shall disapprove any such plan that does not meet such requirements, as soon as practicable after receiving the plan. Prior to such disapproval, the Commissioner shall notify the State of the intention to disapprove the plan, and shall afford such State reasonable notice and opportunity for a hearing.

''(2) PROCEDURES.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the provisions of subsections (c) and (d) of section 107 shall apply to any State plan submitted to the Commissioner under section 704.

''(B) APPLICATION.—For purposes of the application described in subparagraph (A), all references in such provisions—

''(i) to the Secretary shall be deemed to be references to the Commissioner; and

''(ii) to section 101 shall be deemed to be references to section 704.

''(b) INDICATORS.—Not later than October 1, 1993, the Commissioner shall develop and publish in the Federal Register indicators of minimum compliance consistent with the standards set forth in section 725.

''(c) ON-SITE COMPLIANCE REVIEWS.—

''(1) REVIEWS.—The Commissioner shall annually conduct on-site compliance reviews of at least 15 percent of the centers for independent living that receive funds under section 722 and shall periodically conduct such a review of each such center. The Commissioner shall select such centers for review on a random basis. The Commissioner shall annually conduct onsite compliance reviews of at least one-third of the designated State units that receive funding under section 723, and, to the extent necessary to determine the compliance of such a State unit with subsections (f) and (g) of section 723, centers that receive funding under section 723 in such State.

''(2) QUALIFICATIONS OF EMPLOYEES CONDUCTING REVIEWS.—The Commissioner shall—

''(A) to the maximum extent practicable, carry out such a review by using employees of the Department who are knowledgeable about the provision of independent living services;

''(B) ensure that the employee of the Department with responsibility for supervising such a review shall have such knowledge; and

''(C) ensure that at least one member of a team conducting such a review shall be an individual who—

''(i) is not a government employee; and

''(ii) has experience in the operation of centers for independent living.

''(d) REPORTS.—The Commissioner shall include, in the annual report required under section 13, information on the extent to which centers for independent living receiving funds under part C have complied with the standards and assurances set forth in section 725. The Commissioner may identify individual centers for independent living in the analysis. The Commissioner shall report the results of on-site compliance reviews, identifying individual centers for independent living and other recipients of assistance under this chapter.

**"PART B—INDEPENDENT LIVING SERVICES**

**"SEC. 711. ALLOTMENTS.**

''(a) IN GENERAL.—

''(1) STATES.—

''(A) POPULATION BASIS.—Except as provided in subparagraphs (B) and (C), from sums appropriated for each fiscal year to carry out this part, the Commissioner shall make an allotment to each State whose State plan has been approved under section 706 of an amount bearing the same ratio to such sums as the population of the State bears to the population of all States.

''(B) MAINTENANCE OF 1992 AMOUNTS.—Subject to the availability of appropriations to carry out this part, the amount of any allotment made under subparagraph (A) to a State for a fiscal year shall not be less than the amount of an allotment made to the State for fiscal year 1992 under part A of this title, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992.

''(C) MINIMUMS.—Subject to the availability of appropriations to carry out this part,

and except as provided in subparagraph (B), the allotment to any State under subparagraph (A) shall be not less than $275,000 or one-third of one percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than $275,000 or one-third of one percent of such sums shall be increased to the greater of the two amounts.

''(2) CERTAIN TERRITORIES.—

''(A) IN GENERAL.—For the purposes of paragraph (1)(C), Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands shall not be considered to be States.

''(B) ALLOTMENT.—Each jurisdiction described in subparagraph (A) shall be allotted under paragraph (1)(A) not less than one-eighth of one percent of the amounts made available for purposes of this part for the fiscal year for which the allotment is made.

''(3) ADJUSTMENT FOR INFLATION.—For any fiscal year, beginning in fiscal year 1999, in which the total amount appropriated to carry out this part exceeds the total amount appropriated to carry out this part for the preceding fiscal year, the Commissioner shall increase the minimum allotment under paragraph (1)(C) by a percentage that shall not exceed the percentage increase in the total amount appropriated to carry out this part between the preceding fiscal year and the fiscal year involved.

''(b) PROPORTIONAL REDUCTION.—To provide allotments to States in accordance with subsection (a)(1)(B), to provide minimum allotments to States (as increased under subsection (a)(3)) under subsection (a)(1)(C), or to provide minimum allotments to States under subsection (a)(2)(B), the Commissioner shall proportionately reduce the allotments of the remaining States under subsection (a)(1)(A), with such adjustments as may be necessary to prevent the allotment of any such remaining State from being reduced to less than the amount required by subsection (a)(1)(B).

''(c) REALLOTMENT.—Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be expended by such State in carrying out the provisions of this part, the Commissioner shall make such amount available for carrying out the provisions of this part to one or more of the States that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the State (as determined under the preceding provisions of this section) for such year.

**''SEC. 712. PAYMENTS TO STATES FROM ALLOTMENTS.**

''(a) PAYMENTS.—From the allotment of each State for a fiscal year under section 711, the State shall be paid the Federal share of the expenditures incurred during such year under its State plan approved under section 706. Such payments may be made (after necessary adjustments on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments and on such conditions as the Commissioner may determine.

''(b) FEDERAL SHARE.—

''(1) IN GENERAL.—The Federal share with respect to any State for any fiscal year shall be 90 percent of the expenditures incurred by the State during such year under its State plan approved under section 706.

''(2) NON-FEDERAL SHARE.—The non-Federal share of the cost of any project that receives assistance through an allotment under this part may be provided in cash or in kind, fairly evaluated, including plant, equipment, or services.

**''SEC. 713. AUTHORIZED USES OF FUNDS.**

''The State may use funds received under this part to provide the resources described in section 705(e), relating to the Statewide Independent Living Council, and may use funds received under this part—

''(1) to provide independent living services to individuals with significant disabilities;

''(2) to demonstrate ways to expand and improve independent living services;

''(3) to support the operation of centers for independent living that are in compliance with the standards and assurances set forth in subsections (b) and (c) of section 725;

''(4) to support activities to increase the capacities of public or nonprofit agencies and organizations and other entities to develop comprehensive approaches or systems for providing independent living services;

''(5) to conduct studies and analyses, gather information, develop model policies and procedures, and present information, approaches, strategies, findings, conclusions, and recommendations to Federal, State, and local policymakers in order to enhance independent living services for individuals with disabilities;

''(6) to train individuals with disabilities and individuals providing services to individuals with disabilities and other persons regarding the independent living philosophy; and

''(7) to provide outreach to populations that are unserved or underserved by programs under this title, including minority groups and urban and rural populations.

**''SEC. 714. AUTHORIZATION OF APPROPRIATIONS.**

''There are authorized to be appropriated to carry out this part such sums as may be necessary for each of the fiscal years 1998 through 2004.

**''PART C—CENTERS FOR INDEPENDENT LIVING**

**''SEC. 721. PROGRAM AUTHORIZATION.**

''(a) IN GENERAL.—From the funds appropriated for fiscal year 1998 and for each subsequent fiscal year to carry out this part, the Commissioner shall allot such sums as may be necessary to States and other entities in accordance with subsections (b) through (d).

''(b) TRAINING.—

''(1) GRANTS; CONTRACTS; OTHER ARRANGEMENTS.—For any fiscal year in which the funds appropriated to carry out this part exceed the funds appropriated to carry out this part for fiscal year 1993, the Commissioner shall first reserve from such excess, to provide training and technical assistance to eligible agencies, centers for independent living, and Statewide Independent Living Councils for such fiscal year, not less than 1.8 percent, and not more than 2 percent, of the funds appropriated to carry out this part for the fiscal year involved.

''(2) ALLOCATION.—From the funds reserved under paragraph (1), the Commissioner shall make grants to, and enter into contracts and other arrangements with, entities who have experience in the operation of centers for independent living to provide such training and technical assistance with respect to planning, developing, conducting, administering, and evaluating centers for independent living.

''(3) FUNDING PRIORITIES.—The Commissioner shall conduct a survey of Statewide Independent Living Councils and centers for independent living regarding training and technical assistance needs in order to determine funding priorities for such grants, contracts, and other arrangements.

''(4) REVIEW.—To be eligible to receive a grant or enter into a contract or other arrangement under this subsection, such an entity shall submit an application to the Commissioner at such time, in such manner, and containing a proposal to provide such training and technical assistance, and containing such additional information as the Commissioner may require. The Commissioner shall provide for peer review of grant applications by panels that include persons who are not government employees and who have experience in the operation of centers for independent living.

''(5) PROHIBITION ON COMBINED FUNDS.—No funds reserved by the Commissioner under this subsection may be combined with funds appropriated under any other Act or part of this Act if the purpose of combining funds is to make a single discretionary grant or a single discretionary payment, unless such funds appropriated under this chapter are separately identified in such grant or payment and are used for the purposes of this chapter.

''(c) IN GENERAL.—

''(1) STATES.—

''(A) POPULATION BASIS.—After the reservation required by subsection (b) has been made, and except as provided in subparagraphs (B) and (C), from the remainder of the amounts appropriated for each such fiscal year to carry out this part, the Commissioner shall make an allotment to each State whose State plan has been approved under section 706 of an amount bearing the same ratio to such remainder as the population of the State bears to the population of all States.

''(B) MAINTENANCE OF 1992 AMOUNTS.—Subject to the availability of appropriations to carry out this part, the amount of any allotment made under subparagraph (A) to a State for a fiscal year shall not be less than the amount of financial assistance received by centers for independent living in the State for fiscal year 1992 under part B of this title, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992.

''(C) MINIMUMS.—Subject to the availability of appropriations to carry out this part and except as provided in subparagraph (B), for a fiscal year in which the amounts appropriated to carry out this part exceed the amounts appropriated for fiscal year 1992 to carry out part B of this title, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992—

''(i) if such excess is not less than $8,000,000, the allotment to any State under subparagraph (A) shall be not less than $450,000 or one-third of one percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than $450,000 or one-third of one percent of such sums shall be increased to the greater of the two amounts;

''(ii) if such excess is not less than $4,000,000 and is less than $8,000,000, the allotment to any State under subparagraph (A) shall be not less than $400,000 or one-third of one percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than $400,000 or one-third of one percent of such sums shall be increased to the greater of the two amounts; and

''(iii) if such excess is less than $4,000,000, the allotment to any State under subparagraph (A) shall approach, as nearly as possible, the greater of the two amounts described in clause (ii).

''(2) CERTAIN TERRITORIES.—

''(A) IN GENERAL.—For the purposes of paragraph (1)(C), Guam, American Samoa,

the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands shall not be considered to be States.

''(B) ALLOTMENT.—Each jurisdiction described in subparagraph (A) shall be allotted under paragraph (1)(A) not less than one-eighth of one percent of the remainder for the fiscal year for which the allotment is made.

''(3) ADJUSTMENT FOR INFLATION.—For any fiscal year, beginning in fiscal year 1999, in which the total amount appropriated to carry out this part exceeds the total amount appropriated to carry out this part for the preceding fiscal year, the Commissioner shall increase the minimum allotment under paragraph (1)(C) by a percentage that shall not exceed the percentage increase in the total amount appropriated to carry out this part between the preceding fiscal year and the fiscal year involved.

''(4) PROPORTIONAL REDUCTION.—To provide allotments to States in accordance with paragraph (1)(B), to provide minimum allotments to States (as increased under paragraph (3)) under paragraph (1)(C), or to provide minimum allotments to States under paragraph (2)(B), the Commissioner shall proportionately reduce the allotments of the remaining States under paragraph (1)(A), with such adjustments as may be necessary to prevent the allotment of any such remaining State from being reduced to less than the amount required by paragraph (1)(B).

''(d) REALLOTMENT.—Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be expended by such State for carrying out the provisions of this part, the Commissioner shall make such amount available for carrying out the provisions of this part to one or more of the States that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the State (as determined under the preceding provisions of this section) for such year.

**''SEC. 722. GRANTS TO CENTERS FOR INDEPENDENT LIVING IN STATES IN WHICH FEDERAL FUNDING EXCEEDS STATE FUNDING.**

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—Unless the director of a designated State unit awards grants under section 723 to eligible agencies in a State for a fiscal year, the Commissioner shall award grants under this section to such eligible agencies for such fiscal year from the amount of funds allotted to the State under subsection (c) or (d) of section 721 for such year.

''(2) GRANTS.—The Commissioner shall award such grants, from the amount of funds so allotted, to such eligible agencies for the planning, conduct, administration, and evaluation of centers for independent living that comply with the standards and assurances set forth in section 725.

''(b) ELIGIBLE AGENCIES.—In any State in which the Commissioner has approved the State plan required by section 704, the Commissioner may make a grant under this section to any eligible agency that—

''(1) has the power and authority to carry out the purpose of this part and perform the functions set forth in section 725 within a community and to receive and administer funds under this part, funds and contributions from private or public sources that may be used in support of a center for independent living, and funds from other public and private programs;

''(2) is determined by the Commissioner to be able to plan, conduct, administer, and evaluate a center for independent living consistent with the standards and assurances set forth in section 725; and

''(3) submits an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

''(c) EXISTING ELIGIBLE AGENCIES.—In the administration of the provisions of this section, the Commissioner shall award grants to any eligible agency that has been awarded a grant under this part by September 30, 1997 unless the Commissioner makes a finding that the agency involved fails to meet program and fiscal standards and assurances set forth in section 725.

''(d) NEW CENTERS FOR INDEPENDENT LIVING.—

''(1) IN GENERAL.—If there is no center for independent living serving a region of the State or a region is underserved, and the increase in the allotment of the State is sufficient to support an additional center for independent living in the State, the Commissioner may award a grant under this section to the most qualified applicant proposing to serve such region, consistent with the provisions in the State plan setting forth the design of the State for establishing a statewide network of centers for independent living.

''(2) SELECTION.—In selecting from among applicants for a grant under this section for a new center for independent living, the Commissioner—

''(A) shall consider comments regarding the application, if any, by the Statewide Independent Living Council in the State in which the applicant is located;

''(B) shall consider the ability of each such applicant to operate a center for independent living based on—

''(i) evidence of the need for such a center;

''(ii) any past performance of such applicant in providing services comparable to independent living services;

''(iii) the plan for satisfying or demonstrated success in satisfying the standards and the assurances set forth in section 725;

''(iv) the quality of key personnel and the involvement of individuals with significant disabilities;

''(v) budgets and cost-effectiveness;

''(vi) an evaluation plan; and

''(vii) the ability of such applicant to carry out the plans; and

''(C) shall give priority to applications from applicants proposing to serve geographic areas within each State that are currently unserved or underserved by independent living programs, consistent with the provisions of the State plan submitted under section 704 regarding establishment of a statewide network of centers for independent living.

''(3) CURRENT CENTERS.—Notwithstanding paragraphs (1) and (2), a center for independent living that receives assistance under part B for a fiscal year shall be eligible for a grant for the subsequent fiscal year under this subsection.

''(e) ORDER OF PRIORITIES.—The Commissioner shall be guided by the following order of priorities in allocating funds among centers for independent living within a State, to the extent funds are available:

''(1) The Commissioner shall support existing centers for independent living, as described in subsection (c), that comply with the standards and assurances set forth in section 725, at the level of funding for the previous year.

''(2) The Commissioner shall provide for a cost-of-living increase for such existing centers for independent living.

''(3) The Commissioner shall fund new centers for independent living, as described in subsection (d), that comply with the standards and assurances set forth in section 725.

''(f) NONRESIDENTIAL AGENCIES.—A center that provides or manages residential housing after October 1, 1994, shall not be considered to be an eligible agency under this section.

''(g) REVIEW.—

''(1) IN GENERAL.—The Commissioner shall periodically review each center receiving funds under this section to determine whether such center is in compliance with the standards and assurances set forth in section 725. If the Commissioner determines that any center receiving funds under this section is not in compliance with the standards and assurances set forth in section 725, the Commissioner shall immediately notify such center that it is out of compliance.

''(2) ENFORCEMENT.—The Commissioner shall terminate all funds under this section to such center 90 days after the date of such notification unless the center submits a plan to achieve compliance within 90 days of such notification and such plan is approved by the Commissioner.

**''SEC. 723. GRANTS TO CENTERS FOR INDEPENDENT LIVING IN STATES IN WHICH STATE FUNDING EQUALS OR EXCEEDS FEDERAL FUNDING.**

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—

''(A) INITIAL YEAR.—

''(i) DETERMINATION.—The director of a designated State unit, as provided in paragraph (2), or the Commissioner, as provided in paragraph (3), shall award grants under this section for an initial fiscal year if the Commissioner determines that the amount of State funds that were earmarked by a State for a preceding fiscal year to support the general operation of centers for independent living meeting the requirements of this part equaled or exceeded the amount of funds allotted to the State under subsection (c) or (d) of section 721 for such year.

''(ii) GRANTS.—The director or the Commissioner, as appropriate, shall award such grants, from the amount of funds so allotted for the initial fiscal year, to eligible agencies in the State for the planning, conduct, administration, and evaluation of centers for independent living that comply with the standards and assurances set forth in section 725.

''(iii) REGULATION.—The Commissioner shall by regulation specify the preceding fiscal year with respect to which the Commissioner will make the determinations described in clause (i) and subparagraph (B), making such adjustments as may be necessary to accommodate State funding cycles such as 2-year funding cycles or State fiscal years that do not coincide with the Federal fiscal year.

''(B) SUBSEQUENT YEARS.—For each year subsequent to the initial fiscal year described in subparagraph (A), the director of the designated State unit shall continue to have the authority to award such grants under this section if the Commissioner determines that the State continues to earmark the amount of State funds described in subparagraph (A)(i). If the State does not continue to earmark such an amount for a fiscal year, the State shall be ineligible to make grants under this section after a final year following such fiscal year, as defined in accordance with regulations established by the Commissioner, and for each subsequent fiscal year.

''(2) GRANTS BY DESIGNATED STATE UNITS.—In order for the designated State unit to be eligible to award the grants described in paragraph (1) and carry out this section for a fiscal year with respect to a State, the designated State agency shall submit an application to the Commissioner at such time, and in such manner as the Commissioner may require, including information about

the amount of State funds described in paragraph (1) for the preceding fiscal year. If the Commissioner makes a determination described in subparagraph (A)(i) or (B), as appropriate, of paragraph (1), the Commissioner shall approve the application and designate the director of the designated State unit to award the grant and carry out this section.

''(3) GRANTS BY COMMISSIONER.—If the designated State agency of a State described in paragraph (1) does not submit and obtain approval of an application under paragraph (2), the Commissioner shall award the grant described in paragraph (1) to eligible agencies in the State in accordance with section 722.

''(b) ELIGIBLE AGENCIES.—In any State in which the Commissioner has approved the State plan required by section 704, the director of the designated State unit may award a grant under this section to any eligible agency that—

''(1) has the power and authority to carry out the purpose of this part and perform the functions set forth in section 725 within a community and to receive and administer funds under this part, funds and contributions from private or public sources that may be used in support of a center for independent living, and funds from other public and private programs;

''(2) is determined by the director to be able to plan, conduct, administer, and evaluate a center for independent living, consistent with the standards and assurances set forth in section 725; and

''(3) submits an application to the director at such time, in such manner, and containing such information as the head of the designated State unit may require.

''(c) EXISTING ELIGIBLE AGENCIES.—In the administration of the provisions of this section, the director of the designated State unit shall award grants under this section to any eligible agency that has been awarded a grant under this part by September 30, 1997, unless the director makes a finding that the agency involved fails to comply with the standards and assurances set forth in section 725.

''(d) NEW CENTERS FOR INDEPENDENT LIVING.—

''(1) IN GENERAL.—If there is no center for independent living serving a region of the State or the region is unserved or underserved, and the increase in the allotment of the State is sufficient to support an additional center for independent living in the State, the director of the designated State unit may award a grant under this section from among eligible agencies, consistent with the provisions of the State plan under section 704 setting forth the design of the State for establishing a statewide network of centers for independent living.

''(2) SELECTION.—In selecting from among eligible agencies in awarding a grant under this part for a new center for independent living—

''(A) the director of the designated State unit and the chairperson of, or other individual designated by, the Statewide Independent Living Council acting on behalf of and at the direction of the Council, shall jointly appoint a peer review committee that shall rank applications in accordance with the standards and assurances set forth in section 725 and criteria jointly established by such director and such chairperson or individual;

''(B) the peer review committee shall consider the ability of each such applicant to operate a center for independent living, and shall recommend an applicant to receive a grant under this section, based on—

''(i) evidence of the need for a center for independent living, consistent with the State plan;

''(ii) any past performance of such applicant in providing services comparable to independent living services;

''(iii) the plan for complying with, or demonstrated success in complying with, the standards and the assurances set forth in section 725;

''(iv) the quality of key personnel of the applicant and the involvement of individuals with significant disabilities by the applicant;

''(v) the budgets and cost-effectiveness of the applicant;

''(vi) the evaluation plan of the applicant; and

''(vii) the ability of such applicant to carry out the plans; and

''(C) the director of the designated State unit shall award the grant on the basis of the recommendations of the peer review committee if the actions of the committee are consistent with Federal and State law.

''(3) CURRENT CENTERS.—Notwithstanding paragraphs (1) and (2), a center for independent living that receives assistance under part B for a fiscal year shall be eligible for a grant for the subsequent fiscal year under this subsection.

''(e) ORDER OF PRIORITIES.—Unless the director of the designated State unit and the chairperson of the Council or other individual designated by the Council acting on behalf of and at the direction of the Council jointly agree on another order of priority, the director shall be guided by the following order of priorities in allocating funds among centers for independent living within a State, to the extent funds are available:

''(1) The director of the designated State unit shall support existing centers for independent living, as described in subsection (c), that comply with the standards and assurances set forth in section 725, at the level of funding for the previous year.

''(2) The director of the designated State unit shall provide for a cost-of-living increase for such existing centers for independent living.

''(3) The director of the designated State unit shall fund new centers for independent living, as described in subsection (d), that comply with the standards and assurances set forth in section 725.

''(f) NONRESIDENTIAL AGENCIES.—A center that provides or manages residential housing after October 1, 1994, shall not be considered to be an eligible agency under this section.

''(g) REVIEW.—

''(1) IN GENERAL.—The director of the designated State unit shall periodically review each center receiving funds under this section to determine whether such center is in compliance with the standards and assurances set forth in section 725. If the director of the designated State unit determines that any center receiving funds under this section is not in compliance with the standards and assurances set forth in section 725, the director of the designated State unit shall immediately notify such center that it is out of compliance.

''(2) ENFORCEMENT.—The director of the designated State unit shall terminate all funds under this section to such center 90 days after—

''(A) the date of such notification; or

''(B) in the case of a center that requests an appeal under subsection (i), the date of any final decision under subsection (i),

unless the center submits a plan to achieve compliance within 90 days and such plan is approved by the director, or if appealed, by the Commissioner.

''(h) ON-SITE COMPLIANCE REVIEW.—The director of the designated State unit shall annually conduct onsite compliance reviews of at least 15 percent of the centers for independent living that receive funding under this section in the State. Each team that conducts on-site compliance review of centers for independent living shall include at least one person who is not an employee of the designated State agency, who has experience in the operation of centers for independent living, and who is jointly selected by the director of the designated State unit and the chairperson of or other individual designated by the Council acting on behalf of and at the direction of the Council. A copy of this review shall be provided to the Commissioner.

''(i) ADVERSE ACTIONS.—If the director of the designated State unit proposes to take a significant adverse action against a center for independent living, the center may seek mediation and conciliation to be provided by an individual or individuals who are free of conflicts of interest identified by the chairperson of or other individual designated by the Council. If the issue is not resolved through the mediation and conciliation, the center may appeal the proposed adverse action to the Commissioner for a final decision.

**''SEC. 724. CENTERS OPERATED BY STATE AGENCIES.**

''A State that receives assistance for fiscal year 1993 with respect to a center in accordance with subsection (a) of this section (as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1998) may continue to receive assistance under this part for fiscal year 1994 or a succeeding fiscal year if, for such fiscal year—

''(1) no nonprofit private agency—

''(A) submits an acceptable application to operate a center for independent living for the fiscal year before a date specified by the Commissioner; and

''(B) obtains approval of the application under section 722 or 723; or

''(2) after funding all applications so submitted and approved, the Commissioner determines that funds remain available to provide such assistance.

**''SEC. 725. STANDARDS AND ASSURANCES FOR CENTERS FOR INDEPENDENT LIVING.**

''(a) IN GENERAL.—Each center for independent living that receives assistance under this part shall comply with the standards set out in subsection (b) and provide and comply with the assurances set out in subsection (c) in order to ensure that all programs and activities under this part are planned, conducted, administered, and evaluated in a manner consistent with the purposes of this chapter and the objective of providing assistance effectively and efficiently.

''(b) STANDARDS.—

''(1) PHILOSOPHY.—The center shall promote and practice the independent living philosophy of—

''(A) consumer control of the center regarding decisionmaking, service delivery, management, and establishment of the policy and direction of the center;

''(B) self-help and self-advocacy;

''(C) development of peer relationships and peer role models; and

''(D) equal access of individuals with significant disabilities to society and to all services, programs, activities, resources, and facilities, whether public or private and regardless of the funding source.

''(2) PROVISION OF SERVICES.—The center shall provide services to individuals with a range of significant disabilities. The center shall provide services on a cross-disability basis (for individuals with all different types of significant disabilities, including individuals with significant disabilities who are members of populations that are unserved or underserved by programs under this title). Eligibility for services at any center for independent living shall be determined by the center, and shall not be based on the presence of any one or more specific significant disabilities.

''(3) INDEPENDENT LIVING GOALS.—The center shall facilitate the development and achievement of independent living goals selected by individuals with significant disabilities who seek such assistance by the center.

''(4) COMMUNITY OPTIONS.—The center shall work to increase the availability and improve the quality of community options for independent living in order to facilitate the development and achievement of independent living goals by individuals with significant disabilities.

''(5) INDEPENDENT LIVING CORE SERVICES.—The center shall provide independent living core services and, as appropriate, a combination of any other independent living services.

''(6) ACTIVITIES TO INCREASE COMMUNITY CAPACITY.—The center shall conduct activities to increase the capacity of communities within the service area of the center to meet the needs of individuals with significant disabilities.

''(7) RESOURCE DEVELOPMENT ACTIVITIES.—The center shall conduct resource development activities to obtain funding from sources other than this chapter.

''(c) ASSURANCES.—The eligible agency shall provide at such time and in such manner as the Commissioner may require, such satisfactory assurances as the Commissioner may require, including satisfactory assurances that—

''(1) the applicant is an eligible agency;

''(2) the center will be designed and operated within local communities by individuals with disabilities, including an assurance that the center will have a Board that is the principal governing body of the center and a majority of which shall be composed of individuals with significant disabilities;

''(3) the applicant will comply with the standards set forth in subsection (b);

''(4) the applicant will establish clear priorities through annual and 3-year program and financial planning objectives for the center, including overall goals or a mission for the center, a work plan for achieving the goals or mission, specific objectives, service priorities, and types of services to be provided, and a description that shall demonstrate how the proposed activities of the applicant are consistent with the most recent 3-year State plan under section 704;

''(5) the applicant will use sound organizational and personnel assignment practices, including taking affirmative action to employ and advance in employment qualified individuals with significant disabilities on the same terms and conditions required with respect to the employment of individuals with disabilities under section 503;

''(6) the applicant will ensure that the majority of the staff, and individuals in decisionmaking positions, of the applicant are individuals with disabilities;

''(7) the applicant will practice sound fiscal management, including making arrangements for an annual independent fiscal audit, notwithstanding section 7502(a)(2)(A) of title 31, United States Code;

''(8) the applicant will conduct annual self-evaluations, prepare an annual report, and maintain records adequate to measure performance with respect to the standards, containing information regarding, at a minimum—

''(A) the extent to which the center is in compliance with the standards;

''(B) the number and types of individuals with significant disabilities receiving services through the center;

''(C) the types of services provided through the center and the number of individuals with significant disabilities receiving each type of service;

''(D) the sources and amounts of funding for the operation of the center;

''(E) the number of individuals with significant disabilities who are employed by, and the number who are in management and decisionmaking positions in, the center; and

''(F) a comparison, when appropriate, of the activities of the center in prior years with the activities of the center in the most recent year;

''(9) individuals with significant disabilities who are seeking or receiving services at the center will be notified by the center of the existence of, the availability of, and how to contact, the client assistance program;

''(10) aggressive outreach regarding services provided through the center will be conducted in an effort to reach populations of individuals with significant disabilities that are unserved or underserved by programs under this title, especially minority groups and urban and rural populations;

''(11) staff at centers for independent living will receive training on how to serve such unserved and underserved populations, including minority groups and urban and rural populations;

''(12) the center will submit to the Statewide Independent Living Council a copy of its approved grant application and the annual report required under paragraph (8);

''(13) the center will prepare and submit a report to the designated State unit or the Commissioner, as the case may be, at the end of each fiscal year that contains the information described in paragraph (8) and information regarding the extent to which the center is in compliance with the standards set forth in subsection (b); and

''(14) an independent living plan described in section 704(e) will be developed unless the individual who would receive services under the plan signs a waiver stating that such a plan is unnecessary.

**''SEC. 726. DEFINITIONS.**

''As used in this part, the term 'eligible agency' means a consumer-controlled, community-based, cross-disability, nonresidential private nonprofit agency.

**''SEC. 727. AUTHORIZATION OF APPROPRIATIONS.**

''There are authorized to be appropriated to carry out this part such sums as may be necessary for each of the fiscal years 1998 through 2004.

**''CHAPTER 2—INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND**

**''SEC. 751. DEFINITION.**

''For purposes of this chapter, the term 'older individual who is blind' means an individual age 55 or older whose significant visual impairment makes competitive employment extremely difficult to attain but for whom independent living goals are feasible.

**''SEC. 752. PROGRAM OF GRANTS.**

''(a) IN GENERAL.—

''(1) AUTHORITY FOR GRANTS.—Subject to subsections (b) and (c), the Commissioner may make grants to States for the purpose of providing the services described in subsection (d) to older individuals who are blind.

''(2) DESIGNATED STATE AGENCY.—The Commissioner may not make a grant under subsection (a) unless the State involved agrees that the grant will be administered solely by the agency described in section 101(a)(2)(A)(i).

''(b) CONTINGENT COMPETITIVE GRANTS.—Beginning with fiscal year 1993, in the case of any fiscal year for which the amount appropriated under section 753 is less than $13,000,000, grants made under subsection (a) shall be—

''(1) discretionary grants made on a competitive basis to States; or

''(2) grants made on a noncompetitive basis to pay for the continuation costs of activities for which a grant was awarded—

''(A) under this chapter; or

''(B) under part C, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992.

''(c) CONTINGENT FORMULA GRANTS.—

''(1) IN GENERAL.—In the case of any fiscal year for which the amount appropriated under section 753 is equal to or greater than $13,000,000, grants under subsection (a) shall be made only to States and shall be made only from allotments under paragraph (2).

''(2) ALLOTMENTS.—For grants under subsection (a) for a fiscal year described in paragraph (1), the Commissioner shall make an allotment to each State in an amount determined in accordance with subsection (j), and shall make a grant to the State of the allotment made for the State if the State submits to the Commissioner an application in accordance with subsection (i).

''(d) SERVICES GENERALLY.—The Commissioner may not make a grant under subsection (a) unless the State involved agrees that the grant will be expended only for purposes of—

''(1) providing independent living services to older individuals who are blind;

''(2) conducting activities that will improve or expand services for such individuals; and

''(3) conducting activities to help improve public understanding of the problems of such individuals.

''(e) INDEPENDENT LIVING SERVICES.—Independent living services for purposes of subsection (d)(1) include—

''(1) services to help correct blindness, such as—

''(A) outreach services;

''(B) visual screening;

''(C) surgical or therapeutic treatment to prevent, correct, or modify disabling eye conditions; and

''(D) hospitalization related to such services;

''(2) the provision of eyeglasses and other visual aids;

''(3) the provision of services and equipment to assist an older individual who is blind to become more mobile and more self-sufficient;

''(4) mobility training, Braille instruction, and other services and equipment to help an older individual who is blind adjust to blindness;

''(5) guide services, reader services, and transportation;

''(6) any other appropriate service designed to assist an older individual who is blind in coping with daily living activities, including supportive services and rehabilitation teaching services;

''(7) independent living skills training, information and referral services, peer counseling, and individual advocacy training; and

''(8) other independent living services.

''(f) MATCHING FUNDS.—

''(1) IN GENERAL.—The Commissioner may not make a grant under subsection (a) unless the State involved agrees, with respect to the costs of the program to be carried out by the State pursuant to such subsection, to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that is not less than $1 for each $9 of Federal funds provided in the grant.

''(2) DETERMINATION OF AMOUNT CONTRIBUTED.—Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

''(g) CERTAIN EXPENDITURES OF GRANTS.—A State may expend a grant under subsection (a) to carry out the purposes specified in subsection (d) through grants to public and nonprofit private agencies or organizations.

''(h) REQUIREMENT REGARDING STATE PLAN.—The Commissioner may not make a grant under subsection (a) unless the State involved agrees that, in carrying out subsection (d)(1), the State will seek to incorporate into the State plan under section 704 any new methods and approaches relating to independent living services for older individuals who are blind.

''(i) APPLICATION FOR GRANT.—

''(1) IN GENERAL.—The Commissioner may not make a grant under subsection (a) unless an application for the grant is submitted to the Commissioner and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Commissioner determines to be necessary to carry out this section (including agreements, assurances, and information with respect to any grants under subsection (j)(4)).

''(2) CONTENTS.—An application for a grant under this section shall contain—

''(A) an assurance that the agency described in subsection (a)(2) will prepare and submit to the Commissioner a report, at the end of each fiscal year, with respect to each project or program the agency operates or administers under this section, whether directly or through a grant or contract, which report shall contain, at a minimum, information on—

''(i) the number and types of older individuals who are blind and are receiving services;

''(ii) the types of services provided and the number of older individuals who are blind and are receiving each type of service;

''(iii) the sources and amounts of funding for the operation of each project or program;

''(iv) the amounts and percentages of resources committed to each type of service provided;

''(v) data on actions taken to employ, and advance in employment, qualified individuals with significant disabilities, including older individuals who are blind; and

''(vi) a comparison, if appropriate, of prior year activities with the activities of the most recent year;

''(B) an assurance that the agency will—

''(i) provide services that contribute to the maintenance of, or the increased independence of, older individuals who are blind; and

''(ii) engage in—

''(I) capacity-building activities, including collaboration with other agencies and organizations;

''(II) activities to promote community awareness, involvement, and assistance; and

''(III) outreach efforts; and

''(C) an assurance that the application is consistent with the State plan for providing independent living services required by section 704.

''(j) AMOUNT OF FORMULA GRANT.—

''(1) IN GENERAL.—Subject to the availability of appropriations, the amount of an allotment under subsection (a) for a State for a fiscal year shall be the greater of—

''(A) the amount determined under paragraph (2); or

''(B) the amount determined under paragraph (3).

''(2) MINIMUM ALLOTMENT.—

''(A) STATES.—In the case of the several States, the District of Columbia, and the Commonwealth of Puerto Rico, the amount referred to in subparagraph (A) of paragraph (1) for a fiscal year is the greater of—

''(i) $225,000; or

''(ii) an amount equal to one-third of one percent of the amount appropriated under section 753 for the fiscal year and available for allotments under subsection (a).

''(B) CERTAIN TERRITORIES.—In the case of Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands, the amount referred to in subparagraph (A) of paragraph (1) for a fiscal year is $40,000.

''(3) FORMULA.—The amount referred to in subparagraph (B) of paragraph (1) for a State for a fiscal year is the product of—

''(A) the amount appropriated under section 753 and available for allotments under subsection (a); and

''(B) a percentage equal to the quotient of—

''(i) an amount equal to the number of individuals residing in the State who are not less than 55 years of age; divided by

''(ii) an amount equal to the number of individuals residing in the United States who are not less than 55 years of age.

''(4) DISPOSITION OF CERTAIN AMOUNTS.—

''(A) GRANTS.—From the amounts specified in subparagraph (B), the Commissioner may make grants to States whose population of older individuals who are blind has a substantial need for the services specified in subsection (d) relative to the populations in other States of older individuals who are blind.

''(B) AMOUNTS.—The amounts referred to in subparagraph (A) are any amounts that are not paid to States under subsection (a) as a result of—

''(i) the failure of any State to submit an application under subsection (i);

''(ii) the failure of any State to prepare within a reasonable period of time such application in compliance with such subsection; or

''(iii) any State informing the Commissioner that the State does not intend to expend the full amount of the allotment made for the State under subsection (a).

''(C) CONDITIONS.—The Commissioner may not make a grant under subparagraph (A) unless the State involved agrees that the grant is subject to the same conditions as grants made under subsection (a).

**''SEC. 753. AUTHORIZATION OF APPROPRIATIONS.**

''There are authorized to be appropriated to carry out this chapter such sums as may be necessary for each of the fiscal years 1998 through 2004.''.

**SEC. 11. HELEN KELLER NATIONAL CENTER ACT.**

(a) GENERAL AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 205(a) of the Helen Keller National Center Act (29 U.S.C. 1904(a)) is amended by striking ''1993 through 1997'' and inserting ''1998 through 2000''.

(b) HELEN KELLER NATIONAL CENTER FEDERAL ENDOWMENT FUND.—The first sentence of section 208(h) of such Act (29 U.S.C. 1907(h)) is amended by striking ''1993 through 1997'' and inserting ''1998 through 2000''.

(c) REGISTRY.—Such Act (29 U.S.C. 1901 et seq.) is amended by adding at the end the following:

**''SEC. 209. NATIONAL REGISTRY AND AUTHORIZATION OF APPROPRIATIONS.**

''(a) The Center shall establish and maintain a national registry of individuals who are deaf-blind, using funds made available under subsection (b).

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out subsection (a) such sums as may be necessary for each of fiscal years 1998 through 2000.''.

**SEC. 12. PRESIDENT'S COMMITTEE ON NATIONAL EMPLOY THE PHYSICALLY HANDICAPPED WEEK.**

Section 2(2) of the Joint Resolution entitled ''Joint Resolution authorizing an appropriation for the work of the President's Committee on National Employ the Physically Handicapped Week'', approved July 11, 1949 (36 U.S.C. 155b(2)) is amended by inserting ''solicit,'' before ''accept,''.

**SEC. 13. PEER REVIEW.**

Part B of title IV of the Department of Education Organization Act (20 U.S.C. 3471 et seq.) is amended by inserting before section 427 the following:

**''SEC. 426A. PEER REVIEW.**

''The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to peer review panels established by the Secretary to evaluate applications for financial assistance awarded on a competitive basis.''.

**SEC. 14. CONFORMING AMENDMENTS.**

(a) PREPARATION.—After consultation with the appropriate committees of Congress and the Director of the Office of Management and Budget, the Secretary of Education shall prepare recommended legislation containing technical and conforming amendments to reflect the changes made by this Act.

(b) SUBMISSION TO CONGRESS.—Not later than 6 months after the date of enactment of this Act, the Secretary of Education shall submit to Congress the recommended legislation referred to under subsection (a).

Mr. JEFFORDS. Mr. President, I am pleased to join my colleagues Senators DEWINE, KENNEDY, WELLSTONE, HARKIN, FRIST, COLLINS, CHAFEE, and REED in introducing the Rehabilitation Act Amendments of 1998. We began the process of drafting this bipartisan, consensus-based legislation shortly after completing the reauthorization of the Individuals with Disabilities Education Act (IDEA). Just as we sought the assistance of the disability community and professionals who serve individuals with disabilities in determining the direction we took in drafting the IDEA legislation, so we did with this bill. Just as we welcomed the assistance of the Administration in drafting the IDEA legislation, so we did with this bill.

As a result, this legislation will open up more employment opportunities to individuals with disabilities. It will also provide State vocational rehabilitation agencies and others who provide employment-related assistance to individuals with disabilities with the tools they need to provide appropriate, timely help to individuals with disabilities who want to work. The combination of the 1997 reauthorization of IDEA and this reauthorization brings us closer to a seamless system in which parents of children with disabilities will envision and expect greater opportunities for their children to have productive and satisfying lives as adults.

The Rehabilitation Act Amendments of 1997 will increase opportunities for individuals with disabilities to prepare for, secure, maintain, and regain employment by linking vocational rehabilitation services to those services that are available under current State workforce systems and those that will be available under the Workforce Investment Partnership Act of 1997. It will simplify access to vocational rehabilitation services and streamline the administration of the vocational rehabilitation program. It makes additional improvements in discretionary

programs related to personnel training, research, and demonstration projects and consumer-controlled Centers for Independent Living. It provides greater access to information technology. The reauthorization will extend through fiscal year 2004.

The bill includes extensive links between vocational rehabilitation agencies and State workforce systems. For example, amendments related to linkage are found throughout the bill in sections pertaining to the findings and purposes of the legislation, definitions, program administration, reports, information dissemination, and State plan requirements, including those concerning data reporting. Complementary and parallel provisions to promote linkage between vocational rehabilitation agencies and State workforce systems also are included in the Workforce Investment Partnership Act of 1997.

The bill makes important changes in title I of the Act. The State plan requirements have been rewritten to simplify administration of the vocational rehabilitation program and reinforce its intent, helping individuals secure employment. The amendments reduce the 36 State plan requirements in current law to 24 and require the submission of one State plan, with amendments thereafter under certain circumstances. The bill allows, when a State is operating under an order of selection, for core services to be available to individuals with disabilities who do not meet a State's criteria for full services from the vocational rehabilitation agency. The legislation gives vocational rehabilitation agencies the ability to secure financial support from other entities who could or should pay for certain services needed by an individual with a disability, who is being assisted by the vocational rehabilitation agency to prepare for or secure a job. The bill requires State vocational rehabilitation agencies and State Rehabilitation Councils to jointly develop and conduct a comprehensive needs assessment every three years. Based on such an assessment, they will annually set and report on progress in achieving employment goals set for individuals with disability. The bill simplifies procedures for establishing eligibility, by requiring consideration of existing evaluating information in determining an individual's eligibility for vocational rehabilitation services. The bill strengthens eligible individuals' roles in developing their individualized rehabilitation employment plans. Such individuals will be given greater flexibility in how they develop their plans. The amendments give all States dollars for inservice training, and State allotments for training dollars will increase with increases in the Consumer Price Index. The bill requires that voluntary mediation be available for resolving disputes between vocational rehabilitation agencies and individuals with disabilities.

The bill selectively amends other titles in the Rehabilitation Act. Title II, which authorizes the National Institute on Disability and Rehabilitation Research, is amended to require that all funding priorities of the Institute be derived from a five-year plan that will be subjected to public comment and then submitted to Congress. The bill expands the authority of the Institute to allow funding of initiatives related to the quality assurance of assistive technology and the effectiveness of alternative medicine when used to treat individuals with disabilities. The legislation streamlines and updates title III of the Act, which authorizes training and demonstration activities, by clearly delineating funding priorities, simplifying the notification of interested parties about upcoming grant opportunities, and permitting funding for training of personnel in one-stop centers so that they will be more able to appropriately and effectively assist individuals with disabilities seeking employment-related assistance through such centers.

With guidance from Senator DODD, we strengthened the provisions in title V of the Act pertaining to the accessibility of electronic and information technology for individuals with disabilities by designating that the Access Board to write regulations and by requiring the Office of Management and Budget to oversee Federal agencies' compliance with such regulations. The legislation amends title VI of the Act by adding a new initiative, Projects in Telecommuting and Self-Employment for Individuals with Disabilities, and by permitting Projects with Industry to assist eligible individuals without waiting for referrals or eligibility status determinations from vocational rehabilitation agencies and to provide training and/or placement services.

These amendments build on and complement those that were enacted in 1992. The 1992 amendments to the Rehabilitation Act had a significant, positive effect in my State, Vermont.

There, one out of every eight residents is disabled. The Division of Vocational Rehabilitation has enabled many Vermonters with disabilities to exercise the choices the 1992 amendments triggered, to become employed, and to live successfully in their communities. In 1996, Vermont's vocational rehabilitation program provided an array of services to almost 5,000 Vermonters, while directly assisting 850 individuals with disabilities to become successfully employed.

The benefits of Vermont's efforts are many. Most important is the fact that Vermont consumers of vocational rehabilitation services who secure employment enjoy an average increase in income exceeding $8,000 per year. Seventy-three percent of these individuals enter the workforce earning more than minimum wage. Seventy-eight percent of those Vermonters who were assisted by the Vermont Division of Rehabilitation in 1996 remain employed today. In addition, the Vermont Consumer Choice Project, made possible by the 1992 amendments, has allowed my State to create organizational structures, policies and practices that have resulted in a greater degree of informed choice for individuals seeking and receiving vocational rehabilitation services.

The Rehabilitation Act Amendments of 1998 truly reflect a team effort by committed Senators, their staff, Federal officials, individuals with disabilities, rehabilitation professionals and others who know through experience that for individuals with disabilities, as for other individuals, having a job and liking it are the bottom line. Through these amendments we have secured and extended that bottom line for individuals with disabilities—more jobs, better jobs—into the next century.

Mr. KENNEDY. Mr. President, I was proud to be a sponsor of the Rehabilitation Act Amendments of 1992, and I am proud to support the current reauthorization. I commend Senator JEFFORDS, Senator DEWINE, and Senator WELLSTONE for their leadership in expediting our consideration of this important legislation. And I commend all the staff members for their skillful work in making this a successful bipartisan consensus bill. I especially thank Senator TOM HARKIN for his leadership and continued commitment to individuals with disabilities in this country.

The Rehabilitation Amendments of 1992 developed the foundation for a rehabilitation system which recognizes competence and choice, and which gives individuals with disabilities the services and support they need to live, work and participate as fully as possible in their communities. For millions of individuals with disabilities, vocational rehabilitation has meant the difference between dependence and independence, between lost potential and productive careers.

Most important, the vocational rehabilitation in this country provides the necessary skills and support to keep the promise of the Americans with Disabilities Act—so that all individuals with disabilities, especially those with significant disabilities, will have the opportunity to achieve their full potential and be part of the mainstream of American life.

The bill being introduced today builds on the gains of the past two decades, by strengthening employment possibilities, encouraging self-employment, providing better outreach to underserved populations, and streamlining the role of the government. This bill also establishes a stronger linkage between vocational rehabilitation and the larger statewide job training system.

I look forward to working with my colleagues in Congress to enact this important legislation, so that the talents, strengths, competence and interests of all individuals with disabilities will be recognized, enhanced, and fairly rewarded in communities and workplaces across the nation.

Mr. HARKIN. Mr. President, I am pleased to join my colleagues in cosponsoring the Rehabilitation Act Amendments of 1998. I particularly wish to thank my Republican colleagues, Senators DEWINE and JEFFORDS, for developing this bill in a bipartisan manner. The bill that we introduce today represents the work of Republicans, Democrats, and the Administration. I am pleased that our work together continues the long history of bipartisanship in developing legislation that addresses the needs of persons with disabilities.

The State Vocational Rehabilitation Service Program provides $2.2 billion in formula grant assistance to States to help individuals with disabilities prepare for an engage in gainful employment. Since established by the Smith-Fess Act 75 years ago, state vocational rehabilitation programs have served some nine million people. This program promotes economic independence for persons with disabilities, and the numbers reflect that:

The percentage of individuals who reported that their income was their primary source of support increased from 18% at the time of application to 71% at the time of exit from the program;

The percentage of individuals with earned income of any kind increased from 22% at application to 93% at program exit; and

The number of individuals working at or above the Federal minimum wage rate increased from 18% at application to 86% at closure.

In 1992, Congress made major changes to the Act, namely, increasing consumer participation, streamlining processes, and reducing unnecessary paperwork. In the bill we introduce today, we have built on the '92 amendments. The bill preserves and strengthens the themes of the '92 amendments while fine-tuning and aligning the Act with other workforce reforms so that individuals with disabilities can benefit from them.

This bill strengthens the role of the consumer throughout the vocational rehabilitation process, particularly in the development of the individual's employment plan. It reduces unnecessary burdens on State VR agencies by streamlining the State plan. The bill also refocuses the State plan on improving outcomes for individuals with disabilities by requiring States to develop, jointly with the State Rehabilitation Council, annual goals and strategies for improving results.

The due process protections provided in the State Grant program to VR applicants and clients are strengthened by eliminating State VR agency review of decisions by impartial hearing officers. The bill would also require States to provide for voluntary mediation (modeled on the provisions in IDEA) as another mechanism to resolve disputes.

Access of Social Security beneficiaries to VR services if facilitated, and unnecessary gatekeeping is eliminated, by making SSI and SSDI beneficiaries presumptively eligible for services under the VR State Grants program. This change would eliminate the need for the VR agency to determine on a case-by-case basis whether these individuals ''require'' VR services in order to gain employment.

Of particular interest to me and to Senator DODD are the changes to Section 508 of the Act which pertain to electronic and information technology accessibility. This bill strengthens the provisions regarding procurement by Federal agencies of technology that is accessible to individuals with disabilities.

I am pleased to co-sponsor this bill and look forward to its passage.

Mr. FRIST. Mr. President. I am pleased to join the Chairman of the Employment and Training Subcommittee, Senator DEWINE and the Chairman of the Labor and Human Resources Committee Senator JEFFORDS in introducing the Rehabilitation Act Amendments of 1998. I am grateful for their strong leadership in drafting this important legislation.

The vocational rehabilitation program was begun in 1921 to help disabled war veterans obtain rehabilitation and employment assistance. Today it is a major source of employment assistance for many individuals with disabilities, including individuals with severe disabilities. Vocational rehabilitation programs, although operated by State vocational rehabilitation agencies are located throughout a State. These programs help about a million individuals with disabilities a year, about 20 percent of whom enter the competitive labor market within 12 months. The average cost per person aided is about $2,500.

The Tennessee Vocational Rehabilitation Program provides one example of what can happen when the focus of an agency is clear—getting people with disabilities jobs. In 1996, this program in my State served 26,032 individuals with disabilities of which 81 percent were severely disabled. Of the individuals served 5,820 were successfully employed with 90.4 percent of them working in the competitive labor market. The annualized income of these 5,820 individuals, once they entered the work force increased from $8.732 million to $64.233 million. I am proud of this record, while realizing that more can and should be done.

The main goal of the reauthorization, which has previously been discussed in detail today by Senators DEWINE and JEFFORDS is to increase opportunities for individuals with disabilities to prepare for, secure, maintain, and regain employment. There is also a great effort to simplify access to vocational rehabilitation services, while reducing costs and increasing effectiveness through streamlining the administration of the vocational rehabilitation program.

Also included in this reauthorization is the effort that I began as Chairman of the Subcommittee on Disability Policy in the 104th Congress, the linking of vocational rehabilitation programs to a new state system of work force development. The intention is to create a seamless system of increasing employment assistance for individuals with disabilities with a new state workforce system. The reauthorization of the Rehabilitation Act includes this important goal by linking vocational rehabilitation services to those that will be available under the Workforce Investment Partnership Act of 1997.

I would like to acknowledge the bipartisan effort brought forth to build the consensus that is evident by this bill. I am pleased to see the tradition of bipartisanship corporation on disability policy issues continued through this effort. I would especially like to recognize Aaron Grau with Senator DEWINE, and Dr. Patricia Morrissey with Senator JEFFORDS for their hard work and dedication which has made legislation a reality.

I am confident that the Rehabilitation Act Amendments of 1998 will take this seventy-seven year old program into the next century as a strong and integral part of providing opportunities for individuals with disabilities to prepare for, secure, maintain, and regain employment.

Ms. COLLINS. Mr. President, I am pleased to join my distinguished colleagues as one of the original cosponsors of the Rehabilitation Act Amendments of 1998. The Rehabilitation Act, originally adopted almost 80 years ago, has developed during succeeding years into one of this country's most important efforts assisting disabled persons in achieving their potentials for employment.

This law authorizes programs helping persons with disabilities attain their full employment potential as self-supporting, contributing members of society. It provides supported employment services for persons who cannot work independently and offers the services disabled persons need to lead independent lives even if an individual is not capable of working. Through the Rehabilitation Act, federal-state programs provide comprehensive services that help persons with physical and mental disabilities become employable, achieve independence, and participate more fully in society.

The Rehabilitation Amendments of 1998, which we are introducing today, reaffirm the commitment of the federal government to its disabled citizens and continues the progress we have seen in previous reauthorizations. This bill advances Federal-State rehabilitation efforts in numerous ways. This morning I want to mention three of the changes I believe are the most significant: first, the linking of vocational rehabilitation services to other workforce investment programs; second, the authorization of core services to individuals not eligible for services under an order of selection; and third, the simplification of access to vocational rehabilitation services.

This bill, which will be incorporated into the S. 1186, the Workforce Investment Partnership Act, will be functionally linked to the state workforce, job training, and vocational and adult education systems authorized by S. 1186. The Rehabilitation Act will thereby become part of the effort by Congress to replace a fragmented array of programs with an integrated federal system of workforce development without sacrificing the integrity and effectiveness of the vocational rehabilitation program. This process is already underway in Maine through the Maine Department of Labor's one stop career centers. This legislation will make it easier for Maine and other states to create a seamless system of employment assistance for our disabled citizens.

The second improvement is the authorization of core services to all eligible disabled persons. Because the Rehabilitation Act requires the states to serve the most severely disabled individuals, large numbers of individuals with lesser disabilities have been cut off from services. The Rehabilitation Act Amendments of 1998 will permit a state to provide core services to those individuals who are not eligible for full services under the state's criteria for order of selection. Under this provision of the law the states may provide individualized counseling and guidance, individualized vocational exploration, supervised job placement referrals, and assistance obtaining reasonable accommodations even if the individual does not qualify for actual rehabilitation services. This will extend important and highly effective services to a large, deserving population and should greatly enhance these individuals' success in obtaining employment.

A third advance is the simplification of the procedures by which eligibility for rehabilitation is established. Under these amendments, individuals receiving Supplemental Security Income or Social Security Disability Income are presumed to be eligible for services providing they intend to seek employment and have an impediment to employment caused by their disability.

In addition to these significant changes that directly affect the clients of the vocational rehabilitation program, this act makes important changes that will make the administration of the vocational rehabilitation program more efficient and reduce a state's administrative burden. One example of this is the coordination of a states vocational rehabilitation plan with the submission of the other job training plans submitted under the Workforce Investment Partnership Act. This will help to eliminate duplicative provisions, submissions and reports.

Another is the requirement for cooperation and collaboration through cooperative agreements among the state's vocational rehabilitation agency and other components of a state's workforce investment system. While these agreements will be most visible as they affect access and delivery of services, they will also bring about coordination of information and financial management systems leading to simplified and improved management of a state's job training efforts.

I am proud to cosponsor the reauthorization of an act which has helped so many disabled individuals achieve employment and independent lives.

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By Mr. SHELBY:

S. 1580. A bill to amend the Balanced Budget Act of 1997 to place an 18-month moratorium on the prohibition of payment under the medicare program for home health services consisting of venipuncture solely for the purpose of obtaining a blood sample, and to require the Secretary of Health and Human Services to study potential fraud and abuse under such program with respect to such services; to the Committee on Finance.

THE MEDICARE VENIPUNCTURE ASSESSMENT ACT OF 1998

Mr. SHELBY. Mr. President, the Balanced Budget Act (BBA) of 1997 took important steps to begin to combat the financial problems that have plagued the Medicare system for some time. However, the BBA included a provision that may disqualify Medicare beneficiaries who receive home health care stemming from their need for venipuncture services. Many Alabamians who rely on the Medicare home health care program have contacted me expressing their concern with this provision. Much of the concern has resulted from a lack of information as to the true effects of this provision.

Therefore, I rise today to offer the Medicare Venipuncture Assessment Act of 1998. This legislation will provide an eighteen month moratorium on the venipuncture provision included in last year's BBA, and direct the Secretary of Health and Human Services (HHS) to conduct a study to determine what the specific effects will be of doing away with venipuncture as a qualifying skill for home health care.

In addition, this legislation provides a window of time for Congress to address any problems found by HHS, and craft an appropriate solution that protects the seniors who receive home health care, without perpetuating fraud and abuse in the system. But perhaps the most important aspect of the Medicare Venipuncture Assessment Act is that it will provide much needed piece of mind to many of our seniors. Mr. President, we owe it to our constituents to separate fact from fiction with regard to this matter, and fully inform them of the effects of the venipuncture provision contained in last year's BBA.

If administered correctly, home health care can be a cost effective alternative to nursing home and hospital based care. This legislation protects the Medicare home health care system by providing specific statutory action to root out fraud and abuse in the program, while ensuring that the seniors who truly need home care receive it. I strongly encourage my colleagues to join me in this effort by cosponsoring the Medicare Venipuncture Assessment Act of 1998.

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By Mr. LUGAR (for himself, Mr. HARKIN, Mr. MCCONNELL and Mr. LEAHY):

S. 1581. A bill to reauthorize child nutrition programs, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE CHILD NUTRITION REAUTHORIZATION ACT OF 1998

Mr. LUGAR. Mr. President, I rise today to introduce legislation to reauthorize those child nutrition provisions expiring in 1998. The child nutrition programs have been critically important in helping meet the nutritional needs of our children. Although not all child nutrition programs need to be reauthorized, this process gives us the opportunity to review all programs under the National School Lunch Act and the Child Nutrition Act of 1966.

As an Indianapolis school board member and the city's mayor in the late 1960's and early 1970's, I saw firsthand the need to provide nutritional assistance to children. Since that time, the child nutrition programs have changed in many ways. Today's programs have been successful in ensuring that our nation's children have access to nutritious foods, providing a critical safety net for children. Although the programs may need some fine tuning, the programs have ensured that America's school children, in a country of abundance, have a chance to eat. This is fundamental and something we must preserve.

Some of the larger programs that must be reauthorized include: 1) the Special Supplemental Nutrition Program for Women, Infants and Children, often referred to as the WIC program; 2) State Administrative Expenses, a program which provides grants to states to help cover general administrative costs associated with child nutrition programs; 3) the WIC Farmers' Market program which allows states and tribal organizations to offer special WIC vouchers to buy fresh produce; 4) the Summer Food Service program which provides reimbursements for meals served to children in summer programs operated in lower-income areas; and 5) the requirement to use certain funds to purchase commodities to maintain commodity assistance for child nutrition programs. In addition, there are a few other expiring provisions that must be reauthorized. This bill extends all expiring programs through 2003. Although it is not necessary to reauthorize the National School Lunch and Breakfast Programs, we hope to review and improve those programs during this reauthorization process.

The child nutrition programs continue to successfully feed our nation's children to help them prepare for the future. In 1997, approximately 89,000 schools enrolling 46 million children participated in the National School Lunch program. Although participation in the school breakfast program is

not as large as that in the school lunch program, it has continued to grow. Since 1994, school breakfast participation has increased about 13% so that now over 70% of schools operating a school lunch program also operate a school breakfast program.

The WIC program, which provides nutritious foods and other support to lower-income infants and children (up to age 5), and pregnant, postpartum, and breast-feeding women, has been successful at reducing the number of low-birth-weight babies. Its success has led to strong support over the years. In 1997, average monthly WIC participation was 7.4 million persons. In many states, the program has reached the long sought after goal of full funding. This year as we reauthorize the program, we will look to see if there are ways to make this successful program run even better.

Senators HARKIN, MCCONNELL and LEAHY have joined with me today to introduce this important bill. I wish to stress that this bill is a starting point for debate on child nutrition reauthorization. I am sure that the Ranking Minority Member of the Committee as well as the Chairman and Ranking Minority Member of the subcommittee have additional ideas to improve these programs. Nutrition programs in the Congress have a long history of bipartisan support and cooperation and I am certain that we will continue that tradition. I look forward to working with them and other members of the Agriculture Committee, on both sides of the aisle, to craft a thoughtful and sensible bill to reauthorize the child nutrition programs.

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

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

S. 1581

*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 ''Child Nutrition Reauthorization Act of 1998''.

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



**TITLE I—SCHOOL LUNCH AND RELATED PROGRAMS**

**SEC. 101. GRANTS TO INTEGRATE FOOD AND NUTRITION PROJECTS WITH ELEMENTARY SCHOOL CURRICULA.**

Section 12(m) of the National School Lunch Act (42 U.S.C. 1760(m)) is amended by striking ''1998'' each place it appears and inserting ''2003''.

**SEC. 102. SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.**

Section 13(q) of the National School Lunch Act (42 U.S.C. 1761(q)) is amended by striking ''1998'' and inserting ''2003''.

**SEC. 103. COMMODITY DISTRIBUTION PROGRAM.**

Section 14(a) of the National School Lunch Act (42 U.S.C. 1762a(a)) is amended by striking ''1998'' and inserting ''2003''.

**SEC. 104. CHILD AND ADULT CARE FOOD PROGRAM.**

Section 17 of the National School Lunch Act (42 U.S.C. 1766) is amended—

(1) in subsection (c)(6)(B), by striking ''1997'' and inserting ''2003''; and

(2) in subsection (p), by striking ''1998'' each place it appears and inserting ''2003''.

**SEC. 105. PILOT PROJECTS.**

Section 18 of the National School Lunch Act (42 U.S.C. 1769) is amended—

(1) in subsection (c), by striking ''1998'' each place it appears and inserting ''2003'';

(2) in subsection (e)(5), by striking ''and 1998'' and inserting ''through 2003'';

(3) in subsections (g)(5) and (h)(5), by striking ''1997'' each place it appears and inserting ''2003''; and

(4) in subsection (i)(8), by striking ''1998'' and inserting ''2003''.

**SEC. 106. TRAINING, TECHNICAL ASSISTANCE, AND FOOD SERVICE MANAGEMENT INSTITUTE.**

Section 21(e)(1) of the National School Lunch Act (42 U.S.C. 1769b–1(e)(1)) is amended by striking ''1998'' and inserting ''2003''.

**SEC. 107. COMPLIANCE AND ACCOUNTABILITY.**

Section 22(d) of the National School Lunch Act (42 U.S.C. 1769c(d)) is amended by striking ''1996'' and inserting ''2003''.

**SEC. 108. INFORMATION CLEARINGHOUSE.**

Section 26(d) of the National School Lunch Act (42 U.S.C. 1769g(d)) is amended in the first sentence by striking ''fiscal year 1998'' and inserting ''each of fiscal years 1998 through 2003''.

**SEC. 109. GUIDANCE AND GRANTS FOR ACCOMMODATING SPECIAL DIETARY NEEDS OF CHILDREN WITH DISABILITIES.**

Section 27(c)(6) of the National School Lunch Act (42 U.S.C. 1769h(c)(6)) is amended by striking ''1998'' and inserting ''2003''.

**TITLE II—SCHOOL BREAKFAST AND RELATED PROGRAMS**

**SEC. 201. STATE ADMINISTRATIVE EXPENSES.**

Section 7(g) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(g)) is amended by striking ''1998'' and inserting ''2003''.

**SEC. 202. SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN.**

Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) is amended in subsections (g)(1), (h)(2)(A), (h)(10)(A), and (m)(9)(A) by striking ''1998'' each place it appears and inserting ''2003''.

**SEC. 203. NUTRITION EDUCATION AND TRAINING.**

Section 19(i)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1788(i)(3)) is amended—

(1) in the paragraph heading, by striking ''2002'' and inserting ''2003''; and

(2) in subparagraph (A), by striking ''2002'' and inserting ''2003''.

Mr. HARKIN. Mr. President, I am pleased to have this opportunity to join Chairman LUGAR, Senator MCCONNELL and Senator LEAHY in introducing legislation to reauthorize several programs, primarily relating to nutrition assistance for children, whose authorizations are set to end this year. These programs are vitally important to our nation, and I applaud the introduction of this legislation as a clear demonstration of our strong support for them in the Agriculture, Nutrition, and Forestry Committee and our commitment to reenacting authorizing legislation this year.

The bill introduced today is a simple extension of expiring authorizations, without amendments or modifications, and thus only marks the beginning of the legislative process. As Chairman LUGAR has indicated, the Committee will complete the normal child nutrition reauthorization process, as in past years, allowing for full discussion and consideration of the programs requiring reauthorization as well as those having permanent authorizations. I look forward to working with colleagues on the Committee, in this body, and in the House of Representatives on this very important legislation.

An essential part of our work on this reauthorization bill involves examining the child nutrition programs to ensure they are functioning well, particularly in responding to changing circumstances and new demands. Another, no less important, part of our efforts must focus on making the programs more effective by finding better ways to address longstanding unmet needs and reach individuals who are not adequately served by the programs in their present form. Of course, we must always be alert to opportunities for streamlining, paring paperwork and reducing administrative burdens. A number of thoughtful proposals for improvements and modifications have already been made, and I know that we will receive more of them as work on the legislation proceeds.

All of the programs involved in this reauthorization are important, but I want to mention specifically a few of my priorities. We should strengthen the school breakfast program in order to reach students who need school breakfasts but do not currently have access to them. We also should improve the child nutrition programs in ways that enhance their effectiveness in helping families obtain quality child care. And we need to ensure that the summer food program is adequately serving kids who without it are quite vulnerable once school is out for the summer. In addition to reauthorizing the Iowa and Kentucky child care nutrition pilot project, we ought to examine its positive results for guidance in shaping our national approach to child care nutrition assistance. With respect to the Special Supplemental Nutrition Program for Women, Infants, and Children, it is important to continue an effective competitive bidding system for

infant formula and to extend and strengthen the WIC farmers market program.

Nothing is more important to the future of our nation than its children, and nothing is more important to children than the sound nutrition they need each day. It is beyond dispute that good nutrition is critical to physical growth, intellectual development and lives that are healthy, productive and happy. Trying to educate children who are hungry or malnourished is just as foolish as trying to build a house on a crumbling foundation. Federal child nutrition programs constitute investments in the future—of our children and our nation. This legislation will ensure that we continue to reap the immeasurable dividends of those wise investments.

Mr. MCCONNELL. Mr. President, I rise in strong support of the Child Nutrition Reauthorization Act of 1998 being introduced today by the Chairman of the Agriculture, Nutrition and Forestry Committee, Senator LUGAR; Ranking Member HARKIN; and Ranking Member LEAHY, of the Research, Nutrition, and General Legislation and myself as Chairman of that Subcommittee.

In the past, nutrition programs under the jurisdiction of the Agriculture Committee have been fashioned in a bipartisan manner. Today's introduction of legislation to reauthorize those child nutrition programs expiring in 1998, is a starting point.

Our Child Nutrition Programs have played an essential role in promoting the long-term health of our children. These programs provide a vital link between diet and health, ensuring that our children have access to nutritious food.

Mr. President, Chairman LUGAR has described the programs that must be reauthorized and the critical importance these programs serve in providing a safety net for children. While, I agree that these programs must be reauthorized, we must not overlook the opportunity to review the existing structure of these programs, review priorities, and determine if improvements and streamlining can enhance their effectiveness.

One area of particular interest to me is a provision expiring under the National School Lunch Act which required a two state pilot project for for-profit day care centers in the Child and Adult Care Food Program. The two states were Kentucky and Iowa. In Kentucky, 242 for-profit child care centers participate in the demonstration project, providing meals to over 10,500 children each day.

Many of these child centers are in rural areas or in lower income municipalities. Without the demonstration project, fees would increase placing a greater financial burden on parents and some smaller centers may be forced to close. This demonstration project provides needed nutritional assistance to financially disadvantaged children. I believe that continued operation and possible expansion of this type of demonstration project is essential as we consider policies to help working families with children.

I am sure Members will have many ideas and changes to improve these programs.

Mr. President, everyone agrees how critical good nutrition is to our children's ability to learn. This reauthorization represents our opportunity to work together to craft a thoughtful bill that will be the building block to our children's successful learning so they can have a healthy and productive future.

Mr. LEAHY. Mr. President, I am pleased to join with my colleagues on the Agriculture, Nutrition, and Forestry Committee, as I have done many times before on nutrition issues, to introduce a bill that begins the child nutrition reauthorization process.

For many years on the Committee, when I was Chairman, and later Ranking Member, we always tried to make our nutrition efforts consensus bills—agreed to by all members of the Committee. Now as Ranking Member of the nutrition subcommittee I look forward to working with the Committee to report out a strong child nutrition reauthorization bill.

The bill I cosponsor today extends existing programs but does not include improvements which I will discuss with other Committee members and the Secretary in the near future.

Last November, I introduced the ''Child Nutrition Initiatives Act'' which contained a number of changes that I will discuss with my colleagues. That was not a reauthorization bill but rather an effort that I hope will be carefully looked at by my colleagues in the Senate and in the House.

I intend to meet with representatives of the various nutrition programs as I work with other Members to help craft a good bill. I look forward to meeting with Under Secretary Shirley Watkins who has a number a great ideas to improve our child nutrition programs. In addition, I will carefully review Senator JOHNSON's school breakfast bill which has been strongly endorsed by many groups at that national and local level.

I will also gain input from Vermont nutrition leaders, Vermont program directors, community leaders and program participants.

My November 13 statement explains the basis for my bill—I am hopeful that many of those provisions will be supported by the Committee and the Senate as a whole.

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By Mr. ROBB:

S. 1582. A bill to provide market transition assistance for quota holders, active tobacco producers, and tobacco-growing counties, to authorize a private Tobacco Production Control Corporation and tobacco loan associations to control the production and marketing and ensure the quality of tobacco in the United States, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE TOBACCO MARKET TRANSITION ACT

Mr. ROBB. Mr. President, on behalf of many tobacco growers with whom I have worked, I rise today to introduce the Tobacco Market Transition Act. The comprehensive tobacco settlement announced on June 20 of last year simply did not include provisions for tobacco growers. This provision is designed to fill that void.

This legislation is truly the result of a grassroots effort and elaborates the concepts I discussed in the Chamber on November 3. Tobacco-dependent regions realize that their lives will be directly affected by comprehensive tobacco legislation and they want to prepare for that future.

Key members of my staff and I have worked with tobacco growers, leaders in tobacco growing communities and members of the public health community to develop legislation which will provide a soft landing to those regions that have so long depended on the production of tobacco.

In short, because Government action is about to erode the value of quota, there would be a buyout of existing quota at $8 a pound. A privatized tobacco program limiting supply would be reinstituted, providing growers with a license to grow tobacco based on historical average production for that grower. To provide long-term economic security in tobacco communities, $250 million will be provided annually for economic development. Finally, a transition payment would be offered to growers as the system changes from its present form to a new one.

Tobacco quota, Mr. President, represents the amount of tobacco allowed to be produced domestically. Over the years, individuals have accumulated the right to grow a certain proportion of that total quota. This individual quota, this right to produce, has liquid value that can be bought or sold or leased. Many have acquired quota over the years and planned to retire or in some cases have retired on the funds received from selling or leasing quota. When the Government depresses demand for tobacco, it depresses the value of that asset.

The legislation I am introducing recognizes the value of that quota asset by paying quota holders $8 a pound for the quota they own over 5 years. Once the quota holder has been made whole, a new supply-limiting program would be instituted giving licenses to grow tobacco to actual producers of tobacco. Unlike the present system, those licenses would not cost money to acquire. Eliminating the crushing cost of quota, which adds 40 cents a pound to the cost of producing flue-cured tobacco, will allow these growers to become more competitive even as demand declines in the United States as a result of any comprehensive bill that we pass. By becoming more competitive with imported tobacco, U.S. growers could keep the demand for their

product from declining as steeply as demand for cigarettes and other finished products if we pass comprehensive legislation.

The legislation also provides a transition payment for existing tobacco producers as we move into the new system and provides $250 million annually to tobacco-growing communities for economic development. These economic development funds can be used for local communities to improve education, enhance transportation, promote small business incubators or develop high technology infrastructure. In short, these economic development funds will help keep these communities from exporting their most valuable asset, and that is their children.

Finally, this proposal recognizes the benefits of a supply-limiting program for tobacco. A supply-limiting program is absolutely essential to stabilize the income of tobacco farmers and to protect tobacco-growing communities from the utter destruction that would follow if the program is totally eliminated.

A supply-limiting program is also appropriate in the unique circumstance of tobacco. Unlike other commodities where we are trying to lower the cost to consumers, pending Federal legislation is designed to do just the opposite. Every comprehensive tobacco proposal I have seen would increase the cost of tobacco products to lower demand. Indeed, the President said last night that he would approve something up to $1.50 a pack.

There has been much healthy discussion in tobacco growing communities about whether to retain the current Federal tobacco program or to avoid the annual battles that threaten it and privatize the program, allowing growers and others to operate it.

This is an important debate. The Federal program has served tobacco-growing communities well for over 60 years, and it is my judgment—and the judgment of many, many with whom I have consulted—that it should not be dismantled cavalierly.

The question we face is how best to maintain a supply-limiting program that protects tobacco communities. If we could guarantee that the Federal program would remain intact for the next 25 years, that may be the best way to proceed. But I have detected a great deal of unease about whether we can keep the program, and I think many on both sides of this issue are growing tired of annual fights which, if we lose, will destroy many tobacco-growing regions.

That is why this legislation contains provisions to privatize the tobacco program. For those who have questions about how this program will work, I invite them to assist in answering those questions and improving this legislation. For those who are nervous about such a change, I can say I appreciate their apprehension. It is easier to understand the world as it is rather than how it could be. But I believe this offers us the best opportunity to retain a supply-limiting program over the long term.

I look forward to working with my colleagues to pass legislation that will protect the communities that will be devastated if we fail to act, and will, in the words of the President, make growers and their communities ''whole.''

I ask unanimous consent that the full text of the legislation as well as the section-by-section summary be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

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. 1582

*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 ''Tobacco Market Transition Act''.

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



**SEC. 2. DEFINITIONS.**

In this Act:

(1) ACTIVE TOBACCO PRODUCER.—The term ''active tobacco producer'' means a person that—

(A) is the actual producer, as determined by the Secretary, of tobacco on a farm where tobacco is produced pursuant to a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for the 1997 crop year; and

(B) planted the crop, or is considered to have planted the crop under that Act, in 1997.

(2) QUOTA HOLDER.—The term ''quota holder'' means an owner of a farm on January 1, 1998 for which a tobacco farm marketing quota or farm acreage allotment was established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.).

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

(4) TOBACCO LOAN ASSOCIATION.—The term ''Association'' means a producer-owned cooperative marketing association.

(5) TOBACCO PRODUCTION CONTROL CORPORATION.—The term ''Corporation'' means the Tobacco Production Control Corporation established by section 301.

(6) TRUST FUND.—The term ''Trust Fund'' means the Tobacco Community Revitalization Trust Fund established by section 101.

**SEC. 3. PURPOSES.**

It is the purpose of this Act to—

(1) dismantle the existing federal tobacco program and establish a private program to ensure the stability of the price and supply of domestically produced tobacco;

(2) compensate quota holders for the value of assets that may be diminished as a result of this legislation;

(3) provide targeted economic development funds to tobacco dependent communities for the creation of jobs, training of individuals, and long-term economic development of the communities;

(4) reduce the operating costs of tobacco producers by eliminating expenses associated with buying or leasing tobacco quota; and

(5) make domestically produced tobacco more competitive with tobacco produced in other countries.

TITLE I—TOBACCO COMMUNITY REVITALIZATION TRUST FUND

**SEC. 101. TOBACCO COMMUNITY REVITALIZATION TRUST FUND.**

(a) IN GENERAL.—There is established in the Treasury of the United States a trust fund to be known as the ''Tobacco Community Revitalization Trust Fund'', consisting of such amounts as may be appropriated or credited to the Trust Fund. The Trust Fund shall be administered by the Corporation.

(b) TRANSFERS TO TRUST FUND.—There are appropriated and transferred to the Trust Fund, from amounts made available to the Trust Fund out of funds allocated through national tobacco settlement legislation, $3,500,000,000 for each of fiscal years 1999 through 2003 and $265,000,000 for each of fiscal years 2004 through 2023.

(c) REPAYABLE ADVANCES.—

(1) AUTHORIZATION.—There are authorized to be appropriated to the Trust Fund, as repayable advances, such sums as may from time to time be necessary to make expenditures under subsection (d).

(2) REPAYMENT WITH INTEREST.—Repayable advances made to the Trust Fund shall be repaid, and interest on the advances shall be paid, to the general fund of the Treasury when the Secretary of the Treasury determines that moneys are available in the Trust Fund to make the payments.

(3) RATE OF INTEREST.—Interest on an advance made under this subsection shall be at a rate determined by the Secretary of Treasury (as of the close of the calendar month preceding the month in which the advance is made) that is equal to the current average market yield on outstanding marketable obligations of the United States with remaining period to maturity comparable to the anticipated period during which the advance will be outstanding.

(d) EXPENDITURES FROM TRUST FUND.—Amounts in the Trust Fund shall be available for making expenditures to defray—

(1) the costs of providing compensation to quota holders for the loss of tobacco quota asset value under section 201;

(2) the costs of making transition payments to active tobacco producers under section 202;

(3) the costs of forgiving loans and transferring title to inventories of tobacco and funds to Associations under section 203;

(4) the costs of making tobacco community economic development grants under section 204, but not to exceed $250,000,000 for each of fiscal years 1999 through 2003 and an amount

determined by the Corporation to be appropriate for each of fiscal years 2004 through 2023;

(5) the costs of carrying out the duties of the Corporation and the Associations, including assuring the quality and controlling the production and marketing of domestic tobacco and otherwise carrying out title III;

(6) the costs to the Secretary of enforcing title III;

(7) the costs of providing crop insurance to tobacco producers; and

(8) any other costs incurred by the Department of Agriculture associated with tobacco.

## TITLE II—TOBACCO MARKET TRANSITION ASSISTANCE

### SEC. 201. COMPENSATION TO QUOTA HOLDERS FOR LOSS OF TOBACCO QUOTA ASSET VALUE.

(a) IN GENERAL.—The Corporation shall make payments for tobacco quota to eligible quota holders.

(b) ELIGIBILITY.—To be eligible to receive payments under this section, a quota holder shall prepare and submit to the Corporation an application at such time, in such manner, and containing such information as the Corporation may require, including information sufficient to demonstrate to the satisfaction of the Corporation that the person was a quota holder on January 1, 1998.

(c) BASE QUOTA LEVEL.—

(1) IN GENERAL.—The Secretary shall determine, for each quota holder, the base quota level for the 1995 through 1997 marketing years.

(2) LEVEL.—The base quota level for a quota holder shall be equal to the average tobacco farm marketing quota established for the 1995 through 1997 marketing years for the farm owned by the quota holder on January 1, 1998.

(3) MARKETING QUOTAS OTHER THAN POUNDAGE QUOTAS.—For each kind of tobacco for which there is a marketing quota or allotment (on an acreage basis), the base quota level for each quota holder shall be determined in accordance with this subsection (based on a poundage conversion) in an amount equal to the product obtained by multiplying—

(A) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; by

(B) the average county yield per acre for the county in which the farm is located for the kind of tobacco for the marketing years.

(d) PAYMENTS.—The Corporation shall make payments to each quota holder that is eligible under subsection (b) in 5 equal installments, 1 for each of the 1999 through 2003 crops of tobacco, in an aggregate amount that is equal to the product obtained by multiplying—

(1) $8 per pound; by

(2) the base quota level established for the quota holder under subsection (c).

### SEC. 202. TRANSITION PAYMENTS FOR ACTIVE TOBACCO PRODUCERS.

(a) IN GENERAL.—The Corporation shall make transition payments to eligible active tobacco producers.

(b) ELIGIBILITY.—To be eligible to receive payments under this section, an active tobacco producer shall—

(1) prepare and submit to the Corporation an application at such time, in such manner, and containing such information as the Corporation may require, including information sufficient to make the demonstration required under paragraph (2); and

(2) demonstrate to the satisfaction of the Corporation that, the person planted, or is considered to have planted, a 1997 crop of tobacco.

(c) PAYMENT QUANTITY.—

(1) IN GENERAL.—The Secretary shall determine and provide to the Corporation, for each active tobacco producer, the production quantity eligible for payment for the 1995 through 1997 marketing years.

(2) ELIGIBLE PRODUCTION QUANTITY.—The production quantity eligible for payment for an active tobacco producer shall be equal to the average number of pounds of tobacco quota established for a farm for the 1995 through 1997 marketing years for which the producer was the actual producer of the tobacco on the farm.

(3) MARKETING QUOTAS OTHER THAN POUNDAGE QUOTAS.—For each kind of tobacco for which there is a marketing quota or allotment (on an acreage basis), the production quantity eligible for payment for each active tobacco producer shall be determined in accordance with this subsection (based on a poundage conversion) in an amount equal to the product obtained by multiplying—

(A) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; by

(B) the average county yield per acre for the county in which the farm is located for the kind of tobacco for the marketing years.

(d) PAYMENTS.—The Corporation shall make payments for each of the 1999 through 2003 crops of tobacco to each active tobacco producer that is eligible under subsection (b) in an amount that is equal to the product obtained by multiplying—

(1) $0.40 per pound; by

(2) the payment quantity established for the producer under subsection (c).

(e) DEATH OF ACTIVE TOBACCO PRODUCER.—If an active tobacco producer who is entitled to payments under this section dies and is survived by a spouse or 1 or more dependents, the right to receive the payments shall transfer to the surviving spouse of, if there is no surviving spouse, to the estate of the producer.

### SEC. 203. TOBACCO LOAN ASSOCIATIONS.

(a) PRIOR LOANS.—The Secretary shall forgive each loan made to an Association under section 106A or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445 1, 1445 2) that is outstanding on the date of enactment of this Act.

(b) TRANSFER OF TITLE FOR LOAN INVENTORIES.—The Secretary shall transfer to each Association described in subsection (a) the title to all inventories of tobacco held by the Secretary to secure loans made to the Association under section 106A or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445 1, 1445 2).

(c) NO NET COST TOBACCO FUNDS.—Notwithstanding sections 106A(f) and 106b(g) of the Agricultural Act of 1949 (7 U.S.C. 1445–1(f) and 1445–2(g)), all funds held in a No Net Cost Tobacco Fund or No Net Cost Tobacco Account on behalf of an Association under section 106A or 106B of that Act (1445–1, 1445–2) on the date of enactment of this Act shall be the property of the Association.

### SEC. 204. TOBACCO COMMUNITY ECONOMIC DEVELOPMENT GRANTS.

(a) AUTHORITY.—The Corporation shall make grants to eligible tobacco-growing political subdivisions in accordance with this section to enable the political subdivisions to carry out economic development activities.

(b) ELIGIBILITY.—To be eligible to receive payments under this section, a political subdivisions in a State shall—

(1) have in excess of $100,000 in gross income from sales of tobacco produced within the political subdivision during 1 or more of the 1995 and 1997 marketing years, as determined by the Corporation;

(2) prepare and submit to the Corporation an application at such time, in such manner, and containing such information as the Corporation may require, including—

(A) a description of the activities that the political subdivision will carry out using amounts received under the grant;

(B) a designation of an appropriate political subdivision agency to administer amounts received under the grant;

(C) a description of the steps to be taken to ensure that the funds are distributed in accordance with subsection (e); and

(D) an economic development plan, approved by a regional authority authorized to coordinate economic development efforts in the region where the political subdivision is located, or approved by the State if no such regional authority exists, that described the activities that the political subdivision will carry out using amounts received under the grant. Where a political subdivision ineligible to receive payments under subsection (b)(1) is surrounded within the State by a political subdivision eligible to receive payments under subsection (b)(1), an economic development plan shall not be approved unless submitted jointly by both jurisdictions.

(c) AMOUNT OF GRANT.—

(1) IN GENERAL.—From the amounts available to carry out this section for a fiscal year, the Corporation shall allot to each eligible tobacco-growing political subdivision an amount that bears the same ratio to the total funds available as the total income of the tobacco-growing political subdivision derived from the production of tobacco within the political subdivision during the 1995 through 1997 marketing years (as determined under paragraph (2)) bears to the total income of all tobacco-growing political subdivisions derived from the production of tobacco during the 1995 through 1997 marketing years.

(2) TOBACCO INCOME.—For the 1995 through 1997 marketing years, the Secretary shall determine and provide to the Corporation the amount of income derived from the production of tobacco in each tobacco-growing political subdivision and in all tobacco-growing political subdivisions.

(d) PAYMENTS.—

(1) IN GENERAL.—A tobacco-growing political subdivision that has an application approved by the Corporation under subsection (b) shall be entitled to a payment under this section in an amount that is equal to its allotment under subsection (c).

(2) FORM OF PAYMENTS.—The Corporation may make payments under this section to a tobacco-growing political subdivision in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Corporation may determine.

(3) REALLOTMENTS.—Any portion of the allotment of a political subdivision under subsection (c) that the Corporation determines will not be used to carry out this section in accordance with an approved political subdivision application required under subsection (b), shall be reallotted by the Corporation to other tobacco-growing political subdivisions in proportion to the original allotments to the other tobacco-growing political subdivisions.

(e) USE AND DISTRIBUTION OF FUNDS.—

(1) IN GENERAL.—Amounts received by a tobacco-growing political subdivision under this section shall be used to carry out economic development activities, including—

(A) activities designed to help create productive farm or off-farm employment in rural areas to provide a more viable economic base and enhance opportunities for improved incomes, living standards, and contributions by rural individuals to the economic and social development of tobacco communities;

(B) activities designed to provide training and transition assistance to quota holders and active tobacco producers to enable the holders and producers to produce alternative agricultural commodities or obtain alternative employment;

(C) activities to improve the quality of education in tobacco communities;

(D) activities to promote tourism in tobacco communities through natural resource protection;

(E) activities to construct advanced manufacturing centers, industrial parks, water and sewer facilities, and transportation improvements in tobacco communities;

(F) activities to establish small business incubators in tobacco communities;

(G) activities to install high technology infrastructure improvement in tobacco communities;

(H) rural business enterprise activities described in subsections (c) and (e) of section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932);

(I) down payment loan assistance programs that are similar to the program described in section 310E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1935);

(J) activities that expand existing infrastructure, facilities, and services to capitalize on opportunities to diversify economies in tobacco communities and that support the development of new industries or commercial ventures;

(K) activities by agricultural organizations that provide assistance directly to quota holders and active tobacco producers to assist in developing other agricultural activities that supplement tobacco-producing activities;

(L) initiatives designed to create or expand locally owned value-added processing and marketing operations in tobacco communities; and

(M) technical assistance activities by persons to support farmer-owned enterprises, or agriculture-based rural development enterprises, of the type described in section 252 or 253 of the Trade Act of 1974 (19 U.S.C. 2342, 2343).

(2) MAINTENANCE OF EFFORT.—The political subdivision and the State shall provide assurances to the Corporation that funds provided to the political subdivision under this section will be used only to supplement, not to supplant, the amount of Federal, State, and local funds otherwise expended for economic development activities in the political subdivision.

**SEC. 205. TAX TREATMENT OF TOBACCO QUOTA HOLDER COMPENSATION AND TRANSITION PAYMENTS.**

(a) IN GENERAL.—Part II of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically included in gross income) is amended by adding at the end the following:

**''SEC. 91. CERTAIN TOBACCO PROGRAM PAYMENTS.**

''(a) GENERAL RULE.—Gross income includes amounts received under section 201 or 202 of the Tobacco Market Transition Act.

''(b) EXCEPTION FOR AMOUNTS TRANSFERRED DURING REINVESTMENT PERIOD.—

''(1) IN GENERAL.—Subsection (a) shall not apply to any amount if during reinvestment period such amount is—

''(A) used to make a qualified debt repayment, or

''(B) transferred to a tobacco farmer individual retirement account established under section 522.

''(2) QUALIFIED DEBT REPAYMENT.—For purposes of paragraph (1), the term 'qualified debt repayment' means the payment of debt incurred directly by the taxpayer to produce tobacco prior to January 1, 1998.

''(c) CHARACTER OF INCOME.—For purposes of this subtitle—

''(1) any amount received under section 201 of the Tobacco Market Assistance Act and included in gross income under this section shall be treated as long-term capital gain, and

''(2) any amount received under section 202 of such Act and so included in gross income shall be treated as ordinary income.''.

(b) TOBACCO FARMER INDIVIDUAL RETIREMENT ACCOUNTS.—Part IV of subchapter F of chapter 1 of the Internal Revenue Code of 1986 (relating to farmers' cooperatives) is amended by adding at the end the following:

**''SEC. 522. TOBACCO FARMER INDIVIDUAL RETIREMENT ACCOUNTS.**

''(a) GENERAL RULE.—Except as provided in this section, a tobacco farmer individual retirement account shall be treated for purposes of this title in the same manner as an individual retirement plan.

''(b) DEFINITIONS AND SPECIAL RULES.—For purposes of this title—

''(1) TOBACCO FARMER INDIVIDUAL RETIREMENT ACCOUNT.—The term 'tobacco farmer individual retirement account' means an individual retirement plan (as defined in section 7701(a)(37)) other than a Roth IRA which is designated (in such manner as the Corporation may prescribe) at the time of establishment of the plan as a tobacco farmer individual retirement account.

''(2) TREATMENT OF CONTRIBUTIONS.—

''(A) CASH ONLY.—No contribution will be accepted unless it is in cash.

''(B) SOURCE OF CONTRIBUTIONS.—The only contributions which will be accepted are—

''(i) payments under section 201 or 202 of the Tobacco Market Transition Act, and

(ii) trustee-to-trustee transfers to such trust from another tobacco farmer individual retirement account of the account beneficiary.

''(C) NO DEDUCTION ALLOWED.—No deduction shall be allowed under section 219 for a contribution to a tobacco farmer individual retirement account.

''(D) NO ROLLOVER CONTRIBUTIONS ALLOWED.—No rollover contribution may be made to or from a tobacco farmer individual retirement account.

''(3) TAX TREATMENT OF DISTRIBUTIONS.—Any amount distributed from a tobacco farmer individual retirement account attributable to payments made under section 201 or 202 of the Tobacco Market Transition Act (including earnings thereon) shall be includible in the gross income of the distributee under the rules described in section 91(c). Any such distribution shall be made first from amounts in such account (if any) attributable to payments under such section 202 (and earnings thereon).

''(4) COORDINATION WITH INDIVIDUAL RETIREMENT ACCOUNTS.—Section 408(d)(2) shall be applied separately with respect to tobacco farmer individual retirement accounts and other individual retirement plans.''.

''(c) CONFORMING AMENDMENTS.—

(1) The table of sections for part II of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following: ''Sec. 91. Certain tobacco program payments.''.

(2) The table of sections for part IV of subchapter 1 of such Code is amended by adding at the end the following: ''Sec. 522. Tobacco farmer individual retirement accounts.''.

(3) The heading for part IV of subchapter F of chapter 1 of such code is amended by striking

''FARMERS' COOPERATIVES'' and inserting ''CERTAIN FARMER ENTITIES''.

(4) The table of parts for subchapter F of chapter 1 of such Code is amended by striking ''Farmers' cooperatives'' and inserting ''Certain farmer entities''. Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

## TITLE III—ESTABLISHMENT OF PRIVATE TOBACCO PRODUCTION ADJUSTMENT AND QUALITY ASSURANCE PROGRAM

**SEC. 301. TOBACCO PRODUCTION CONTROL CORPORATION.**

(a) ESTABLISHMENT.—There is established a corporation to be known as the ''Tobacco Production Control Corporation'', which shall be a federally chartered instrumentality of the United States.

(b) DUTIES.—Effective for the 1999 and each subsequent crop of each kind of tobacco, on at least a ⅔-vote of the Board of Directors of the Corporation, the Corporation shall—

(1) promulgate rules that govern the production, marketing, importation, exportation, and consumer quality assurances for each kind of tobacco;

(2) establish a licensing system that provides for the orderly production and marketing of tobacco in the United States under which—

(A) the Corporation shall issue a license to each active tobacco producer, or other person that meets requirements established by the Corporation, initially based upon the eligible production quantity determined for each producer under section 202(c)(1);

(B) the licensee shall surrender the license to the Corporation if the licensee fails to actively engage in the production of tobacco;

(C) the sale or marketing of a type of tobacco which prior to the date of enactment was produced pursuant to a tobacco farm marketing quota or farm acreage allotment issued under the Agricultural Act of 1938 is prohibited without a license;

(D) the sale, lease, or other transfer of a license shall be prohibited except pursuant to subsection (c); and

(E) the Corporation shall issue marketing licenses to tobacco marketing facilities and tobacco purchasing entities;

(3) ensure compliance, through whatever means is available, of all persons with any license, regulation, rule, limitation, or guideline issued under, or in order to carry out, this Act;

(3) offer crop insurance for tobacco producers;

(4) establish a system that will provide assurance to consumers of the quality of all tobacco marketed in the United States and that, at a minimum—

(A) provides for the inspection and grading of domestically produced tobacco and imported tobacco;

(B) determines and describes the physical characteristics of domestically produced tobacco and imported tobacco;

(C) ensures the physical and chemical integrity of domestically produced tobacco and imported tobacco;

(5) carry out its duties, functions, and determinations through loan associations and local committees, to the extent practicable and appropriate, and

(6) continue to maintain and carry out a tobacco program in accordance with the rules and regulations contained in Chapter 7 of the C.F.R. unless and until rules are promulgated under subsection (c).

(c) TRANSFER OF LICENSE.—

(1) RIGHT OF SURVIVORSHIP.—

(A) IN GENERAL.—In the case of the death of a person to whom a license has been issued under this section, the license shall transfer to the surviving spouse of the person or, if there is no surviving spouse, to surviving direct descendants of the persons.

(B) HARDSHIP.—In the case of the death of a person to whom a license has been issued under this section and whose descendants are temporarily unable to produce a crop of tobacco, the Corporation may hold the license in the name of the descendants for a period of not more than 18 months, at the discretion of the Corporation.

(2) LIFETIME TRANSFER.—A person that is eligible to obtain a license under this section may at any time transfer all or part of the license to the person's spouse or direct descendants that are actively engaged in the production of tobacco.

(d) BOARD OF DIRECTORS.—

(1) IN GENERAL.—The powers of the Corporation shall be vested in a Board of Directors.

(2) MEMBERS.—The Board of Directors shall consist of 25 members as follows:

(A) The Secretary of Agriculture.

(B) The Secretary of Health and Human Services.

(C) The Administrator of the Environmental Protection Agency.

(D) The United States Trade Representative.

(E) 1 member from each state that produces more than 50,000,000 pounds of tobacco. All members appointed under this subparagraph shall be actively engaged in the production of tobacco and shall be elected by the tobacco producers from each respective state.

(F) 3 members appointed by the flue-cured tobacco association and 2 members appointed by the burley tobacco associations, all such members to be licensees under this Act.

(G) 1 member appointed by tobacco associations other than those specified in subparagraph (F), on a rotating basis.

(H) 3 members representing public health interests, appointed by the Secretary of Health and Human Services.

(I) 1 member representing domestic cigarette manufacturers.

(J) 1 member representing domestic export leaf dealers, appointed by the Leaf Tobacco Exporters Association (LTEA).

(K) 2 members representing tobacco marketing facilities, 1 each appointed by the Bright Belt Warehouse Association (BBWA) and the Burley Auction Warehouse Association (BAWA).

(L) 1 member that is the person responsible for operating the quality assurance system of the Corporation described in subsection (b)(4).

(M) 1 member who is a Dean of Agriculture of a Land Grant University from a tobacco producing state.

(3) MEMBERSHIP QUALIFICATIONS.—A member of the Board shall not hold any Federal, State, or local elected office.

(4) CHAIRPERSONS.—The Secretary of Agriculture shall serve as chairperson of the Board.

(5) EXECUTIVE DIRECTOR.—

(A) APPOINTMENT.—The Board shall appoint an Executive Director.

(B) DUTIES.—The Executive Director shall be the chief executive officer of the Corporation, with such power and authority as may be conferred by the Board.

(C) COMPENSATION.—The Executive Director shall receive basic pay at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(6) OFFICERS.—The Board shall establish the offices and appoint the officers of the Corporation, including a Secretary, and define the duties of the officers in a manner consistent with this section.

(7) MEETINGS.—

(A) IN GENERAL.—The Board shall meet at least 3 times each fiscal year at the call of a Chairperson or at the request of the Executive Director.

(B) LOCATION.—The location of a meeting shall be subject to approval of the Executive Director.

(C) QUORUM.—A quorum of the Board shall consist of a majority of the members.

(8) TERM; VACANCIES.—

(A) TERM.—The term of office of a member of the Board appointed under any of subparagraphs (E) through (K) of paragraph (2) shall be 4 years.

(B) VACANCIES.—A vacancy on the Board shall be filled in the same manner as the original appointment was made.

(9) COMPENSATION.—

(A) FEDERAL MEMBERS.—A member of the Board who is an officer or employee of the United States shall not receive any additional compensation by reason of service on the Board.

(B) NON-FEDERAL MEMBERS.—Any other member shall receive compensation, for each day (including travel time) that the member is engaged in the performance of the functions of the Board, at a rate determined appropriate by the Board.

(C) EXPENSES.—A member of the Board shall be reimbursed for travel, subsistence, and other necessary expenses incurred by the member in the performance of the duties of the member.

(10) CONFLICT OF INTEREST; FINANCIAL DISCLOSURE.—

(A) CONFLICT OF INTEREST.—Except as provided in subparagraph (C), a member of the Board shall not vote on any matter concerning any application, contract, or claim, or other particular matter pending before the Corporation, in which, to the knowledge of the member, the member, spouse, or child of the member, partner of the member, or organization in which the member is serving as officer, director, trustee, partner, or employee, or any person or organization with which the member is negotiating or has any arrangement concerning prospective employment, has a financial interest.

(B) VIOLATIONS.—Violation of subparagraph (A) by a member of the Board shall be cause for removal of the member, but shall not impair or otherwise affect the validity of any otherwise lawful action by the Corporation in which the member participated.

(C) EXCEPTIONS.—The prohibitions contained in subparagraph (A) shall not apply to a member of the Board that is a tobacco producer if the member advises the Board of the nature of the particular matter in which the member proposes to participate, and if the member makes a full disclosure of the financial interest, prior to any participation.

(D) FINANCIAL DISCLOSURE.—A Board member shall be subject to the financial disclosure requirements of subchapter B of chapter XVI of title 5, Code of Federal Regulations (or any corresponding or similar regulation or ruling), applicable to a special Government employee (as defined in section 202(a) of title 18, United States Code).

(E) REPRESENTATION.—No member of the Board shall receive compensation from more than one interest represented on the Board.

(11) BYLAWS.—The Board shall adopt, and may from time to time amend, any bylaw that is necessary for the proper management and functioning of the Corporation.

(12) PERSONNEL.—The Corporation may select and appoint officers, attorneys, employees, and agents, who shall be vested with such powers and duties as the Corporation may determine.

(e) GENERAL POWERS.—In addition to any other powers granted to the Corporation under this title, the Corporation—

(1) shall have succession in its corporate name;

(2) may adopt, alter, and rescind any bylaw and adopt and alter a corporate seal, which shall be judicially noticed;

(3) may enter into any agreement or contract with a person or private or governmental agency;

(4) may lease, purchase, accept a gift or donation of, or otherwise acquire, use, own, hold, improve, or otherwise deal in or with, and sell, convey, mortgage, pledge, lease, exchange, or otherwise dispose of, any property or interest in property, as the Corporation considers necessary in the transaction of the business of the Corporation;

(5) may sue and be sued in the corporate name of the Corporation, except that—

(A) no attachment, injunction, garnishment, or similar process shall be issued against the Corporation or property of the Corporation; and

(B) exclusive original jurisdiction shall reside in the district courts of the United States, and the Corporation may intervene in any court in any suit, action, or proceeding in which the Corporation has an interest;

(6) may independently retain legal representation;

(7) may provide for and designate such committees, and the functions of the committees, as the Board considers necessary or desirable;

(8) may indemnify officers of the Corporation, as the Board considers necessary and desirable, except that the officers shall not be indemnified for an act outside the scope of employment;

(9) may, with the consent of any board, commission, independent establishment, or executive department of the Federal Government, including any field service, use information, services, facilities, officials, and employees in carrying out this section, and pay for the use, which payments shall be transferred to the applicable appropriation account that incurred the expense;

(10) may obtain the services and fix the compensation of any consultant and otherwise procure temporary and intermittent services under section 3109(b) of title 5, United States Code;

(11) shall have the rights, privileges, and immunities of the United States with respect to the right to priority of payment with respect to debts due from bankrupt, insolvent, or deceased creditors;

(12) may collect or compromise any obligations assigned to or held by the Corporation, including any legal or equitable rights accruing to the Corporation;

(13) shall determine the character of, and necessity for, obligations and expenditures of the Corporation and the manner in which the obligations and expenditures shall be incurred, allowed, and paid, subject to provisions of law specifically applicable to Government corporations;

(14) may make final and conclusive settlement and adjustment of any claim by or against the Corporation or a fiscal officer of the Corporation;

(15) may sell assets, loans, and equity interests acquired in connection with the financing of projects funded by the Corporation; and

(16) may exercise all other lawful powers necessarily or reasonably related to the establishment of the Corporation to carry out this title and the powers, purposes, functions, duties, and authorized activities of the Corporation.

**SEC. 302. TOBACCO LOAN ASSOCIATIONS.**

The Corporation shall enter into an agreement with producer-owned cooperative marketing loan associations for each kind of tobacco to—

(1) make price support available to producers of the kind of tobacco;

(2) carry out the licensing system established under subsection (b)(2);

(3) arrange for financing and the administration of price supports for the kind of tobacco; and

(4) receive, process, store, and sell any domestically produced tobacco received as collateral for a price support loan.

**SEC. 303. TOBACCO PRICE SUPPORT LEVELS.**

(a) INITIAL LEVEL.—Effective for the 1999 crop of each kind of tobacco, the support

level in cents per pound established under this title shall be equal to—

(1) the simple average price received by producers of the kind of tobacco, as determined by the Corporation, during the marketing years for the immediately preceding 5 crops of the kind of tobacco; less

(2) the average return to quota for 1994 through 1998 crops of the kind of tobacco, as determined by the Corporation.

(b) SUBSEQUENT ADJUSTMENT.—The Corporation, in consultation with the Associations, shall adjust and establish the support level for each kind of tobacco at an appropriate level for each year after 1999.

**SEC. 304. PENALTIES.**

(a) IN GENERAL.—The violation of any provision of this Act, or any rule or regulation issued to carry out this Act, or the terms of any license issued under this Act, by a person (including the marketing of any kind of tobacco without a license issued under this title or in excess of the quantity permitted under such a license) shall subject the person to revocation or suspension of the person's license, a penalty of 75 percent of the average market price (calculated to the nearest whole cent) for the kind of tobacco for the immediately preceding marketing year, or both, in the discretion of the Secretary.

(b) PAYOR.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the penalty shall be paid by the person who acquired the tobacco from the producer.

(2) DEDUCTION FROM PRICE.—An amount equivalent to the penalty may be deducted by the buyer from the price paid to the producer in any case in which the tobacco is marketed by sale.

(3) WAREHOUSEMAN OR AGENT.—If the tobacco is marketed by the producer through a warehouseman or other agent, the penalty shall be paid by the warehouseman or agent who may deduct an amount equivalent to the penalty from the price paid to the producer.

(4) Direct marketing outside United States.—In any case in which tobacco is marketed directly to any person outside the United States, the penalty shall be paid and remitted by the producer.

(c) FALSE STATEMENT OR OMISSION.—If any producer falsely identifies or fails to account for the disposition of any tobacco—

(1) an amount of tobacco equal to the normal yield of the number of acres harvested in excess of the quantity permitted under a license issued under this title shall be considered to have been marketed in excess of the license for the farm; and

(2) the penalty for the excess marketing shall be paid and remitted by the producer.

(d) CARRYOVER.—Tobacco carried over by the producer of the tobacco from 1 marketing year to another marketing year may be marketed without payment of the penalty imposed by this section if—

(1) the total quantity of tobacco available for marketing from the farm in the marketing year from which the tobacco is carried over does not exceed the quantity that may be marketed under a license issued for the farm for the marketing year; or

(2) the quantity of tobacco carried over does not exceed the normal production of that number of acres by which the harvested acreage of tobacco in the calendar year in which the marketing year begins is less than the quantity that may be marketed under the license.

(e) TOBACCO MARKETED PRIOR TO MARKETING YEAR.—Tobacco produced in a calendar year for the marketing year beginning during the calendar year shall be subject to licenses issued for the marketing year even though the tobacco is marketed prior to the date on which the marketing year begins.

(f) PROPORTIONAL PAYMENTS.—The Secretary shall require collection of the penalty on a proportion of each lot of tobacco marketed from the farm equal to the proportion that the tobacco available for marketing from the farm in excess of the quantity that may be marketed under a license is of the total quantity of tobacco available for marketing from the farm if satisfactory proof is not furnished as to the disposition to be made of the excess tobacco prior to the marketing of any tobacco from the farm.

(g) LIEN.—Until the amount of the penalty provided by this section is paid, a lien on the tobacco with respect to which the penalty is incurred, and on any subsequent tobacco subject to licenses issued under this title in which the person liable for payment of the penalty has an interest, shall be in effect in favor of the Corporation for the amount of the penalty.

**SEC. 305. PROGRAM REFERENDA.**

(a) INITIAL REFERENDUM.—Not later than 3 years after the date of enactment of this Act, the Corporation shall conduct a referendum among licensees engaged in the production of each kind of tobacco to determine whether such producers are in favor of continuing the operation of the program established under this Act with respect to that kind of tobacco. If more than one half of the licensees voting oppose the continuation of the program, the Corporation shall announce the result and shall conduct a second referendum one year later. If more than one half of the licensees voting in the second referendum also oppose the continuation of the program, the Corporation shall announce the result and the program shall cease to be in effect for that kind of tobacco.

(b) SUBSEQUENT REFERENDA.—The Corporation may conduct subsequent referenda from time to time as the Corporation deems appropriate to determine whether producers are in favor of continuing the program established under this Act, the use of marketing allotments and quotas, limitations on transfer of quota, or any other aspect of the program.

(c) EFFECTIVE DATE.—This section shall be effective 1 year after the date of enactment of this Act.

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SECTION-BY-SECTION SUMMARY OF THE ''TOBACCO MARKET TRANSITION ACT''

These are the highlights of each section of the legislation:

Section 1. Table of Contents.

Section 2. Definitions.

This section includes the definition of an ''active tobacco producer'' (who will be eligible to receive transition payments and a license to grow tobacco) and a ''quota holder'' (who will be eligible for the quota asset buyout). An ''active tobacco producer'' is a person who was the actual producer of tobacco planted in 1997. A ''quota holder'' is a person who owned a farm on January 1, 1998 which carried a tobacco farm marketing quota or farm acreage allotment.

Section 3. Purposes.

Section 101. Tobacco Community Revitalization Trust Fund.

This section establishes a trust fund which will compensate quota holders, make transition payments to growers, fund the privatized tobacco production limiting program, pay for tobacco crop insurance, and provide community development grants. From the funds generated as a result of comprehensive tobacco legislation, the trust fund would receive $3.5 billion for the first five years, and $265 million each succeeding year.

Section 201. Compensation to Quota Holders for Loss of Tobacco Quota Asset Value.

A quota holder would receive $8/pound based on the average tobacco farm marketing quota established for the 1995 through 1997 marketing years for the farm owned by the quota holder on January 1, 1998. The payments would be made in 5 equal annual installments beginning in 1999.

Section 202. Transition Payments for Active Tobacco Producers.

Tobacco producers who grew tobacco in 1997 would be eligible to receive 40¢/pound for five years based on the average number of pounds of tobacco quota established for a farm for the 1995 through 1997 marketing years for which the grower was the actual producer of tobacco on the farm.

Section 203. Tobacco Loan Associations.

To extricate the federal government from the tobacco program and assist tobacco loan associations make the transition to the privatized program, this section forgives various loans made to the associations by the Department of Agriculture, transfers title to the loan associations of tobacco held in inventory by the Department of Agriculture, and transfers to the loan associations the funds held in the No Net Cost Tobacco Fund and the No Net Cost Tobacco Account held on behalf of the associations.

Section 204. Tobacco Community Economic Development Grants.

The Corporation will award $250 million annually to tobacco-dependent counties to aid community development efforts. The funds can be used for various purposes, including education, small business incubators, technology infrastructure enhancement, transportation improvements and water projects.

Section 205. Tax Treatment of Tobacco Quota Holder Compensation and Transition Payments.

Compensation funds to quota holders and transition payments to tobacco producers will not be taxed if placed in a qualified retirement account or if used to retire debt directly associated with tobacco production incurred prior to January 1, 1998.

Section 301. Tobacco Production Control Corporation.

This section creates the privatized Tobacco Production Control Corporation, which will undertake the duties previously performed by the federal government. These duties will include:

Governing the production, marketing, importation, exportation, and consumer quality assurance for each kind of tobacco;

Offering crop insurance;

Establishing a quality assurance system that provides for the inspection and grading of tobacco marketed in the U.S., determines and describes the physical characteristics of domestic and imported tobacco, and ensures the physical and chemical integrity of domestic and imported tobacco; and

Creating a licensing system to limit the production of tobacco, replacing the current quota system. Licenses would be issued by the Corporation at no cost to the producer and no tobacco could be sold without a license. Initially, licenses would be issued to active tobacco producers and would be surrendered to the Corporation if the producer ceases growing tobacco. Licenses could not be sold, leased or transferred except to a licensee's spouse or children actively engaged in the production of tobacco.

Section 302. Tobacco Loan Associations.

This section requires the Corporation to enter into agreements with producer-owned loan associations for each kind of tobacco to make price support available, carry out the licensing system, arrange for financing and administration of price supports and handle any domestically produced tobacco received as collateral for a price support loan.

Section 303. Tobacco Price Support Levels.

For the 1999 crop year, the price support shall be the simple average price received by

producers for the preceding 5 years less the average return to quota for 1994 through 1998 crops. This eliminates from the price of tobacco an amount equal to the previous cost of acquiring quota.

Section 304. Penalties.

This section sets forth the penalties for those who sell tobacco without a license or in violation of a license, and for those who purchase tobacco which is not licensed or violates a license.

Section 305. Program Referenda.

This section allows producers to vote periodically on whether to retain the new privatized program.

## ADDITIONAL COSPONSORS

S. 10

At the request of Mr. HATCH, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 10, a bill to reduce violent juvenile crime, promote accountability by juvenile criminals, punish and deter violent gang crime, and for other purposes.

S. 61

At the request of Mr. LOTT, the names of the Senator from Louisiana (Ms. LANDRIEU), the Senator from Michigan (Mr. LEVIN), and the Senator from Idaho (Mr. KEMPTHORNE) were added as cosponsors of S. 61, a bill to amend title 46, United States Code, to extend eligibility for veterans' burial benefits, funeral benefits, and related benefits for veterans of certain service in the United States merchant marine during World War II.

S. 173

At the request of Mr. DEWINE, the name of the Senator from Arkansas (Mr. HUTCHINSON) was added as a cosponsor of S. 173, a bill to expedite State reviews of criminal records of applicants for private security officer employment, and for other purposes.

S. 456

At the request of Ms. MOSELEY-BRAUN, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 456, a bill to establish a partnership to rebuild and modernize America's school facilities.

S. 497

At the request of Mr. COVERDELL, the names of the Senator from Texas (Mr. GRAMM), and the Senator from Kansas (Mr. ROBERTS) were added as cosponsors of S. 497, a bill to amend the National Labor Relations Act and the Railway Labor Act to repeal the provisions of the Acts that require employees to pay union dues or fees as a condition of employment.

S. 512

At the request of Mr. KYL, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 512, a bill to amend chapter 47 of title 18, United States Code, relating to identity fraud, and for other purposes.

S. 530

At the request of Mr. KOHL, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 530, a bill to amend title 11, United States Code, to limit the value of certain real and personal property that a debtor may elect to exempt under State or local law, and for other purposes.

S. 656

At the request of Mr. WARNER, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 656, a bill to amend the Fair Labor Standards Act of 1938 to exclude from the definition of employee firefighters and rescue squad workers who perform volunteer services and to prevent employers from requiring employees who are firefighters or rescue squad workers to perform volunteer services, and to allow an employer not to pay overtime compensation to a firefighter or rescue squad worker who performs volunteer services for the employer, and for other purposes.

S. 887

At the request of Ms. MOSELEY-BRAUN, the names of the Senator from Massachusetts (Mr. KENNEDY), the Senator from Missouri (Mr. BOND), and the Senator from Michigan (Mr. ABRAHAM) were added as cosponsors of S. 887, a bill to establish in the National Service the National Underground Railroad Network to Freedom program, and for other purposes.

S. 933

At the request of Ms. MOSELEY-BRAUN, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 933, a bill to amend section 485(g) of the Higher Education Act of 1965 to make information regarding men's and women's athletic programs at institutions of higher education easily available to prospective students and prospective student athletes.

S. 943

At the request of Mr. SPECTER, the name of the Senator from Virginia (Mr. ROBB) was added as a cosponsor of S. 943, a bill to amend title 49, United States Code, to clarify the application of the Act popularly known as the ''Death on the High Seas Act'' to aviation accidents.

S. 1028

At the request of Mrs. BOXER, her name was withdrawn as a cosponsor of S. 1028, a bill to direct the Secretary of Agriculture to conduct a pilot project on designated lands within Plumas, Lassen, and Tahoe National Forests in the State of California to demonstrate the effectiveness of the resource management activities proposed by the Quincy Library Group and to amend current land and resource management.

S. 1096

At the request of Mr. KERREY, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1096, a bill to restructure the Internal Revenue Service, and for other purposes.

S. 1173

At the request of Mr. WARNER, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 1173, a bill to authorize funds for construction of highways, for highway safety programs, and for mass transit programs, and for other purposes.

S. 1297

At the request of Mr. COVERDELL, the names of the Senator from Mississippi (Mr. LOTT), the Senator from Indiana (Mr. COATS), the Senator from Indiana (Mr. LUGAR), the Senator from Oregon (Mr. SMITH), the Senator from Nebraska (Mr. HAGEL), the Senator from Utah (Mr. HATCH), the Senator from North Carolina (Mr. FAIRCLOTH), the Senator from Tennessee (Mr. FRIST), the Senator from Iowa (Mr. GRASSLEY), the Senator from Florida (Mr. MACK), the Senator from Ohio (Mr. DEWINE), the Senator from Kansas (Mr. BROWNBACK), the Senator from New Hampshire (Mr. GREGG), the Senator from South Carolina (Mr. THURMOND), the Senator from Oklahoma (Mr. NICKLES), the Senator from Minnesota (Mr. GRAMS), the Senator from New Hampshire (Mr. SMITH), the Senator from Alabama (Mr. SHELBY), the Senator from Alaska (Mr. STEVENS), the Senator from Maine (Ms. COLLINS), the Senator from Tennessee (Mr. THOMPSON), the Senator from Mississippi (Mr. COCHRAN), the Senator from Alaska (Mr. MURKOWSKI), and the Senator from Pennsylvania (Mr. SPECTER) were added as cosponsors of S. 1297, a bill to redesignate Washington National Airport as ''Ronald Reagan Washington National Airport''.

S. 1314

At the request of Mrs. HUTCHISON, the name of the Senator from Washington (Mr. GORTON) was added as a cosponsor of S. 1314, a bill to amend the Internal Revenue Code of 1986 to provide that married couples may file a combined return under which each spouse is taxed using the rates applicable to unmarried individuals.

S. 1328

At the request of Mr. INOUYE, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 1328, a bill to amend the Communications Satellite Act of 1962 to promote competition and privatization in satellite communications, and for other purposes.

S. 1422

At the request of Mr. MCCAIN, the names of the Senator from Kansas (Mr. BROWNBACK), the Senator from Maine (Ms. COLLINS), the Senator from Georgia (Mr. COVERDELL), the Senator from Idaho (Mr. CRAIG), the Senator from Nebraska (Mr. HAGEL), the Senator from Arkansas (Mr. HUTCHINSON), the Senator from Oklahoma (Mr. INHOFE), the Senator from Alaska (Mr. MURKOWSKI), and the Senator from Kansas (Mr. ROBERTS) were added as cosponsors of S. 1422, a bill to amend the Communications Act of 1934 to promote competition in the market for delivery of multichannel video programming and for other purposes.

S. 1460

At the request of Mr. LAUTENBERG, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 1460, A bill for the relief of Alexandre Malofienko, Olga Matsko, and their son Vladimir Malofienko.

S. 1575

At the request of Mr. COVERDELL, the names of the Senator from Wyoming (Mr. THOMAS), the Senator from Texas (Mrs. HUTCHISON), the Senator from Texas (Mr. GRAMM), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Tennessee (Mr. THOMPSON), and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 1575, a bill to rename the Washington National Airport located in the District of Columbia and Virginia as the ''Ronald Reagan Washington National Airport''.

SENATE RESOLUTION 155

At the request of Mr. LOTT, the name of the Senator from Virginia (Mr. ROBB) was added as a cosponsor of Senate Resolution 155, A resolution designating April 6 of each year as ''National Tartan Day'' to recognize the outstanding achievements and contributions made by Scottish Americans to the United States.

SENATE RESOLUTION 168

At the request of Mr. HUTCHINSON, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of Senate Resolution 168, A resolution expressing the sense of the Senate that the Department of Education, States, and local educational agencies should spend a greater percentage of Federal education tax dollars in our children's classrooms.

## SENATE CONCURRENT RESOLUTION 71—CONDEMNING IRAQ'S THREAT TO INTERNATIONAL PEACE AND SECURITY

Mr. LOTT (for himself, Mr. DASCHLE, Mr. MCCAIN, Mr. LEAHY, Mr. HELMS, Mr. DODD, Mr. BROWNBACK, Mr. BRYAN, Mr. WARNER, Mr. CLELAND, Mr. STEVENS, Mr. TORRICELLI, Mr. MACK, Mr. KERRY, Mr. COVERDELL, Mr. BYRD, Mr. SMITH of Oregon, Mr. MOYNIHAN, Mr. THOMAS, Mr. WYDEN, Mr. GORTON, Mr. GRAHAM, Mr. FAIRCLOTH, Mr. HOLLINGS, Ms. COLLINS, Mr. AKAKA, Mr. INHOFE, Mr. CONRAD, Mr. GRAMS, Mr. ROBB, Mr. BENNETT, Mr. SPECTER, and Mr. HAGEL) submitted the following concurrent resolution; which was read twice and ordered placed on the calendar:

S. CON. RES. 71

Whereas hostilities in Operation Desert Storm ended on February 28, 1991, and the cease-fire was codified in United Nations Security Council Resolutions 686 (March 2, 1991) and 687 (April 3, 1991);

Whereas United Nations Security Council Resolutions 687 requires that international economic sanctions remain in place until Iraq discloses and destroys its weapons of mass destruction programs and capabilities and undertakes unconditionally never to resume such activities;

Whereas Resolution 687 further established the United Nations Special Commission (UNSCOM) on Iraq to uncover all aspects of Iraq's weapons of mass destruction programs;

Whereas United Nations Security Council Resolution 715, adopted on October 11, 1991, further empowers UNSCOM to maintain a long-term monitoring program to ensure Iraq's weapons of mass destruction programs are dismantled and not restarted;

Whereas in violation of the 1991 cease-fire agreements and subsequent United Nations Security Council Resolutions, the Iraqi government has repeatedly and deliberately impeded UNSCOM from conducting its mission through concealment, harassment, deception and intimidation;

Whereas despite the sustained opposition of the government of Iraq, UNSCOM has discovered many instances of inaccurate and duplicitous actions by Iraq concerning Iraqi ballistic missile capabilities and chemical and biological weapons programs:

Whereas the United Nations Security Council has repeatedly demanded that Iraq end its obstruction of UNSCOM, including in Resolutions 1060 (June 12, 1996), 1115 (June 21, 1996), 1134 (October 23, 1997) and 1137 (November 12, 1997);

Whereas the work by the leadership and personnel of UNSCOM under difficult and dangerous conditions has been commendable;

Whereas Iraq continues to obstruct the work of UNSCOM by limiting access to sites in Iraq, by restricting the movement of UNSCOM personnel, and by threatening to end all cooperation with UNSCOM;

Whereas Iraq's continuing weapons of mass destruction programs threaten vital United States interests and international peace and security; and

Whereas the United States has existing authority to defend United States interests in the Persian Gulf region:

Now, therefore, be it resolved that the Senate, the House of Representatives concurring—

(1) Condemns in the strongest possible terms the continued threat to international peace and security posed by Iraq's refusal to meet its international obligations and end its weapons of mass destruction programs;

(2) Urges the President to take all necessary and appropriate actions to respond to the threat posed by Iraq's refusal to end its weapons of mass destruction programs; and

(3) Urges the President to work with Congress in furthering a long-term policy aimed at definitively ending the threat to international peace and security posed by the government of Iraq and its weapons of mass destruction programs.

## NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place on Wednesday, February 11, 1998 at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to receive testimony on S. 1069, a bill to designate the American Discovery Trail as a national discovery trail, a newly established national trail category, and S. 1403, a bill to establish a historic lighthouse preservation program, within the National Park Service.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send 2 copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, 364 Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information, please contact Jim O'Toole of the Subcommittee staff at (202) 224–5161 or Kelly Johnson at (202) 224–3329.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

SUBCOMMITTEE ON NATIONAL PARKS, HISTORIC PRESERVATION AND RECREATION

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on National Parks, Historic Preservation and Recreation of the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, February 12, 1998 at 2:00 p.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to review S. 62, a bill to prohibit further extension or establishment of any national monument in Idaho without full public participation and an express Act of Congress, and for other purposes. S. 477, a bill to amend the Antiquities act to require an Act of Congress and the consultation with the Governor and State legislature prior to the establishment by the President of national monuments in excess of 5,000 acres. S. 691, a bill to ensure that the public and the Congress have both the right and a reasonable opportunity to participate in decisions that affect the use and management of all public lands owned or controlled by the Government of the United States. H.R. 901, an act to preserve the sovereignty of the United States over public lands and acquired lands owned by the United States, and to preserve State sovereignty and private property right in non-Federal lands surrounding those public and acquire lands. H.R. 1127, and act to amend the Antiquities Act regarding the establishment by the President of certain national monuments.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Subcommittee on National Parks, Historic Preservation and Recreation, Committee on Energy and Natural Resources, United States Senate, 364 Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information, please contact Jim O'Toole of the Subcommittee staff at (202) 224–5161.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. CRAIG. Mr. President, I would like to announce for the public that a

field hearing has been scheduled before the Subcommittee on Forests and Public Land Management of the Senate Committee on Energy and Natural Resources.

The hearing will be held in Twin Falls, Idaho at the College of Southern Idaho in the Fine Arts Auditorium on Monday, February 16, 1998 at 9:00 a.m. The College of Southern Idaho is located at 315 Falls Ave., Twin Falls, Idaho.

The purpose of this hearing is to receive testimony on the management of the Sawtooth National Forest Recreation Area.

Those who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C. 20510. For further information, please call Bill Lange or Mark Rey at (202) 224–6170.

SUBCOMMITTEE ON WATER AND POWER

Mr. KYL. Mr. President: I would like to announce for the information of the Senate and the public that an oversight hearing has been scheduled before the Subcommittee on Water and Power of the Committee on Energy and Natural Resources to receive testimony on the implementation by the Northwest Power Planning Council of the 1996 amendment to the Northwest Power Planning Act requiring accountability in and scientific peer review of projects to be funded through the Bonneville Power Administration's annual fish and wildlife budget.

The hearing will begin at 9:30 a.m. on Tuesday, February 17, 1998 in the Lecture Hall of Washington State University, 14204 NE Salmon Creek Avenue, Vancouver, Washington.

Persons interested in testifying or submitting material for the record should contact Betty Nevitt of the Subcommittee staff at (202) 224–0765 or write to the Subcommittee on Water and Power, Committee on Energy and Natural Resources, United States Senate, Washington, D.C. 20510.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

SUBCOMMITTEE ON NATIONAL PARKS, HISTORIC PRESERVATION AND RECREATION

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that an oversight hearing has been scheduled before the Subcommittee on National Parks, Historic Preservation and Recreation of the Committee on Energy and Natural Resources.

The hearing will take place on Tuesday, February 24, 1998 at 2:00 p.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to receive testimony on the visitor center and museum facilities project at Gettysburg National Military Park.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony of the Subcommittee on National Parks, Historic Preservation and Recreation, Committee on Energy and Natural Resources, United States Senate, 364 Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information, please contact Jim O'Toole of the Subcommittee staff at (202) 224–5161.

## AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. GRAMS. Mr. President, the Finance Committee requests unanimous consent to conduct a hearing on Wednesday, January 28, 1998 beginning at 10:00 a.m. in room 215 Dirksen.

Also hearing on confirmation on pending nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. GRAMS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 10 a.m. on Wednesday, January 28, 1998, in open session, to receive testimony on the report and recommendations of the National Defense.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. GRAMS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, January 28, 1998 at 9:30 a.m. to hold an open hearing and at 2:30 to hold a closed hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ADDITIONAL STATEMENTS

### NOMINATION OF JUDGE ANN AIKEN FOR THE U.S. DISTRICT COURT FOR THE DISTRICT OF OREGON

● Mr. FAIRCLOTH. Mr. President, President Clinton's nomination for the U.S. District Court for the District of Oregon, Judge Ann Aiken, came before this body this afternoon. Mr. President, I was unavoidably absent for the vote, but I would like the record to reflect that I would have voted ''no.''

I commend my colleague from Wyoming, Senator MIKE ENZI, for closely scrutinizing this nomination and reporting to us some alarming rulings on the part of Judge Aiken which illustrate flaws in her judicial philosophy. For example, as Senator ENZI has noted, Judge Aiken, while a Oregon state court judge, sentenced a 26-year-old man convicted of the first degree rape of a 5-year-old girl to a mere ninety days in jail. Ninety days? A petty thief gets more than ninety days. This man raped a little girl. According to local papers, Judge Aiken justified her minimal sentence by citing a lack of treatment programs for sex offenders in Oregon's state prisons.

Mr. President, this case, along with a history of similar rulings, reveals a grave misunderstanding in Judge Aiken's judicial outlook and a proclivity to side with criminals. Once again, the President has offered this body a judicial nominee more interested in defending the rights of criminals than protecting those of victims. How much longer will he continue to nominate Federal judges who ignore the safety and well-being of our communities?●

### IN RECOGNITION OF ART VANELSLANDER

● Mr. LEVIN. Mr. President, I rise today to commend one of Michigan's foremost business leaders, Mr. Art VanElslander, for his service as chairman of the successful Society of St. Vincent DePaul Capital Campaign.

Mr. VanElslander is well-known throughout Michigan as the Chairman and CEO of Art Van Furniture, Michigan's largest furniture retailer and the sixth largest furniture retailer in the United States. Business success has enabled Mr. VanElslander to pursue his commitment to community service and philanthropy and benefit thousands of people. His involvement with the St. Vincent DePaul Capital Campaign is a prime example of his dedication and commitment.

In 1995, just before Christmas, a fire destroyed the St. Vincent DePaul warehouse which served needy residents of the metropolitan Detroit area. The fire led to an outpouring of donations of clothing, bedding and toys from thousands of people in Metro Detroit. With those immediate needs met, thanks to the generosity of the community, the Society of St. Vincent DePaul began a fundraising campaign to meet their long-term needs—replacing the warehouse and building the St. Vincent DePaul Service Center, which would provide job training and employment placement, transitional child care for those enrolled in programs at the Center, a non-acute health care clinic, a resale thrift shop and an emergency food depot. To raise the $3.75 million needed to fund these projects, the Society of St. Vincent DePaul asked Mr. VanElslander to chair the campaign.

Mr. VanElslander not only provided the leadership and spirit needed to successfully raise the money, but he pledged to match up to $500,000 in donations. His commitment to this campaign is a natural expression of his desire to help the less fortunate members of his community.

Mr. President, we all benefit from the attention and energy of leaders like Mr. VanElslander. By helping those in need, they improve the strengthen the entire community. I hope my colleagues will join me in commending Mr. Art VanElslander for his generosity and for his leadership of the Society of St. Vincent DePaul Capital Campaign.●

CATHOLIC SCHOOLS WEEK

• Mr. ABRAHAM. Mr. President, today I rise to join Catholic schools across my home state of Michigan and the country as they celebrate Catholic Schools Week. This year marks the twenty-third anniversary of the annual event, and its theme is an important one, ''Catholic Schools: Restoring Faith in Education.''

Since the founding of our great nation, Catholic schools have been integral to its growth and prosperity. Among the first schools in the country, Catholic schools educated countless individuals throughout the nation and provided an early first step toward creating a literate populace. Today, the role of Catholic schools is just as important. Strong academics partnered with a values-based education offers a tremendous option for children across the country. From rural areas to the inner city, the opportunities afforded by Catholic schools are immeasurable. They provide an important choice for parents and students who seek the best possible learning environment.

In the State of Michigan, Catholic schools are elemental in providing children of all ages with a solid education. Spread throughout Michigan's seven Catholic dioceses, over 96,000 students are enrolled in 355 schools. These schools play a critical role in adding to the rich diversity of American education. I am pleased to have this opportunity to congratulate the many Catholic schools in Michigan and the United States for the high quality of education they provide.•

FIFTIETH ANNIVERSARY OF THE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

• Ms. COLLINS. Mr. President, 1998 marks the fiftieth anniversary of the Senate Governmental Affairs Committee's Permanent Subcommittee on Investigations. On January 28, 1948, the Senate adopted a resolution converting the Special Committee to Investigate the National Defense Program (better known as the ''Truman Committee'' for its first chairman, Missouri Senator Harry Truman) into a permanent subcommittee. The special committee looked into charges of waste and abuse in defense contracting during the Second World War. After its first chairman resigned to become Vice President and then President of the United States, the Committee continued to investigate fraud and corruption in the postwar years. Its many successes convinced the Senate of the need to retain an ongoing mechanism to combat wrongdoing and to keep government honest. Today, we celebrate a half century of these endeavors.

As Chairman of the Permanent Subcommittee on Investigations, I wish to pay tribute to all of the Senators who have served on the Subcommittee, and to offer a brief survey of the highlights of the Subcommittee's activities over the years.

Senator Ralph Owen Brewster of Maine chaired the ''Truman Committee'' during the Republican Eightieth Congress, but when the Senate transferred the functions of the special committee to the Committee on Expenditures in the Executive Departments—a precursor of Governmental Affairs Committee—Senator Brewster was not a member of that committee and could not chair the new subcommittee.

The Committee on Expenditures in the Executive Branch already had a subcommittee to Investigate Surplus Property Disposal, chaired by Michigan Senator Homer Ferguson. Senator Ferguson, a former judge, had also been a member of the Truman Committee, and had occasionally served as its acting chairman. Assuming the leadership of the new subcommittee, which was to be called the Permanent Subcommittee on Investigations, Ferguson inherited the special committee's authority, functions, and powers. He merged its staff members with those from his subcommittee to Investigate Surplus Property Disposal. Notably, he retained the Truman Committee's chief counsel William Rogers (who later served as Secretary of State) and its chief clerk, Ruth Young Watt (a Maine native who served as chief clerk from the Subcommittee's beginning until her retirement in 1979). While technically reduced to a Subcommittee of a standing committee, the Permanent Subcommittee exercised authority almost as a separate entity, selecting its own staff and determining its own investigatory agenda.

Senator Homer Ferguson's Chairmanship ended with the election of 1948, which changed the Senate's majority and made Senator Clyde Hoey, a North Carolina Democrat, Chairman of the Permanent Subcommittee on Investigations. The last U.S. Senator to wear a long frock coat and wing-tipped collar, Mr. Hoey was a distinguished southern gentleman of the old school. During his leadership, the Permanent Subcommittee on Investigations won national attention for its investigation of the ''five percenters,'' Washington lobbyists who charged their clients five percent of the profits from any federal contracts they obtained for them. The ''five percenters'' investigation raised allegations of bribery and influence-peddling that reached right into the White House and implicated some members of President Truman's staff.

When Republicans regained the Senate's majority in 1953, at the beginning of the Eisenhower administration, Wisconsin's junior Senator, Joseph R. McCarthy, took over as Chairman of the Permanent Subcommittee. Two years earlier, as Ranking Minority Member, Senator McCarthy had removed from the Committee another Republican Senator, Margaret Chase Smith of Maine. Senator Smith had issued a ''Declaration of Conscience'' against those who made unfounded charges and used character assassination against their political opponents. Although Senator Smith had not named a specific offender, her remarks were universally recognized as criticism of Senator McCarthy's accusations that Communists had infiltrated the State Department and other government agencies. Senator McCarthy retaliated by eliminating Senator Smith from his Subcommittee and replacing her with the newly elected senator from California, Richard M. Nixon.

When Senator McCarthy became Subcommittee Chairman, he staged a series of highly publicized anti-communist investigations, culminating in an inquiry into communism in the U.S. Army, which became known as the Army-McCarthy hearings. During the latter portion of these hearings, in which the Committee examined the Wisconsin Senator's attacks on the army, Senator McCarthy recused himself, and South Dakota Senator Karl Mundt served as Acting Chairman of the Permanent Subcommittee on Investigations. Gavel-to-gavel television coverage of the hearings raised public concern about Senator McCarthy's treatment of witnesses and his irresponsible use of evidence. In December of 1954, the Senate censured Senator McCarthy for unbecoming conduct, and the following year the Permanent Subcommittee on Investigations adopted new rules of procedure that better protected the rights of witnesses. These actions vindicated the courageous stand of Maine Senator Margaret Chase Smith.

In 1955, Senator John McClellan of Arkansas began eighteen years of service as Chairman of the Permanent Subcommittee on Investigations. Senator McClellan appointed the young Robert F. Kennedy as the Subcommittee's Chief Counsel. That same year, Members of the Permanent Subcommittee on Investigations were joined by Members of the Senate Labor and Public Welfare Committee on a special committee to investigate labor racketeering. Chaired by Senator McClellan and staffed by Robert Kennedy and other staff members of the Permanent Subcommittee on Investigations, the special committee directed much of its attention to criminal influence over the Teamsters Union, calling Teamsters' leaders Dave Beck and Jimmy Hoffa to testify. The televised hearings of the special committee introduced Senators Barry Goldwater and John F. Kennedy to the nation, and led to passage of the Landrum-Griffin Labor Act.

After the special committee completed its work, the Permanent Subcommittee on Investigations continued to investigate organized crime. In 1962, the Subcommittee held hearings in which Joseph Valachi outlined the activities of La Cosa Nostra, or the Mafia. Robert Kennedy, by then Attorney General, used this information to prosecute prominent mob leaders and their accomplices. The investigations also led to passage of major legislation against organized crime, most notably

the Racketeer Influenced and Corrupt Organizations (RICO) provision of the Crime Control Act of 1970. Under Chairman McClellan, the Permanent Subcommittee on Investigations also investigated fraud in the purchase of military uniforms, corruption in the Department of Agriculture's grain storage program, securities frauds, and civil disorders and acts of terrorism. From 1962 to 1970, the Permanent Subcommittee on Investigations conducted an extensive probe of political interference in the awarding of government contracts for the TFX (''tactical fighter, experimental''). In 1968, the Subcommittee also looked into charges of corruption in U.S. servicemen's clubs in Vietnam and elsewhere around the world.

Senator Henry ''Scoop'' Jackson, a Democrat from Washington, replaced Senator McClellan as Chair of the Permanent Subcommittee in 1973. Senator Jackson continued most of the Subcommittee staff but added Howard Feldman as Chief Counsel. During these years, Chief Clerk Ruth Young Watt noted that the Subcommittee's Ranking Minority Member, Senator Charles Percy, an Illinois Republican, was even more active on the Committee than was the Chairman, who was balancing his Chairmanship of the Interior Committee and his active role on the Armed Services Committee.

It had not been uncommon in the Subcommittee's history for the Chairman and Ranking Minority Member to work together closely despite their partisan differences, but Senator Percy was unusually active in the minority—even chairing one investigation of the hearing aid industry. Senator Percy continued to work in tandem with Senator Sam Nunn, who succeeded Senator Jackson as Chairman of the Permanent Subcommittee on Investigations in 1979. As Chairman, Senator Nunn continued the Subcommittee's investigations into the role of organized crime in labor-management relations and also investigated pension frauds.

The regular reversals of political fortunes in the 1980s and 1990s saw Georgia Democrat Sam Nunn alternate the Chairmanship with Delaware Republican WILLIAM ROTH. Senator Nunn Chaired the Subcommittee from 1979 to 1980 and again from 1987 to 1995. Senator ROTH served as Chair from 1981 to 1986, and again from 1995 to 1996. Senator ROTH led a wide range of investigations into commodity investment fraud, offshore banking schemes, money laundering, airline safety, child pornography, and computer security. Senator Nunn pursued federal drug policy, the global spread of chemical and biological weapons, abuses in the federal student aid programs, and health care fraud. Senator Nunn also appointed the first woman counsel, Eleanore Hill, who served as Chief Counsel to the Minority from 1982 to 1986 and then as Chief Counsel from 1987 to 1995. Ms. Hill is now the Inspector General at the Department of Defense.

In January 1997, I became the first freshman and woman to Chair the Permanent Subcommittee on Investigations, and I appointed Timothy Shea as Chief Counsel. During the first session of the 105th Congress, the Subcommittee held hearings into Medicare fraud and penny stock fraud, as well as an oversight review of the Office of the Inspector General at the Treasury Department that led to the resignation of the Inspector General.

Now we have reached the Subcommittee's fiftieth anniversary, which marks another significant milestone. Unlike most standing committees of the Senate, whose previously unpublished records open for scholarly research after a period of twenty years has elapsed, the Permanent Subcommittee on Investigations, as an investigatory body, may close its records for fifty years to protect personal privacy and the investigatory process. Over the past half century, scholars have studied and written about many of the Subcommittee's investigations by using its voluminous public hearings, newspaper accounts, oral histories, and the personal papers of the Senators who served on the Subcommittee, but they have also expressed keen interest in examining the Subcommittee's own historical records. With this fiftieth anniversary, the Subcommittee's earliest records, housed in the Center for Legislative Archives at the National Archives and Records Administration, will begin to open seriatim. The records of our predecessor committee—the Truman Committee—were opened by Senator Nunn in 1980. I trust that the new scholarship that emerges from these records will further national awareness of the Permanent Subcommittee on Investigations' role and its numerous accomplishments.

The Permanent Subcommittee on Investigations does not intend to rest on its historical laurels. As Chair, I pledge a continuation of the Subcommittee's mission of vigilant exposure of government malfeasance, social and economic wrongdoing, and serious violations of the public trust. We will focus on problems that affect the American people in their daily lives so that our work will help and protect the people of Maine and Americans across the nation.

Mr. President, I ask to have printed in the RECORD a list of all the Chairmen, Ranking Minority Members, and Chief Counsels of the Permanent Subcommittee on Investigations over the past fifty years.

The list follows:

CHAIRS OF THE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Homer Ferguson (R—Michigan), 1948–1949
Clyde R. Hoey (D—North Carolina), 1949–1952
Joseph R. McCarthy (R—Wisconsin), 1953–1954
John L. McClellan (D—Arkansas), 1955–1972
Henry M. Jackson (D—Washington), 1973–1978
Sam Nunn (D—Georgia), 1979–1980, 1987–1994
WILLIAM V. ROTH, Jr. (R—Delaware), 1981–1986, 1995–1996
SUSAN M. COLLINS (R—Maine), 1997–present

RANKING MINORITY MEMBERS

John L. McClellan (D—Arkansas), 1948–1950, 1953–1955
Joseph R. McCarthy (R—Wisconsin), 1950–1952, 1955–1957
Karl E. Mundt (R—South Dakota), 1958–1971
Charles H. Percy (R—Illinois), 1972–1980
Sam Nunn (D—Georgia), 1981–1986, 1995–1996
WILLIAM V. ROTH, Jr. (R—Delaware), 1987–1994
JOHN GLENN (D—Ohio), 1997–present

CHIEF COUNSELS

William P. Rogers, 1948–1950
Francis D. Flanagan, 1950–1953
Roy M. Cohn, 1953–1954
Robert F. Kennedy, 1955–1957
Donald F. O'Donnell, 1957–1970
Jerome S. Adelman, 1970–1971
John P. Constandy, 1971–1973
Howard J. Feldman, 1973–1976
Owen J. Malone, 1977–1979
Lavern Duffy, 1979
Marty Steinberg, 1979–1981
S. Cass Weiland, 1981–1984
Daniel F. Rinzel, 1984–1987
Eleanore J. Hill, 1987–1995
Harold Damelin, 1995–1996
Timothy J. Shea, 1997–present●

## RETIREMENT OF MICHAEL S. PINTO, SUPERINTENDENT OF MIDDLETOWN SCHOOLS

● Mr. CHAFEE. Mr. President, on January 31st, friends and colleagues will gather to honor Michael S. Pinto, who has served Middletown public schools for 36 years, and is retiring as Superintendent.

Michael Pinto built his career in Rhode Island, just as he received his education in our state. He received degrees from Providence College and Rhode Island College, and pursued additional studies at the University of Rhode Island, Brown University, and Salve Regina University.

For seven years, Superintendent Pinto worked with students as a classroom teacher, then as Supervising Principal for sixteen years. He served as both Coordinator of Elementary Education and Assistant Superintendent before being appointed as Superintendent of Middletown Schools in 1994.

Michael has amassed an impressive record of public service. His work in the Middletown public school system is well known. But, he has also been involved with the Easter Seals Society, the YMCA, the Middletown Lions Club, the Rhode Island Senate Drug Advisory Committee, and many other worthy organizations.

Mr. President, no one has worked harder or has shown more persistence on behalf of the Impact Aid program than Michael Pinto! Barely a month goes by without a letter from Superintendent Pinto reaching my desk, advocating the Impact Aid program and its importance in Middletown schools.

Recently, a Newport Daily News article described Superintendent Pinto as an easy-going and amiable administrator.'' In fact, in the spirit of true compromise for the good of education and the community, Superintendent

Pinto has said, ''[I'll] tell the School Committee that I'm not interested in a lot of 3-to-2 votes. I'll give up something for a 5-to-0 vote.'' It is that quality—doing what it takes to reach a consensus—that has made him a successful leader.

As Michael prepares for his private life away from the duties of his terribly demanding job, I want to congratulate and thank him for all that he has given to his community.●

## TRIBUTE TO WILLIAM RUSSELL KELLY

● Mr. ABRAHAM. Mr. President, I rise to pay homage to William Russell Kelly. This giant of the office staffing industry recently passed away after a hard fought battle with cancer. Russell Kelly's legacy, however, will long remain a symbol of efficiency, quality, and integrity.

First begun in 1946, through hard work and determination, Kelly Services has grown into a Fortune 500 company. Providing temporary and supplemental staff, the company proved to be a tremendously successful venture, and soon the phrase ''Kelly Girl'' became synonymous with quality and professionalism. Employees identified themselves with pride and the term became a mark of distinction in a rapidly growing industry. Today, Kelly Services is composed of more than 750,000 men and women who offer a wide variety of professional and technical support around the world. What began as a small company supporting local businesses in Detroit has proven itself to be an asset to literally thousands of companies worldwide.

Last year, Kelly Services celebrated its 50th anniversary. Amid the celebrations, an individual inquired how Russell Kelly wanted to be remembered. He replied, ''I want to be remembered as a pioneer.'' Mr. President, I am proud to say Russell Kelly met that goal. He was a pioneer who, through determination and perseverance, left his imprint on the world. Through his efforts, the way companies do business was revolutionized.

During this most difficult time, my thoughts and prayers go out to Russell Kelly's family and friends.●

## TRIBUTE TO GEORGIAN PRESIDENT EDUARD SHEVARDNADZE

● Mr. McCONNELL. Mr. President, I rise today to honor a world statesman and one of the most heroic figures of this century on the occasion of his 75th birthday. Mr. Eduard Shevardnadze, the President of Georgia, celebrated his birthday this past weekend and I know each of my colleagues join me in wishing him health, happiness and many years of success.

Mr. President, as I advance in years I become increasingly aware that each additional birthday is a milestone of sorts. However, when one looks at the dramatic changes in both the world and the man over the past 75 years of Eduard Shevardnadze's life, it is more than a mere birthday that is celebrated. I would suggest we should recognize his as a life of dignity, service and commitment to fighting for principle. His has been a life ''in the arena''—one richly deserving of honor.

President Shevardnadze has enjoyed a wide range of experiences in public life. Most Americans became aware of his remarkable abilities when he held the position of Minister of Foreign Affairs of the Soviet Union from 1985 until 1991.

With the collapse of the Soviet Union in 1991, he left the Communist Party, resigning in protest against the anticipated military dictatorship. It was at this time, as a private citizen, that President Shevardnadze returned to his homeland of Georgia. Here he found a nation in complete disarray, struggling to shake off the years of Soviet domination. Faced with this challenge what was he to do? He did what comes naturally to him, Mr. President—he chose to lead.

Beginning in March 1992, he led the State Council. In October 1992, he was elected Chairman of the Parliament of Georgia from which he was elected head of State. Finally, in November 1995, he was elected President of Georgia with over 70% of the vote. This completed a historic personal and governmental transition.

Mr. President, since his election, I have had the distinct honor of working with President Shevardnadze on a variety of issues. I can say without fear of embellishment that I find him to be one of the true heroes of the 20th century. His vision for a free, prosperous and democratic Georgia is one I support and believe him to be uniquely qualified to deliver. Further, he is one of the principal architects of the Post Cold War world, and for that we should all give thanks.

While many leaders in this part of the world are consumed by their own position and power, President Shevardnadze has demonstrated his commitment to his nation in a unique way—he has consistently appointed, selected and surrounded himself with exceptionally talented men and women half his age. President Shevardnadze's legacy is the determined leadership he not only has shown, but the team of leaders he has cultivated and supported—leaders who will secure Georgia's bright and independent future.●

## NAVAL SURFACE WARFARE CENTER'S CARDEROCK DIVISION

● Mr. SARBANES. Mr. President, I rise today to pay tribute to the Naval Surface Warfare Center's Carderock Division in Montgomery County, which will celebrate its Centennial Anniversary on January 30, 1998.

For 100 years, the NSWC's Carderock Division, widely known as the David Taylor Research Center, has played a pivotal role in the design and construction of Navy ships, submarines and advanced craft. This Center has been described—accurately, in my view—as the ''First Stop'' for Navy ideas in new ship and submarine concepts. Through the basic and applied research conducted at this center the Navy has been able to develop new, innovative hull designs, ways to significantly lower the costs of submarine and ship construction, and has made significant advances in reducing electromagnetic signatures and underwater accoustics—to name only a few of its accomplishments. Its team of scientists, engineers, technicians and support staff at Carderock and formerly Annapolis, have spearheaded the development of surface ship and submarine system technologies to ensure that the U.S. fleet remains the best in the world. Since its inception, the Carderock Division has been charged with the unique dual mission of supporting not only the Navy, but also our maritime sector as a whole and I think it is important to point out how much the research conducted at David Taylor and the technology it has transferred to the private sector has benefitted the nation's entire maritime industry. From having the largest number of patents issued to employees in the entire division, to being the first DOD/Navy and second government organization to receive ISO 9001 (International Organization for Standardization) Certification—as well as receiving Vice President Gore's coveted Hammer Award—the David Taylor Center's achievements are truly second to none.

Over the years, I have had the opportunity to work closely with a number of individuals at the Carderock Division and I can personally attest to the high caliber, quality and commitment of its workforce. Indeed, the many accomplishments of the David Taylor Research Center have only been possible through the professionalism, dedication, imagination and energy of its employees.

One of the projects on which I worked very closely with the Navy was Carderock's new, state of the art Ship Materials Technology Center which we dedicated last year. With this new center and other developments which are underway, Carderock not only has best personnel, but also some of the finest, most-advanced facilities and resources to ensure that the Navy's Research and Development Program stays on the cutting edge of technology into the 21st Century.

We take great pride in the accomplishments of the Carderock division, in the people who work there and in having this outstanding facility located in Maryland. I commend the David Taylor Center for its 100 years of success and remarkable achievements and am confident that, with its new lab facility, the Carderock division and our nation will continue to be on the frontier of Naval research and development for hundreds of years to come.●

## GIRL SCOUTS AND BOY SCOUTS

• Mr. CHAFEE. Mr. President, it is with great pride that I rise to recognize two extraordinary groups of young people in my home state of Rhode Island. These individuals of the Girl Scouts and Boy Scouts have distinguished themselves as leaders in their communities.

Since Baden Powell founded the Boy Scouts in 1910 and Juliette Gordon Low established the Girl Scouts in 1912, many youth have chosen to make new friends, develop leadership skills, assist their communities, and explore new ideas by participating in these two fine organizations.

In a world where it is sometimes said that role models no longer exist, these young men and women are shining examples to their peers. The skills they have learned while camping, doing service work, and within their individual groups, are the skills they will need to help the world become a better place.

In order to attain the Eagle Scout award, Boy Scouts must earn 21 merit badges, complete a service project in their community, hold a number of leadership positions in their troop, and finally, pass an oral-administered exam which can last for several hours. The Silver Award is given to Girl Scouts in junior high school after the completion of a service project. The highest honor in Senior Girl Scouting is the Gold Award, which is earned at the culmination of a major service project.

We also owe thanks to the Scouts' parents and families, their leaders, and the organizations themselves which have guided these young people, and helped them achieve so much. Without this worldwide network of adults teaching children and serving as role models, scouting would not exist. These adults turn the young boy and girls of today into the men and women of tomorrow who will lead us through the 21st Century.

Mr. President, it is a privilege to submit to you the list of outstanding young men and women who have earned these awards. I ask that this list of future leaders be printed in the CONGRESSIONAL RECORD.

The List Follows:

1997 GIRL SCOUT SILVER AWARD RECIPIENTS

BARRINGTON, RI

Carly DeWitt; Adina Downing; Lauren Lubrano; Rachel Sockut; Caitlin Wood; Kelly Josephson.

BRISTOL, RI

Eliza Burnham; Beth Chianese; Pamela Raposa.

CHARLESTOWN, RI

Jessica Furmanick; Amber MacDonald.

CRANSTON, RI

Melissa Chalek; Nicole Hopkins; Melissa Lau; Courtney O'Hara; Emily Shumchenia.

EAST GREENWICH, RI

Mary Ellen Hoban; Sarah Longenbaker.

EXETER, RI

Jessica George; Julie Jette; Danielle Lima; Kara Littlefield; Erin Sherman; Erica Steckert.

HOPE, RI

Courtney Mckenna.

HOPKINTON, RI

Marissa Cherenzia.

JOHNSTON, RI

Andreana Paolella.

KINGSTON, RI

Martha Bibb.

MIDDLETOWN, RI

Jaclyn Richardson.

NARRAGANSETT, RI

Megan Dyer.

N. SCITUATE, RI

Katyanne Klitz.

N. SMITHFIELD, RI

Amy Cavedon; Rebecca Corriveau; Nicole White.

PAWTUCKET, RI

April Silva; Tammy Tenney; Julee Thomas.

PORTSMOUTH, RI

Kali Crocker.

PROVIDENCE, RI

Meghan Brown; Elizabeth Frutchey; Emily Markovits.

REHOBOTH, MA

Meghan Thibeault.

RIVERSIDE, RI

Amy Amerantes; Laurie Bone; Eliza Holtzman; Rochonda Ives; Christine Lowell; Meagan Orris; Andrea Salvo.

RUMFORD, RI

Melissa Perry; Michelle Perry.

SMITHFIELD, RI

Carey Stipe.

TIVERTON, RI

Patricia Byrne; Li Erin Probasco; Kristen Zeiser.

WAKEFIELD, RI

Erin Barry; Jacquelyn Bertrand; Kelly Dolan; Allison Fagan; Leah Garvey; Caitlin Higgins; Cassandra Meyer; Erica Sweitzer.

WARREN, RI

Jennifer Potvin; Lauren Swift.

WARWICK, RI

Dawn Armitage; Melanie Carrazzo; Stephanie Demirjian; Bonnie-Marie Dufresne; Jeniece Fairbairn; Tiasa Loignon; Katie Marseglia; Maegan McCauley; Shannon McCormick; Ann O'Donnell; Jessica Rice.

WEST GREENWICH, RI

Tarsha Bellville; Melissa Breene; Allyson Hawley; Nina Lennon; Megin Longway; Tricia Parkinson; Holly Tift.

WEST WARWICK, RI

Amy Lancellotta; Nicole Petrarca.

WESTERLY, RI

Samantha Blanck; Leigh Hanson; Sara McGrath; Alexandra Mochetti; Amy Parise.

WOOD RIVER JUNCTION, RI

Laura Brusseau

1997 GIRL SCOUT GOLD AWARD RECIPIENTS

BARRINGTON, RI

Amanda Macomber.

CRANSTON, RI

Sara Carnevale; Louise Humphrey; Stacey Lehrer.

CUMBERLAND, RI

Kerri Ayo; Sarah Billington; Jennifer Bonner; Amanda Condon; Kerry Donaldson; Shannon Goodwillie; Catherine Jones; Kelly McElroy; Kristen O'Neill; Nikki Parness; Rebecca Silverman; Marcy Trocina; Gina Zollo.

PAWTUCKET, RI

Christal Desmarais.

PEACE DALE, RI

Bethany Lardaro.

PORTSMOUTH, RI

Emily Lyons; Rebecca Richard.

RIVERSIDE, RI

Stephanie Santos.

WARWICK, RI

Sarah Walsh.

WEST KINGSTON, RI

Jennifer Perkins.

1997 BOY SCOUT EAGLE AWARD RECIPIENTS

ASHAWAY, RI

Michael J. Rodehorst.

BLACKSTONE, MA

Stephen N. Briggs; Joshua Dean Brown; Joel C. Norwood.

BRADFORD, MA

Brendon R. Dowler.

CHEPACHET, RI

Jesse M. Andrews; Jesse George Chace; Douglas J. Coyne.

COVENTRY, RI

Donald E. Kirton, Jr.; Mark LaBossiere; Jeffrye M. Southland; Timothy Trafford.

CRANSTON, RI

Jason C. Hudson; Brian H. Johnson; Brian J. Leahy; Robert J. Markelewicz, Jr. Christopher Paolella.

DAVISVILLE, RI

Timothy D. Alfonso; Kyle R. Deschene.

FOSTER, RI

John-Paul Bettencourt; Joshua D. Lusignan; Steven C. Otto.

GLOCESTER, MA

Timothy S. Coupe.

GREENE, RI

Edward C. Morgan.

GREENVILLE, RI

Joshua Dean Brown; Ian Karl Mueller.

EAST GREENWICH, RI

Eric R. Cocozza; Chad Eric Hyland; Brian M. Lehrman; David K. Zielinski.

HOPE VALLEY, RI

Matthew J. Morey.

JOHNSTON, RI

Daniel J. Puleo; Paul R. Puleo.

KINGSTON, RI

Andrew S. Palm; John W. Tarasevich.

NORTH KINGSTOWN, RI

Biran A. Norton.

PAWCATUCK, CT

William G. Nicholas; Eric Sayles Thavenet; John T. Lowell; Antonio K. Palumbo; John Powers.

PROVIDENCE, RI

Michael J. Bastan; Christopher E. Budz; Ype Harmen Dekoe; Michael P. Gilbane.

SCITUATE, RI

James C. Bear.

NORTH SCITUATE, RI

Jason P. Bonin.

SEEKONK, MA

Paul A. Armstrong, Jr.; Evan M. Griffith; Walter E. Horton; Joel C. Norwood; Tyler A. Scott; Matthew A. Sluter.

SLATERSVILLE, RI

Kevin H. Burr.

NORTH SMITHFIELD, RI

Timothy A. Saurette.

WAKEFIELD, RI

Travis W. Ringler.

WARWICK, RI

Benjamin Keir Blackman; Matthew R. Bradbury; Kevin T. Brooks; John A. Candido;

Howard J. Cardoza; Dennis R. Coffey; Nicholas J. Hanson; P. William Mortimer, Jr.; Evan W. Pearce; Gregory Paul Stowe; Joseph E. Ulbin; Brian Zartarian.

WEST WARWICK, RI

Paul J. Gauvin; David F. Lombardo; Jonathan Lyttle; Michael Parenteau; Michael D. Roch; Eric Scott Parkinson.

WESTERLY, RI

Richard O.W. Morgan.

WEST GREENWICH, RI

James E. Pendlebury.

WOONSOCKET, RI

David Isaac Brown; Nathaniel Ray Moretti.●

## TRIBUTE TO MICHAEL S. PINTO, SUPERINTENDENT OF SCHOOLS, MIDDLETOWN, RHODE ISLAND

● Mr. REED. Mr. President, I rise today to pay tribute to Michael S. Pinto, Superintendent of Schools in Middletown, Rhode Island. After 36 years, Superintendent Pinto is leaving the school system where he began his career, bound for a well-deserved retirement.

During his tenure in Middletown, Superintendent Pinto has held almost every possible position one can hold in the field of education. He has been a teacher, a principal, a business manager for the school district, an assistant superintendent, and, most recently, the superintendent.

Over the years—even when I represented Rhode Island's neighboring Congressional district in the House of Representatives, I was privileged to have the advice of Superintendent Pinto on a variety of issues related to education, from school choice to educational standards. Indeed, I could always count on hearing from Superintendent Pinto about Impact Aid. He is the program's number one advocate.

His commitment to Impact Aid underscores his overall dedication to Middletown's schools and students and the cause of education. A measure of his commitment was shown in a recent news article which reported that in the last fifteen years he has had no more than seven consecutive days off.

As superintendent, Mr. Pinto has presided over a number of successful initiatives including the fundamental repair of two schools, a new system of measuring student learning, and an optional all-day kindergarten. Superintendent Pinto has consistently sought to share the professional accolades he has received with his colleagues in Middletown. His emphasis on team work has earned him the admiration and respect of those who have worked with him.

I thank Superintendent Pinto for his tremendous dedication and congratulate him for all that he has done for Middletown. While the Middletown school system will miss Michael Pinto, I am sure that even in retirement he will continue his work to improve education and better his community.

Mr. President, I am pleased to join Senator CHAFEE today in saluting Superintendent Pinto and wishing him the best in his retirement.●

## THOMAS M. BELODEAU

Mr. KERRY. Mr. President, I ask unanimous consent to have printed in the RECORD the text of the eulogy I gave for my friend, Thomas M. Belodeau, on November 10, 1997.

The eulogy follows:

Mrs. Belodeau, Michael; Ann, Tommy's sisters Patricia and Mary; his brothers Leo, James, Joseph, and Larry, to all his relatives, and to his brothers from Vietnam—particularly Del Sandusky from Illinois and Gene Thorsen from Iowa—his crewman on PCF 94—to the Doghunters and to all of Tommy's friends and extended family.

A number of us thought once foolishly that we brothers of Vietnam had gotten used to saying goodbye to our friends before their time. But Tommy is proving us dangerously wrong. We will never get used to it—and well we should not.

So now the question is, how do you say goodbye to a man whose steady hand and courageous heart helped keep you alive? How do you say goodbye to a man who shared the most challenging and terrifying moments of your life?

First, you should all know that we are saying goodbye to a hero. We are saying goodbye to the genuine article—a patriot—a young kid fresh out of Chelmsford High who in difficult times saw his duty and who did it. Tommy was one of America's children who went to war against a people he knew precious little about in a land he'd never been to—for reasons never honestly stated—and he was, like so many, forever changed.

It is hard for me to convey to you the full measure of what that means in 1997, particularly here, today. But in 1966, Tommy and I unwittingly became brothers in the great, divisive, confusing enterprise called Vietnam. We were both class of '66—he from high school and me from college. Though we came from different backgrounds, we didn't in the sense that we both believed in service to our country. We both chose to go into the Navy. We both volunteered for Swift boats in Vietnam. We met when we were thrown together as a crew after his first skipper got hit in an ambush.

I inherited Tommy and the rest of his seasoned crew, and it was the best thing that ever happened to me.

Many of you may have read Tom's obituary the other day. It said he had won a Purple Heart and a Bronze Star with Combat V for serving in Vietnam. That only told you part of the story—and no one here would be surprised that Tommy never told you the rest.

He also won the Navy Commendation medal:

Let me share with you what Admiral Zumwalt said in awarding it to Tom:

''For heroic achievement while serving with friendly foreign forces engaged in armed conflict against North Vietnamese and Viet Cong communist aggressors in the Republic of Vietnam on 5 July, 1968. Seaman Belodeau was serving as a crewman on board Patrol Craft 27 which was blockading the beach in the vicinity of air strikes on an enemy platoon near the village of My Lai, Quang Ngai Province. Observing a Viet Cong suspect run from the enemy position, Seaman Belodeau's Patrol Craft fast moved in to attempt a capture and was immediately taken under enemy fire. Seaman Belodeau, ignoring the enemy fire around him, calmly moved into the open to make the capture. He helped pull the suspect from the water and got him aboard his boat. Seaman Belodeau's courageous actions in capturing a Viet Cong suspect under enemy fire were in the highest tradition of the United States Naval Service.''

Seaman Belodeau is authorized to wear the Combat ''V''. That was just a day that happened to be notice, sandwiched between many more like it or worse, that were not. That was the measure of the man I inherited on my crew.

From the day we came together, we gelled as a crew. And it was the way it ought to be. The crew didn't have to prove themselves to me. I had to earn my spurs with them. When the Chief Petty Officer, Del Sandusky—known as ''Sky'', who came from Illinois to be with Tom today, finally gave me the seal of enlisted man's approval, Tommy was the first to enthusiastically say: ''I told you so, Sky, he's from Massachusetts!!''

You have to understand that we lived together as closely and as intensely on 50 feet of floating armament as men can live. And we learned all there is to learn about each other.

Sometimes it was a funny learning process, as when Mike Medeiros exhibited a hard time understanding Tommy. ''Are you from Brooklyn?'' he would ask. Tommy would respond with pride and impatience: ''Nah: I'm from Boston.''

There was the time we were carrying special forces up a river and a mine exploded under our boat sending it 2 feet into the air. We were receiving incoming rocket and small arms fire and Tommy was returning fire with his M–60 machine gun when it literally broke apart in his hands. He was left holding the pieces unable to fire back while one of the Green Berets walked along the edge of the boat to get Tommy another M–60. As he was doing so, the boat made a high speed turn to starboard and the Green Beret kept going—straight into the river. The entire time while the boat went back to get the Green Beret, Tommy was without a machine gun or a weapon of any kind, but all the time he was hurling the greatest single string of Lowell-Chelmsford curses ever heard at the Viet Cong. He literally had swear words with tracers on them!

There was, of course, the moment in February, 1969 when he was positioned in the very bow of the boat—in the totally exposed peak tank—with more than half his body just sticking up exposed to the enemy, when 3 boats turned toward the river bank and Tommy found himself staring straight into an ambush 20 yards ahead. He never flinched as he charged the beach and routed the enemy—not just once, but twice. For Seaman Belodeau's devotion to duty, courage under fire, and exemplary professionalism, in the highest tradition of the Navy he was awarded the Bronze Star with Combat V.

I cannot adequately convey or describe to you the measure of this man at war—standing in his peak tank in the bow, screaming up a river in the dead of night, no moon, 50 yards from Cambodia literally bouncing off the river bank, waiting for a mine to go off or a rocket to explode—and always steady, always dependable, always there for the rest of the crew.

All Belodeaus, Chelmsford, Massachusetts, and the United States should be proud of this warrior.

But, perhaps the greatest reason for pride as we bid our Tommy goodbye, is not what he did, but who he was.

In many ways, Tommy walked in the footsteps of Emerson and Thoreau. He was a man who wanted to walk quietly to his own tune—never with any in your face attitude. He just quietly wanted to be, and was, his own man.

From what I know, he always had this special quiet quality. His expression spoke for

him. As many of you know, he was not a man of many words. So he'd just give you a look. And the look would tell it all-fierce determination; rollicking good fun; profound sadness. I know you can see his expression for any mood he had. My favorite look of all was his bemused, ''What the hell does the skipper think he's doing now?''

Tom would join a great group of veterans who had been involved in my '84 campaign called the Doghunters. We would gather irregularly for a black tie dinner and each time everyone would eagerly await Tom's non-speech. He was clearly the most beloved member of our group despite his distaste for saying anything in public.

In his reticence to draw attention to himself or speak in public lies the true measure of this great friend. Because in 1984, and again in 1996, it was his passionate, personal commitment, his driving sense of loyalty, that against all his other instincts drew him again into the line of fire. I will never forget the brilliance and eloquence with which he stood up to fight for me and for the honor of our service.

Again and again, Tom proved the real value of friendship. For all of us here in this extended family, it will never be the same. No campaign of the future will be the same without you, Tom. No Doghunters' dinner will be complete without your knowing smile and blushing non-speech.

None of this in any way suggests that it was all peaches and cream for Tommy. We know it wasn't. His family and his friends could see the sadness in his eyes that some say changed with Vietnam.

There were times when all us of us around Tommy knew he needed a lift: but try as one could, his sense of self reliance and pride gave him a sixth sense that something was up and he would quietly find an excuse to slide away or just tell you things were going fine even when they weren't. Joey tells me that stubborn streak came from their father. But always he was the most generous in any group, ready to help another.

So Michael, today, we his friends want to reaffirm to you what you must know: your father was enormously proud of you—loved you dearly—and knew that sometimes his own sense of pride about what he wanted for you prevented him from always living up to his own expectations. But nothing that he did or thought ever diminished his joy in who you are and his trust in what you will grow to be.

For everyone who knew and loved him here today, there is a special sorrow; because we all sensed that in his recent return to Massachusetts, Tommy had found a peace and purpose which had liberated him from any demons. He enthusiastically joined in telephoning friends for Chris Greeley's engagement party. He looked happy and engaged. I saw him about 4 weeks ago and he seemed more energized and happy than in some time. There was a gleam in his eye and we promised to get together soon. As Chuck Tamulonis who took such care of him and meant so much to him told me yesterday, ''He was filling the refrigerator with no-fat food, coming home early, and even cooking the meals.''

Last year when our crew came together as a whole at election time for the first time in 27 years, we departed with the expectation that we were hooked up and on the road to growing old together. But God had other plans. And of all people we should not be surprised. We have always said at our Doghunter dinner that one thing we learned in Vietnam was Grace of God, every day beyond Vietnam was extra. Tommy had a lot of extra days and for that we are grateful.

So today, as we say goodbye, joined with his family and those he grew up with, what we, his friends, celebrate above all in Tommy's life is his special, gentle decency—a loyal, loyal friend of enormous heart who was generous in spirit beyond expectation and sometimes beyond understanding.

To Radarman Seaman, Thomas M. Belodeau, to our friend Tommy: until we meet again, may you have fair winds and following seas. And may we all leave here reminded of the words of the poet William Butler Yeats:

''Think where man's glory most begins and ends. And say, my glory was, I had such friends.''●

## MEASURE PLACED ON CALENDAR—S. CON. RES. 71

Mr. BROWNBACK. Madam President, on behalf of the leader, I ask unanimous consent that S. Con. Res. 71, submitted earlier by Senators LOTT and DASCHLE be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

## REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 105–33 AND TREATY DOCUMENT NO. 105–34

Mr. BROWNBACK. Madam President, I ask unanimous consent that the injunction of secrecy be removed from the following treaties transmitted to the Senate on January 28, 1998, by the President of the United States:

Extradition Treaty with Zimbabwe, Treaty Document No. 105–33;

Treaty with Latvia on mutual legal assistance in criminal matters, Treaty Document No. 105–34.

I further ask that the treaties be considered as having been read the first time; that they be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's messages be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The messages of the President are as follows:

*To the Senate of the United States:*

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Extradition Treaty between the Government of the United States of America and the Government of the Republic of Zimbabwe, signed at Harare on July 25, 1997.

In addition, I transmit, for the information of the Senate, the report of the Department of State with respect to the Treaty. As the report explains, the Treaty will not require implementing legislation.

The provisions in this Treaty follow generally the form and content of extradition treaties recently concluded by the United States.

This Treaty will, upon entry into force, enhance cooperation between the law enforcement communities of both countries, and thereby make a significant contribution to international law enforcement efforts. It is the first extradition treaty between the two countries.

I recommend that the Senate give early and favorable consideration to the Treaty and give its advice and consent to ratification.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *January 28, 1998.*

*To the Senate of the United States:*

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty Between the United States of America and the Republic of Latvia on Mutual Legal Assistance in Criminal Matters, signed at Washington on June 13, 1997. I transmit also, for the information of the Senate, an exchange of notes that was signed the same date as the Treaty and that provides for its provisional application, as well as the report of the Department of State with respect to the Treaty.

The Treaty is one of a series of modern mutual legal assistance treaties being negotiated by the United States in order to counter criminal activities more effectively. The Treaty should be an effective tool to assist in the prosecution of a wide variety of crimes, including drug trafficking offenses. The Treaty is self-executing. The Treaty provides for a broad range of cooperation in criminal matters. Mutual assistance available under the Treaty includes: taking of testimony or statements of persons; providing documents, records, and articles of evidence; serving documents; locating or identifying persons; transferring persons in custody for testimony or other purposes; executing requests for searches and seizures; assisting in proceedings related to restraint, confiscation, forfeiture of assets, restitution, and collection of fines; and any other form of assistance not prohibited by the laws of the Requested State.

I recommend that the Senate give early and favorable consideration to the Treaty and give its advice and consent to ratification.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *January 28, 1998.*

## ORDERS FOR THURSDAY, JANUARY 29, 1998

Mr. BROWNBACK. Madam President, on behalf of the leader, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10 a.m. on Thursday, January 29. I further ask that on Thursday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate immediately begin a period for the transaction of morning business until the hour of 12 noon with Senators permitted to speak therein for up to 5 minutes each, with the following exceptions: Senator COATS for 5 minutes, Senator HUTCHISON for 30 minutes, Senator HAGEL for 20 minutes, Senator BYRD for 45 minutes, and Senator GRAMM for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. BROWNBACK. Madam President, tomorrow morning the Senate will be in a period of morning business until 12 noon. At 12 noon, it is hoped that the Senate will be able to proceed to the consideration of either the Ronald Reagan airport legislation or a resolution regarding Iraq. Rollcall votes are therefore expected during Thursday's session of the Senate. As always, the Senate may also consider any other legislative or executive items cleared for action.

## ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. BROWNBACK. If there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:06 p.m., adjourned until Thursday, January 29, 1998, at 10 a.m.

## NOMINATIONS

Executive nominations received by the Senate January 28, 1998:

IN THE AIR FORCE

THE FOLLOWING NAMED UNITED STATES AIR FORCE OFFICER FOR APPOINTMENT AS THE VICE CHAIRMAN OF THE JOINT CHIEFS OF STAFF AND FOR APPOINTMENT TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 154:

*To be General*

GEN. JOSEPH W. RALSTON, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be Lieutenant General*

MAJ. GEN. THOMAS R. CASE, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be Major General*

BRIG. GEN. ROBERT C. HINSON, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be Brigadier General*

COL. GARY A. WINTERBERGER, 0000.

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be Brigadier General*

COL. RUSSELL C. AXTELL, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be major general*

BRIG. GEN. GARRY R. TREXLER, 0000.

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be major general*

BRIG. GEN. JAMES E. ANDREWS, 0000.
BRIG. GEN. CLAUD M. BOLTON, JR., 0000.
BRIG. GEN. ROBERT J. BOOTS, 0000.
BRIG. GEN. JOHN W. BROOKS, 0000.
BRIG. GEN. RICHARD E. BROWN III, 0000.
BRIG. GEN. JOHN H. CAMPBELL, 0000.
BRIG. GEN. BRUCE A. CARLSON, 0000.
BRIG. GEN. ROBERT J. COURTER, JR., 0000.
BRIG. GEN. DANIEL M. DICK, 0000.
BRIG. GEN. PAUL V. HESTER, 0000.
BRIG. GEN. LESLIE F. KENNE, 0000.
BRIG. GEN. TIIU KERA, 0000.
BRIG. GEN. DONALD A. LAMONTAGNE, 0000.
BRIG. GEN. DAVID F. MACGHEE, 0000.
BRIG. GEN. TIMOTHY P. MALISHENKO, 0000.
BRIG. GEN. GLEN W. MOORHEAD III, 0000.
BRIG. GEN. HARRY D. RADUEGE, JR., 0000.
BRIG. GEN. LEONARD M. RANDOLPH, JR., 0000.
BRIG. GEN. JAMES E. SANDSTROM, 0000.
BRIG. GEN. LANCE L. SMITH, 0000.
BRIG. GEN. CHARLES F. WALD, 0000.
BRIG. GEN. TOME H. WALTERS, JR., 0000.
BRIG. GEN. HERBERT M. WARD, 0000.
BRIG. GEN. JOSEPH H. WEHRLE, JR., 0000.
BRIG. GEN. WILLIAM WELSER, III 0000.
BRIG. GEN. MICHAEL E. ZETTLER, 0000.

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624.

*To be brigadier general*

COL. RUSSELL J. ANARDE, 0000.
COL. ANTHONY W. BELL, JR., 0000.
COL. DAMON BISHOP, JR., 0000.
COL. MARION E. CALLENDER, JR., 0000.
COL. KEVIN P. CHILTON, 0000.
COL. TRUDY H. CLARK, 0000.
COL. RICHARD L. COMER, 0000.
COL. CRAIG R. COONING, 0000.
COL. JOHN D. W. CORLEY, 0000.
COL. DAVID A. DEPTUAL, 0000.
COL. GARY R. DYLEWSKI, 0000.
COL. EDWARD R. ELLIS, 0000.
COL. NORMAN R. FLEMENS, 0000.
COL. LEONARD D. FOX, 0000.
COL. TERRY L. GABRESKI, 0000.
COL. JOANATHAN S. GRATION, 0000.
COL. MICHAEL A. HAMEL, 0000.
COL. WILLIAM F. HODGKINS, 0000.
COL. JOHN L. HUDSON, 0000.
COL. DAVID L. JOHNSON, 0000.
COL. WALTER I. JONES, 0000.
COL. DANIEL P. LEAF, 0000.
COL. PAUL J. LEBRAS, 0000.
COL. RICHARD B. H. LEWIS, 0000.
COL. STEPHEN P. LUEBBERT, 0000.
COL. DALE W. MEYERROSE, 0000.
COL. DAVID L. MOODY, 0000.
COL. QUENTIN L. PETERSON, 0000.
COL. DONALD P. PETTIT, 0000.
COL. DOUGLAS J. RICHARDSON, 0000.
COL. BEN T. ROBINSON, 0000.
COL. JOHN W. ROSA, JR., 0000.
COL. JAMES G. ROUDEBUSH, 0000.
COL. RONALD F. SAMS, 0000.
COL. STANDLEY A. SIEG, 0000.
COL. JAMES B. SMITH, 0000.
COL. JOSEPH B. SOVEY, 0000.
COL. LAWRENCE H. STEVENSON, 0000.
COL. ROBERT P. SUMMERS, 0000.
COL. PETER U. SUTTON, 0000.
COL. DONALD J. WETEKAM, 0000.
COL. WILLIAM J. WILSON, JR., 0000.

IN THE ARMY

THE FOLLOWING NAMES OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

LT. GEN. JOHN M. KEANE, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. JOHN M. MCDUFFE, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. WILLIAM F. KERNAN, 0000.

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be brigadier general*

COL. MICHAEL J. SQUIER, 0000.

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be brigadier general*

COL. JOSEPH W. GODWIN, 0000.

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be brigadier general*

COL. ROBERT L. ECHOLS, 0000.

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be major general*

BRIG. GEN. ARNOLD L. PUNARO, 0000.

## CONFIRMATIONS

Executive nominations confirmed by the Senate January 28, 1998:

THE JUDICIARY

ANN L. AIKEN, OF OREGON, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF OREGON.

BARRY G. SILVERMAN, OF ARIZONA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT.

RICHARD W. STORY, OF GEORGIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF GEORGIA.