priority concerns with national or multistate significance, to reform, extend, and eliminate certain agricultural research programs, and for other purposes, and asks a conference with the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. SMITH of Oregon, Mr. COMBEST, Mr. BARRETT of Nebraska, Mr. STENHOLM, and Mr. DOOLEY, as the managers of the conference on the part of the House.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 424. An act to provide for increased mandatory minimum sentences for criminals possessing firearms, and for other purposes.

H.R. 429. An act to amend the Immigration and Nationality Act to provide for special immigrant status for NATO civilian employees in the same manner as for employees of international organizations.

H.R. 2766. An act to designate the United States Post Office located at 215 East Jackson Street in Painesville, Ohio, as the ''Karl Bernal Post Office Building.''

H.R. 2773. An act to designate the facility of the United States Postal Service located at 3750 North Kedzie Avenue in Chicago, Illinois, as the ''Daniel J. Doffyn Post Office Building.''

H.R. 2836. An act to designate the building of the United States Postal Service located at 180 East Kellogg Boulevard in Saint Paul, Minnesota, as the ''Eugene J. McCarthy Post Office Building.''

H.R. 3116. An act to address the Year 2000 computer problems with regard to financial institutions, to extend examination parity to the Director of the Office of Thrift Supervision and the National Credit Union Administration, and for other purposes.

H.R. 3120. An act to designate the United States Post Office located at 95 West #100 South in Provo, Utah, as the ''Howard C. Nielson Post Office Building.''

ENROLLED BILLS SIGNED

At 4:39 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 916. An act to designate the United States Post Office building located at 750 Highway 28 East in Taylorsville, Mississippi, as the ''Blaine H. Eaton Post Office Building.''

S. 985. An act to designate the post office located at 194 Ward Street in Paterson, New Jersey, as the ''Larry Doby Post Office.''

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 424. An act to provide for increased mandatory minimum sentences for criminals possessing firearms, and for other purposes; to the Committee on the Judiciary.

H.R. 429. An act to amend the Immigration and Nationality Act to provide for special immigrant status for NATO civilian employees in the same manner as for employees of international organizations; to the Committee on the Judiciary.

H.R. 2766. An act to designate the United States Post Office located at 215 East Jackson Street in Painesville, Ohio, as the ''Karl Bernal Post Office Building''; to the Committee on Governmental Affairs.

H.R. 2773. An act to designate the facility of the United States Postal Service located at 3750 North Kedzie Avenue in Chicago, Illinois, as the ''Daniel J. Doffyn Post Office Building''; to the Committee on Governmental Affairs.

H.R. 2836. An act to designate the building of the United States Postal Service located at 180 East Kellogg Boulevard in Saint Paul, Minnesota, as the ''Eugene J. McCarthy Post Office Building''; to the Committee on Governmental Affairs.

H.R. 3120. An act to designate the United States Post Office located at 95 West #100 South in Provo, Utah, as the ''Howard C. Nielson Post Office Building''; to the Committee on Governmental Affairs.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on February 25, 1998 he had presented to the President of the United States, the following enrolled bill:

S. 927. An act to reauthorize the Sea Grant Program.

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 Mr. HUTCHINSON (for himself, Mr. BROWNBACK, Mr. NICKLES, Mr. DOMENICI, Mr. ABRAHAM, Mr. COVERDELL, Mr. SMITH of New Hampshire, Mr. INHOFE, Mr. ALLARD, Mr. ASHCROFT, Mr. SESSIONS, Mr. CRAIG, Mr. GREGG, Mr. DEWINE, Mr. COATS, Mr. LOTT, Mr. MACK, Mr. SANTORUM, Mr. SHELBY, Mr. GRAMS, Mr. GRAMM, Mr. MURKOWSKI, Mrs. HUTCHISON, Mr. SMITH of Oregon, Mr. BURNS, and Mr. FAIRCLOTH):

S. 1673. A bill to terminate the Internal Revenue Code of 1986; to the Committee on Finance.

By Mr. FAIRCLOTH:

S. 1674. A bill to establish the Commission on Legal Reform; to the Committee on the Judiciary.

By Mr. SHELBY (for himself, Mr. BOND, and Mr. LOTT):

S. 1675. A bill to establish a Congressional Office of Regulatory Analysis; to the Committee on Governmental Affairs.

By Ms. MOSELEY-BRAUN:

S. 1676. A bill to amend section 507 of the Omnibus Parks and Public Land Management Act of 1996 to provide additional funding for the preservation and restoration of historic buildings and structures at historically black colleges and universities, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CHAFEE (for himself, Mr. KEMPTHORNE, Mr. BAUCUS, Mr. BOND, Mr. REID, Mr. MOYNIHAN, Mr. LIEBERMAN, Mr. WARNER, Mr. SMITH of New Hampshire, Mrs. BOXER, Mr. SESSIONS, Mr. ALLARD, Mr. GRAHAM, Mr. WYDEN, Mr. LAUTENBERG, Mr. HUTCHINSON, Mr. THOMAS, Mr. REED, Mr. FAIRCLOTH, Mr. JEFFORDS, Mr. BREAUX, Mr. STEVENS, and Mr. COCHRAN):

S. 1677. A bill to reauthorize the North American Wetlands Conservation Act and the Partnerships for Wildlife Act; to the Committee on Environment and Public Works.

By Mr. FEINGOLD (for himself and Mr. HOLLINGS):

S. 1678. A bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to extend and clarify the pay-as-you-go requirements regarding the Social Security trust funds; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, as modified by the order of April 11, 1986, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. SARBANES (for himself, Ms. MIKULSKI, Mr. WARNER, and Mr. ROBB):

S. 1679. A bill to modify the conditions that must be met before certain alternative pay authorities may be exercised by the President with respect to Federal employees; to the Committee on Governmental Affairs.

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

S. 1680. A bill to amend title XVIII of the Social Security Act to clarify that licensed pharmacists are not subject to the surety bond requirements under the medicare program; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mrs. BOXER:

S. Res. 180. A resolution expressing the sense of the Senate that the tax exclusion for employer-provided educational assistance programs should be made permanent; to the Committee on Finance.

By Mr. ROBB (for himself and Mr. JEFFORDS):

S. Res. 181. A resolution expressing the sense of the Senate that on March 2nd, every child in America should be in the company of someone who will read to him or her; to the Committee on the Judiciary.

By Ms. MOSELEY-BRAUN (for herself and Mr. DURBIN):

S. Res. 182. A resolution honoring the memory of Harry Caray; considered and agreed to.

By Mr. KENNEDY (for himself and Mr. KERRY):

S. Res. 183. A resolution congratulating Northeastern University on providing quality higher education in the Commonwealth of Massachusetts for 100 years, from 1898–1998; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HUTCHINSON (for himself, Mr. BROWNBACK, Mr. NICKLES, Mr. DOMENICI, Mr. ABRAHAM, Mr. COVERDELL, Mr. SMITH of New Hampshire, Mr. INHOFE, Mr. ALLARD, Mr. ASHCROFT, Mr. SESSIONS, Mr. CRAIG, Mr. GREGG, Mr. DEWINE, Mr. COATS, Mr. LOTT, Mr. MACK, Mr. SANTORUM, Mr. SHELBY, Mr. GRAMS, Mr. GRAMM, Mr. MURKOWSKI, Mrs. HUTCHISON, Mr. SMITH of Oregon, Mr. BURNS, and Mr. FAIRCLOTH):

S. 1673. A bill to terminate the Internal Revenue Code of 1986; to the Committee on Finance.

THE TAX CODE TERMINATION ACT

Mr. HUTCHINSON. Mr. President, I join Senator BROWNBACK in the introduction of the Tax Code Termination

Act today and will explain a little bit about our motivation and our rationale for what I think will prove to be very historic legislation. I heard it said that a tax form is a lot like a laundry list, either way you are going to lose your shirt; and a lot of folks have lost their shirts dealing with this code right here, the Tax Code that we believe needs to be terminated, needs to be eliminated, needs to be pushed over the cliff, giving us a clean slate to start over again.

Today's laundry list of tax provisions which now comprise 480 separate tax forms, requiring an additional 280 supplemental, explanatory pamphlets, is causing taxpayers to not only lose their shirts but to lose their patience. So what we have here is only the beginning. Because, in addition to this, there are the tax forms and there are the 280 supplemental explanatory pamphlets that accompany and explain and try to make rational, try to make understandable, what to most is incomprehensible.

Taxpayers are frustrated that they must spend a combined total of 5.4 billion hours complying with the provisions of this Tax Code—5.4 billion hours. That's just a number to most people. Most people can't conceive of the number ''billion'' or exactly what that means. It is the equivalent of 20 hours a year for every man, woman, and child in America to comply with this Tax Code. A family of four will spend the equivalent of 2 work weeks, just for Tax Code compliance. I think you begin to understand how expensive it is, what a drag it is upon the American economy, and how much wasted time there is for productive Americans who could be using that time in better ways.

The American people are troubled that mere compliance with tax laws is costing the economy over $157 billion a year, and they find it absolutely incredible that the Federal Government itself spends $13.7 billion per year enforcing this code, enforcing the tax laws. Yet, in spite of the fact that we are spending, on the Federal level, $13.7 billion enforcing the tax laws, one out of every four calls to the IRS will get a wrong answer. The Internal Revenue Service itself doesn't understand this Tax Code that we are asked to operate under.

Unfortunately for taxpayers, and even for overburdened IRS employees, the Tax Code continues to grow and become more Byzantine every year. As the chart to my right shows, the number of words comprising the Tax Code grew from 235,000 words back in 1964, to almost 800,000 words in 1994. That is an increase of over 300 percent. This complexity has led to a veritable cottage industry of high-priced lobbyists. In fact, it is interesting, as you look at the chart, to see the parallel between the increase in lobbyists—in 1964, about 10,000, between 10,000 and 20,000—to almost 70,000 lobbyists that we have in Washington, DC now. So as we have seen the explosion in the words of the Tax Code, we have likewise seen an explosion in the number of the lobbyists up here who are lobbying on behalf of one particular provision or another that benefits their particular special interest.

Even the Taxpayer Relief Act of 1997, which I supported because of the sizable substantive real tax cuts that it provided to middle-income families, continues the trend to complexity of the Tax Code. This act added several new forms and resulted in over 830 changes to the Tax Code. So it is no coincidence, when the Taxpayer Relief Act was signed into law last year—a bill that I voted for that provided the first tax cut in 16 years—but when it was signed into law, H&R Block, the national preparation service, saw their stock jump 20 percent. Since then it has increased 50 percent; to a great extent, I think, because of what we did here in Congress in the passage of a bill that further complicated an already overcomplicated Tax Code.

Worse yet, as this chart indicates, the marginal tax rate for typical families with a child in college varies widely under the current Tax Code. As it was pointed out by two economists for the American Enterprise Institute, for typical families with incomes between $10,000 and $120,000, the marginal tax rates bear a strong resemblance to the New York City skyline. If you use your imagination, you can see the skyline of New York City in this chart.

The results of this system are unacceptable. Taxpayers making between $11,000 and $30,000 should not pay higher marginal tax rates than those earning between $30,000 and $40,000. Likewise, taxpayers making between $80,000 and $100,000 should not pay higher marginal tax rates than those earning above $120,000. It is fundamentally unfair. Yet, while we in Washington debate the merits in the flat tax, the tiered progressive tax, the national retail sales tax, the modified flat tax, the VAT tax, all the various tax proposals that have been presented to Congress with all their various advocates and all their pros and cons, the New York City skyline tax continues unfettered.

Today, I am glad to join Senator BROWNBACK in the introduction of legislation that will force this Congress to address this inequality. Like a city block that has fallen into disrepair well beyond the patchwork repairs of urban developers, our legislation would level the current skyline tax and leave a clean slate on which to build a new, fairer, and simpler Tax Code. It is not enough for us to continue to tinker with this Tax Code. It is not enough for us to merely pass IRS reform legislation, though I support that and I will support further legislation to protect the rights of American taxpayers. But all of that is really incremental. All of that is really just nibbling around the edges. We must be much more fundamental in our approach to comprehensive tax reform, and it begins with establishing a sunset date, a date certain in which the American people can with certainty understand and realize that the unfairness and undue complexity and Byzantine nature of the current Tax Code will be eliminated once and for all.

Many have claimed that this national movement to terminate the Tax Code is irresponsible, in spite of the fact that millions of Americans have joined this movement. Hundreds of thousands have already signed petitions, called, e-mailed, written letters to their Representatives demanding that we terminate this Tax Code or ''scrap the code,'' as some have said, or ''explode the code,'' as others have even more graphically expressed themselves.

There are those who would say that in spite of that, that the move to terminate the existing Tax Code is an act that is irresponsible. These critics have warned that the Government cannot just scrap its Tax Code without knowing how it is going to be replaced. I believe what these critics fail to realize, is that almost every major spending program of the U.S. Government terminates every 5 or 6 years. Part of the wisdom of how we operate in this Congress is that when we establish a spending program it is for a certain period of time with a termination date, a sunset date; and subsequent to that termination date, it follows that there will be a debate and there will either be reauthorization or the termination of that program. Whether it's Head Start, whether it's the school lunch program, the student loan program, or the Intermodal Surface Transportation Efficiency Act, ISTEA legislation, which we are going to right now on the reauthorization—all of them expire, all of them terminate, and must be reauthorized. So, far from being irresponsible, this termination process forces Congress to reconsider the effectiveness and efficiency of these major spending programs before they can be replaced.

In short, the Tax Code Termination Act places Federal taxes on the same footing as Federal spending. It will allow us to clean the slate, and on that clean slate, Congress will be able to write a smaller, simpler, fairer Tax Code for the American people. In the end, the Tax Code will be taken to the cleaners and the taxpayers will get to keep their shirts.

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. 1673

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 ''Tax Code Termination Act''.

SEC. 2. TERMINATION OF INTERNAL REVENUE CODE OF 1986.

(a) IN GENERAL.—No tax shall be imposed by the Internal Revenue Code of 1986—

(1) for any taxable year beginning after December 31, 2001, and

(2) in the case of any tax not imposed on the basis of a taxable year, on any taxable event or for any period after December 31, 2001.

(b) EXCEPTION.—Subsection (a) shall not apply to taxes imposed by—

(1) chapter 2 of such Code (relating to tax on self-employment income),

(2) chapter 21 of such Code (relating to Federal Insurance Contributions Act), and

(3) chapter 22 of such Code (relating to Railroad Retirement Tax Act).

SEC. 3. NEW FEDERAL TAX SYSTEM.

(a) STRUCTURE.—The Congress hereby declares that any new Federal tax system should be a simple and fair system that—

(1) applies a low rate to all Americans,

(2) provides tax relief for working Americans,

(3) protects the rights of taxpayers and reduces tax collection abuses,

(4) eliminates the bias against savings and investment,

(5) promotes economic growth and job creation, and

(6) does not penalize marriage or families.

(b) TIMING OF IMPLEMENTATION.—In order to ensure an easy transition and effective implementation, the Congress hereby declares that any new Federal tax system should be approved by Congress in its final form not later than July 4, 2001.

Mr. BROWNBACK. Mr. President, I rise today to make a few remarks on our current Tax Code and the Tax Code Termination Act which Senator HUTCHINSON from Arkansas and I are introducing today, along with 24 cosponsors here in the Senate and the entire Senate leadership.

We just held a press conference on this topic, and Senator HUTCHINSON, I believe, will be joining me shortly to talk about this provision.

Mr. President, with this bill we will pull the current Tax Code up by its roots. And that is no small feat. This is a Tax Code that has roots that are down deep in the soil. I think they are hooked into bedrock. Some people believe they are there and cannot be pulled up. But they can, and they need to be for us to create another American century.

We heard last fall, when the Senate Finance Committee held its hearings on IRS reviews, a horror across the country as people stood up to say that is what happened to them—''Let me tell you what happened to me''— with the IRS abuses that have to be changed. But underlying the IRS is the Internal Revenue Code. The Internal Revenue Service complies with the Revenue Code. The Tax Code of this land has nearly 3 million words. These are words that govern our lives. They are words that micromanage our economic and personal decisions. These are the words of Washington causing us to do certain things, or not to do certain things. There is too much social manipulation involved in the Tax Code.

One of the leading ways that Washington uses to manipulate people's lives is the tax policy that we have. There are three basic ways. One is by regulation; another one is by subsidy. You can either regulate something to stop it, or you can subsidize something to try to grow it, or tax it, or to try to create an exception for somebody to try to fit their lives into it so they can get this economic treat at the end, or tax it here to stop people from doing something, to the point that our Tax Code now is more about social manipulation than it is about raising revenue for the Federal Government.

To prove that point, you can just look at the cost of compliance with this Tax Code—this 2.8-million-word Tax Code that is backed up by 10 million words of regulation. It costs over $150 billion a year just to comply with this Tax Code. That is before a single cent is paid on taxes. It costs over $150 billion a year to comply with this Code.

To give people an idea about how much that is, basically, if we took every car made in America and drove them into the ocean, that would be about the equivalent of what takes place with this. That is how much economic activity we are talking about; not that we should begrudge those people who make their livelihood by figuring taxes. They are good, honest, hardworking Americans. We shouldn't have so many people involved in that, and we shouldn't have a Tax Code that requires so much that people live in fear of it.

I want another American century. I want it for my children who are 11, 9 and 7. And I think we have the time and the moment in history now to start creating, to build that next American century. I don't think you can do it with this Tax Code which micromanages economic and personal decisions out of Washington. Let people in Kansas decide how to invest their money and decide how to take care of their families instead of taking all their money from them. They can make better decisions than people in Washington. It is a fundamental premise upon which I have run, and there are a lot of people associated with this body that have run on that— that people make better personal decisions than, as in a lot of times, the Government forces them to make through the Tax Code.

We need to get back to a Tax Code that is fairer, simpler, flatter, and, I might add as well, freer as far as allowing more freedom to the average American to be able to make their own personal decisions—making the decisions about what is best for them.

The bill that Senator HUTCHINSON and I am introducing is to sunset the current Tax Code. It does not say what we should go to from this point. There are a lot of options that are out there. You can look at a national tax. You can look at a consumption-based tax. You can look at a national sales tax. You can look at some sort of tax simplification, although I have to say when I go around Kansas talking about tax simplification, they say, ''I get that joke. You tried that one on us before and it didn't simplify anything.'' But there are options, I think some of which we can still consider, that are out there.

By this bill, we are not saying which options should be taken. We are simply saying by this bill, let us start the great national debate about what sort of tax system we ought to go to and do away with this one; let us drive a stake through heart of this one; let us salt the soil around where the plant grew up so it cannot grow back again; and let us debate what other sorts of systems can we go to.

It is a very similar proposal that we made when we started to balance the budget 3 years ago. We said at that point in time, let us balance the budget within 7 years. There are lots of different plans out there on how to balance the budget. We did not identify at the outset that this is the way we are going to do it or that is the way. We say, by this date we will have balanced the budget. Let us start the great national debate about how we get there. It is the same thing we are doing here. We are saying by the end of the year 2001—we hopefully will have a balanced budget this year—by the year of 2001, let's have a new Tax Code and let's start the great national debate.

Should it be a national tax? Should it be a sales tax? Should it be a simplified system? Should it be another option that is yet to be identified? And let us have that out there aggressively being talked about. We do not do anything to Social Security or Medicare chapters within the Tax Code; we leave those alone. That is a debate for another day in another arena. But, otherwise, let us have this great debate talking about what we are going to replace this onerous, complex burdensome, system with.

The Tax Code has had its place in history. This Tax Code has. Now let's make it history. Americans are ''taxed to the max.'' I believe that we need to start the clock on the Tax Code and start the process of providing Americans with that flatter, simpler, fairer, freer Tax Code system based upon which they can make a lot more of their economic decisions.

I think it is fundamental for us to create this next American century by having a different system than the onerous one we have today which people cannot understand—that regularly each year Money magazine will send a hypothetical taxpayer to 50 different accountants and get 50 different answers; or, you can ask an IRS agent. Call five of them up on the same question, and you will get five different answers. It is not that these people are not intelligent; it is that the Tax Code is unintelligible.

I have to admit that I went to law school. I have to ask forgiveness for that of a lot of people. I took every tax course, except one, that I could in law school. This Tax Code is unintelligible. My tax law professor, the Dean of the Kansas University School of Law, had the case for driving a stake through and giving capital punishment to this

Tax Code, because he says, ‘‘Look; I have spent 20 years studying this thing, and it still doesn’t make sense, and it is still something that is far too burdensome, and people don’t understand it, nor is it free of the American people.’’

You have to wonder why we have evolved such a system. But it is because we have taken into this Code far more the notion of behavior modification than we have of raising revenue for the Federal Government—that behavior modification that seems now to drive more of our tax policy than for what we need to raise revenue for the Federal Government. It comes from both the left and from the right.

So, Mr. President, as the current Tax Code is anti-American and anti-government, it needs to go the way of history. Let’s start this great national debate about which way we need to go. Let’s involve all the people across this great land on what they think we need to do.

I might add one other point. A number of people are concerned, who say, ‘‘OK; if you accept this Tax Code, I have made decisions based on this Tax Code, and some of these are 15-year or 20-year decisions.’’ They involve depreciation schedules; they involve investment decisions; they involve any number of factors. I think we will probably have to put in place substantial transition mechanisms similar to what we did on the farm bill when we changed the farm bill and we had a 7-year transition period. When we go into trade agreements, a lot of times we have 10- to 15-year transition periods, so that people that have made decisions based on this Tax Code are allowed the opportunity to say, ‘‘OK; I have a transition time period that I need to get to something else.’’ So they need not fear that they are going to be driven into some sort of economic chaos or that the country will by changing the Tax Code. We need to have a long and appropriate period for transition so we do not create that economic difficulty or chaos.

This needs to be a very thoughtful and a very learned debate. And that is why Senator HUTCHINSON and I have introduced this bill, along with 24 cosponsors, that simply says sunset it by the end of the year 2001 so we can have plenty of time to talk about a different system to go to. And it is time. I would love to give to my children in the next millennium, as they go into it, a Tax Code where they don’t have to worry, regarding every decision they make, what are its tax implications. But, rather, they just have a certain level of burden that is fair, that is low, that is appropriate, and that is one that they can feel is a system that leads to some justice.

I am delighted we introduced this bill and I am delighted to join TIM HUTCHINSON in this effort to sunset the Tax Code, and I encourage all of my colleagues to join me in this effort and on this bill to sunset the Tax Code.

To reiterate, this is a tax code that the annals of history will record as one of the most onerous burdens ever faced by the American people. Our bill aims to make this code history, and by moving our legislation we will take the first steps in sunsetting a tax code that has become a method by which policy makers have confiscated family income and attempted to redistribute it for the sake of big government. This must come to an end.

I am convinced that we cannot have another American Century with this tax code. It is anti-family and anti-growth. It cannot be saved—it must be scrapped.

Americans demand tax reform, we have promised tax reform, and now is time to deliver on that promise to the American people. Some, of course, will argue that we have to be careful about any radical changes to our tax laws.

I agree.

I believe that we must carefully weigh alternative plans, debate the macro and micro effects of each, and then arrive at a thoughtful and reasoned solution that is equitable and just. However, as it should be clear to anyone, what we now have in place is neither just nor equitable. If, as is often said, our tax code is fair why are the defenders so quiet? Let’s have the debate.

The bottom line is this: The tax code we now have in place punishes good investment decisions and distorts the labor market as well as our rates of national savings. It manipulates behavior by adding incentives to do one thing while punishing those who do something else.

A quick look at some of the inadequacies in our code should make the case for reform clear. For example if your are a chronic gambler you can deduct your gambling losses. But if you are a homeowner who made an unlucky investment and the value of your home declined you have no recourse to the tax code because you cannot claim a deduction for a capital loss. The question is: why can someone deduct a loss associated with a bad game of blackjack but not a loss associated with their primary residence in which they were the unfortunate victim rather than a willing participant?

The code is full of inconsistencies like the one I just mentioned. Sure, we could try and fix these problems within our tax code—and we should—but the fact of the matter is our tax code is riddled with these inconsistencies which leads me to the conclusion that we cannot reform our code, we must get rid of it.

The bill I am sponsoring today will move us in the direction of making some of these basic changes.

We must move to a tax system where individuals are not punished for their investments and where the national rate of savings is not distorted through unintended consequences. It is often argued that the federal government has an economic obligation to correct for market externalities where the marginal social cost exceeds the marginal social benefit. Unfortunately, the government has become a marginal externality and in so doing has created deadweight economic loss through policies which distort economic behaviour and shift incentives away from savings and investment. Economically this just doesn’t make sense. In fact, I challenge anyone within hearing to find ten credible economists who will defend our current tax code. A tax system should not discriminate against the only component of our national income that provides for future economic growth—Investment. But ours does.

Some will disagree. But this is the precise issue upon which we must focus our debate. We must decide where we want the tax to be imposed; and further, we must fully understand what effect the imposition of the tax will have on the health of the economy.

However this debate takes shape we should have as our goal a tax system that does not distort behaviour and create deadweight loss, rather we must have as our goal a pro-growth tax system that encourages growth and increases in our national rate of savings—the true vehicle to long-run sustainable growth. We should have as our model something that is simpler, fairer and yes, flatter.

The Hutchinson-Brownback Tax Code Elimination Act will start the great national debate on how best to change our tax code in favor of one that is more equitable to all taxpayers and less complicated for everyone. Also, our bill will enable this debate to take place outside of the realm of petty demagoguery because it protects the important funding mechanisms for Social Security and Medicare. I believe that we have a commitment to ensure that we have a full, honest and open debate—our bill will give the Senate that opportunity.

I look forward to this important and historic debate as we prepare for the millennium and to a new century that I hope will provide the American people with a renewed sense of the American dream, with a renewed sense of what it means to be an American and what it means to live in America.

And now as we begin this process we should keep one other thing in mind: America is watching.

By Mr. FAIRCLOTH:

S. 1674. A bill to establish the Commission on Legal Reform; to the Committee on the Judiciary.

THE LEGAL REFORM COMMISSION ACT OF 1998

Mr. FAIRCLOTH. Mr. President, I rise to introduce a bill to create a national commission of nonlawyers—nonlawyers, to study legal reform. Nonlawyers, just regular people with a 2-year mandate to offer common sense proposals to reform the legal system. While I stand here, the Association of Trial Lawyers of America are holding their winter convention. It is not a week of hard work on behalf of the American people. No, they are at the Grand Wailea Resort & Spa, in Maui, HI. They are spending a week in the sun learning how to sue more people for more things. They are learning how to throw more American workers out of a job. They are learning how to take a 40 percent share of more lawsuits against small businesses. They are learning how to run the cost of doing business through the roof.

I have not been to this resort but I am sure that it is not a bare-bones rooming house. First-class flights to a five-star resort—that's what you get, and can afford, when you sue people for a living and take 40 percent of it.

Let me say a few words about my legal reform commission. This will not be a typical Washington commission; it will be made up entirely of nonlawyers. The legal system is overrun with abuses and we need fundamental reform. I want to see what a panel of average Americans who are not lawyers trained to split legal hairs, but think in common sense, will do with legal reform. We have heard all the stories about the $2.8 million award against the lady who spilled the McDonald's coffee. We have heard about a $4 million verdict because a BMW automobile was repainted. These are well known because they are outrageous. The coffee verdict was cut to $480,000 and the BMW verdict was reduced to $50,000. But the fact that millions of dollars were awarded and hundreds of thousands of dollars upheld in these outrageous cases simply highlights the problem.

Let me mention a few cases that did not get the same attention. A Pennsylvania man was fixing his barn roof and tried to get an extra lift by putting his ladder on top of a pile of frozen manure. When the manure thawed, the man fell and he sued the ladder manufacturer. Why? Because the ladder company did not warn him that manure would not withstand the weight of a ladder. Crazy? Sure, but a jury found the ladder maker negligent and awarded the man $330,000. This is the out-of-control, ridiculous problem that we are facing.

A teenager in New Hampshire tried to slam dunk—I think that is where you push the ball through the hoop—a basketball. He lost two teeth when he hit the net. He sued the net manufacturer. The company was forced to settle the case for $50,000 because they were afraid of a tort system run out of control.

These are the types of things that we simply have to stop. With these kinds of lawsuits and 40 percent of it, you can afford to be in Hawaii.

A lumberjack was killed when a 4,000-pound redwood tree fell on him. It was a tragedy, of course, but was it a lawsuit? His family sued the hard-hat maker. The trial lawyer argued that the hard hat was defective because it could not prevent damage from a 4,000-pound falling redwood tree.

Can you imagine how thick a hat would have to be to stand up under a 4,000-pound falling redwood tree? You couldn't put it on your head. You couldn't stand up with it on. But the company wound up paying $650,000 in a ludicrous suit. A hard hat was never intended to protect you from a falling redwood tree. More of the same type of thing.

I assume some of the people who are vacationing in Hawaii received 40 percent of the $650,000.

A Texas man who had a blood alcohol level of .09 more than 8 hours after he caused an accident—8 hours; in other words, he was .09 8 hours later, so he could have been way above that when he had the accident—claimed that the road caused his crash and sued the design firm for negligence. Here is a man falling down drunk 8 hours after the wreck and he sues the highway design firm that designed the road. This was despite the fact that he was speeding and ignored the detour sign. The 15-employee firm spent $200,000 to defend itself and was forced to finally give him $35,000. So the small design firm was out $235,000 because a drunk ignored a detour sign and was speeding.

Not only are these facts—and the pattern—outrageous, but the lawyers profit from their behavior. They take anywhere from 25 to usually over 40 percent of the recovery. It is totally a system out of control: greedy lawyers exploiting the law and their own clients for personal gain.

The tort system costs the people of this country more than $150 billion annually. That is more than 2 percent of our entire economy. It is a huge waste, and it is going to have to stop if we hope to compete in a global economy.

Mr. President, I want to see what a panel of average intelligent Americans will come up with, people with common sense who can look through the facade of these lawsuits. That is why I am introducing the Legal Reform Commission of 1998. And they start out with a big plus. There is no way they can do worse than what we already have.

By Mr. SHELBY (for himself and Mr. BOND);

S. 1675. A bill to establish a Congressional Office of Regulatory Analysis; to the Committee on Governmental Affairs.

THE CONGRESSIONAL OFFICE OF REGULATORY ANALYSIS ACT

Mr. SHELBY. Mr. President, I rise today to introduce the Congressional Office of Regulatory Analysis Act. This legislation would establish a small, professional office within the legislative branch charged with analyzing the potential impacts of Federal rules and regulations.

In April 1996, Congress passed and the President signed the Small Business Regulatory Enforcement Fairness Act. Included in this legislation was a provision known as the Congressional Review Act or CRA which established an expedited process for Congress to review and disapprove Federal agency regulations. Under the CRA, agencies are required to send their final regulations to Congress 60 days before they take effect, and they can be overturned by a joint resolution of disapproval that is signed by the President. At the time of enactment, this law was hailed as a way to rein in agencies and prevent the implementation of costly regulations with few practical benefits.

The legislation that I am introducing would give Congress the tools to fully implement the CRA and reduce the regulatory drain on our economy. Under current law, the potential impacts of new regulations are not systematically evaluated—a fact that I think would come as a surprise to most of our constituents. The Office of Information and Regulatory Affairs within OMB reviews regulations only to ensure that they conform to Administration policies and current law and that they do not interfere with the actions of other Federal agencies. However, this office has performed these minimal calculations on only a small fraction of the new rules promulgated in recent years. In addition, the General Accounting Office (GAO) was given some additional responsibilities under the CRA. GAO must now submit to Congress a checklist citing which reports an agency has or has not completed when developing a new rule. These reports are often incomplete or nonexistent, and Congress has little recourse for obtaining factual information in these instances.

For these reasons, I believe that a Congressional Office of Regulatory Analysis (CORA) is essential to allowing Congress to fulfill its oversight obligations. At present, Congress does not have any resources for objectively evaluating the potential costs and benefits of new regulations. CORA can provide those resources. While the executive branch has thousands of employees devoted solely to creating and enforcing regulations, Congress has few means of effectively overseeing those rules. Our committee staffs are already stretched to their limits, and they cannot possibly study and evaluate each and every regulation that comes out. We need a professional staff that is charged with analyzing regulations and providing Congress with its findings. By gaining access to this valuable information, Congress will then be able to decide whether or not to pursue further action under the CRA.

Specifically, CORA would analyze both the monetary and non-monetary effects of all new major regulations. Non-major rules would be evaluated at the request of committees or individual Members of Congress. In addition to providing information on costs and benefits, which are very important, CORA's analyses would also explore possible alternative approaches to achieving the same goals as the proposed regulation at a lower cost. Finally, this office would issue an annual report on the total cost of Federal regulations to the United States economy.

I believe that anything which costs the average American family $6,800 per year warrants very careful Congressional examination. Without the objective information that CORA can provide, oversight cannot properly be carried out.

Senator BOND, the chairman of the Small Business Committee, has joined me as a cosponsor of this legislation. I urge the rest of my colleagues to join us in establishing this office in order to ensure that future regulations do not place unnecessary burdens on the American public.

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. 1675

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 ''Congressional Office of Regulatory Analysis Act''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) Federal regulations can have a positive impact in protecting the environment and the health and safety of all Americans; however, uncontrolled increases in the costs that regulations place on the economy cannot be sustained;

(2) the legislative branch has a responsibility to see that the laws it passes are properly implemented by the executive branch;

(3) effective implementation of chapter 8 of title 5 of the United States Code (relating to congressional review of agency rulemaking) is essential to controlling the regulatory burden that the Government places on the economy; and

(4) in order for the legislative branch to fulfill its responsibilities under chapter 8 of title 5, United States Code, it must have accurate and reliable information on which to base its decisions.

(b) PURPOSE.—The purpose of this Act is to establish a congressional office to provide Congress with independent, timely, and reasoned analyses of existing and anticipated Federal rules and regulations, including—

(1) assessments of the need for, and effectiveness of, existing and anticipated Federal rules and regulations in meeting the mandates of underlying statutes;

(2) statements of the existing and projected economic and noneconomic impacts, including the impacts of reporting requirements, of such rules and regulations; and

(3) separate assessments of the effects of existing and anticipated regulations on segments of the public, such as geographic regions and small entities.

SEC. 3. ESTABLISHMENT OF OFFICE.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established a Congressional Office of Regulatory Analysis (hereafter in this Act referred to as the ''Office''). The Office shall be headed by a Director.

(2) APPOINTMENT.—The Director shall be appointed by the Majority Leader of the Senate and the Speaker of the House of Representatives without regard to political affiliation and solely on the basis of the Director's ability to perform the duties of the Office.

(3) TERM.—The term of office of the Director shall be 4 years, but no Director shall be permitted to serve more than 3 terms. Any individual appointed as Director to fill a vacancy prior to the expiration of a term shall serve only for the unexpired portion of that term. An individual serving as Director at the expiration of that term may continue to serve until the individual's successor is appointed.

(4) REMOVAL.—The Director may be removed by a concurrent resolution of Congress.

(5) COMPENSATION.—The Director shall receive compensation at a per annum gross rate equal to the rate of basic pay for a position at level III of the Executive Schedule under section 5314 of title 5, United States Code.

(b) PERSONNEL.—The Director shall appoint and fix the compensation of such personnel as may be necessary to carry out the duties and functions of the Office. All personnel of the Office shall be appointed without regard to political affiliation and solely on the basis of their fitness to perform their duties. The Director may prescribe the duties and responsibilities of the personnel of the Office, and delegate authority to perform any of the duties, powers, and functions of the Office or the Director. For purposes of pay (other than pay of the Director) and employment benefits, rights, and privileges, all personnel of the Office shall be treated as if they were employees of the Senate.

(c) EXPERTS AND CONSULTANTS.—In carrying out the duties and functions of the Office, the Director may procure the temporary (not to exceed one year) or intermittent services of experts or consultants or organizations thereof by contract as independent contractors, or, in the case of individual experts or consultants, by employment at rates of pay not in excess of the daily equivalent of the highest rate of basic pay under the General Schedule of section 5332 of title 5, United States Code.

(d) RELATIONSHIP TO EXECUTIVE BRANCH.—

(1) IN GENERAL.—The Director is authorized to secure information, data, estimates, and statistics directly from the various departments, agencies, and establishments of the executive branch of Government, including the Office of Management and Budget, and the regulatory agencies and commissions of the Government. All such departments, agencies, establishments, and regulatory agencies and commissions shall promptly furnish the Director any available material which the Director determines to be necessary in the performance of the Director's duties and functions (other than material the disclosure of which would be a violation of law).

(2) SERVICES.—Upon agreement with the head of any such department, agency, establishment, or regulatory agency or commission—

(A) the Director may use the services, facilities, and personnel with or without reimbursement of such department, agency, establishment, or commission; and

(B) the head of each such department, agency, establishment, or regulatory agency or commission is authorized to provide the Office such services, facilities, and personnel.

(e) RELATIONSHIP TO OTHER AGENCIES OF CONGRESS.—In carrying out the duties and functions of the Office, and for the purpose of coordinating the operations of the Office with those of other congressional agencies with a view to utilizing most effectively the information, services and capabilities of all such agencies in carrying out the various responsibilities assigned to each, the Director is authorized to obtain information, data, estimates, and statistics developed by the General Accounting Office, Congressional Budget Office, and the Library of Congress, and (upon agreement with them) to utilize their services, facilities, and personnel with or without reimbursement. The Comptroller General, the Director of the Congressional Budget Office, and the Librarian of Congress are authorized to provide the Office with the information, data, estimates, and statistics, and the services, facilities, and personnel, referred to in the preceding sentence.

(f) APPROPRIATIONS.—There are authorized to be appropriated to the Office for fiscal years 1998 through 2006 such sums as may be necessary to enable the Office to carry out its duties and functions.

SEC. 4. RESPONSIBILITIES.

(a) TRANSFER OF FUNCTIONS UNDER CHAPTER 8 FROM GAO TO OFFICE.—

(1) DIRECTOR'S AUTHORITY.—Section 801 of title 5, United States Code, is amended by striking ''Comptroller General'' each place it occurs and inserting ''Director of the Office''; and

(2) DEFINITION.—Section 804 is amended by adding at the end the following:

''(4) The term 'Director of the Office' means the Director of the Congressional Office of Regulatory Affairs established under section 3 of the Congressional Office of Regulatory Analysis Act.''.

(3) MAJOR RULES.—

(A) REGULATORY IMPACT ANALYSIS.—In addition to the assessment of an agency's compliance with the procedural steps for major rules described under section 801(a)(2)(A) of title 5, United States Code, the Office shall conduct its own regulatory impact analysis of such major rules. The analysis shall include—

(i) a description of the potential benefits of the rule, including any beneficial effects that cannot be quantified in monetary terms and the identification of those likely to receive the benefits;

(ii) a description of the potential costs of the rule, including any adverse effects that cannot be quantified in monetary terms and the identification of those likely to bear the costs;

(iii) a determination of the potential net benefits of the rule, including an evaluation of effects that cannot be quantified in monetary terms;

(iv) a description of alternative approaches that could achieve the same regulatory goal at a lower cost, together with an analysis of the potential benefit and costs and a brief explanation of the legal reasons why such alternatives, if proposed, could not be adopted; and

(v) a summary of how these results differ, if at all, from the results that the promulgating agency received when conducting similar analyses.

(B) TIME FOR REPORT TO COMMITTEES.—Section 801(a)(2)(A) of title 5, United States Code, is amended by striking ''15'' and inserting ''45''.

(4) NONMAJOR RULES.—The Office shall conduct a regulatory impact analysis, in accordance with paragraph (3)(A), of any nonmajor rule, as defined in section 804(3) of title 5, United States Code, when requested to do so by a committee of the Senate or House of Representatives, or individual Senator or Representative.

(5) PRIORITIES.—

(A) ASSIGNMENT.—To ensure that analyses of the most significant regulations occur, the Office shall give first priority to, and is required to conduct analyses of, all major rules, as defined in section 804(2) of title 5, United States Code. Secondary priority shall be assigned to requests from committees of the Senate and the House of Representatives. Tertiary priority shall be assigned to requests from individual Senators and Representatives.

(B) DISCRETION TO DIRECTOR OF OFFICE.—The Director of the Office shall have the discretion to assign priority among the secondary and tertiary requests.

(b) TRANSFER OF CERTAIN FUNCTIONS UNDER THE UNFUNDED MANDATES REFORM ACT OF 1995 FROM CBO TO OFFICE.—

(1) COST OF REGULATIONS.—Section 103 of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1511) is amended—

(A) in subsection (b), by striking ''the Director'' and inserting ''the Director of the Congressional Office of Regulatory Analysis''; and

(B) in subsection (c), by inserting after ''Budget Office'' the following: ''or the Director of the Congressional Office of Regulatory Analysis''.

(2) ASSISTANCE TO THE CONGRESSIONAL OFFICE OF REGULATORY ANALYSIS.—Section 206 of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1536) is amended—

(A) by amending the section heading to read as follows: ''sec. 206. assistance to the congressional office of regulatory analysis.''; and

(B) in paragraph (2), by striking ''the Director of the Congressional Budget Office'' and inserting ''the Director of the Congressional Office of Regulatory Analysis''.

(c) OTHER REPORTS.—In addition to the regulatory impact analyses of major and nonmajor rules described under subsection (a), the Office shall issue an annual report on an estimate of the total cost of Federal regulations on the United States economy.

SEC. 5. EFFECTIVE DATE.

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

Mr. BOND. Mr. President, I rise today to join my distinguished colleague from Alabama Senator RICHARD SHELBY in sponsoring legislation to restore Congressional accountability to the regulatory process and improve the likelihood that Federal agencies will be more accountable to the voters for their rulemaking actions. The authority Congress has delegated to these agencies is the source of their power to issue rules, regulations, guidelines and the like. While this delegation of authority to Federal bureaucracies may be a necessary evil until we can make more progress to reduce the size and scope of government's expanded role in our daily lives, this unfortunate regulatory state of affairs calls for increased oversight and renewed involvement by the elected officials who pass the legislation that empowers the bureaucracy.

The size of the regulatory burden is staggering. According to a study for the Small Business Administration by Thomas D. Hopkins, an Adjunct Fellow of the Center for the Study of American Business in St. Louis, the direct, annual cost of regulatory compliance in 1997 was $688 billion—which is approximately $6,875 each year for a family of four. At the same time Congress exercises fiscal restraint in order to achieve a balanced budget, we must also be vigilant to ensure that the Federal government does not impose additional ''hidden taxes'' in the form of regulatory costs on American citizens.

As Chairman of the Senate Committee on Small Business, I have worked especially hard to reduce the burden imposed by government regulations on our nation's small businesses. In 1996, legislation I authored was enacted as an important step in our efforts to reduce red tape and increase fairness in the treatment of small businesses by Federal agencies. Enactment of this law was a victory for small business and for the consumers and workers who rely on small businesses for goods, services and jobs. Because the Small Business Regulatory Enforcement Fairness Act offers such great potential for improving the regulatory landscape, we refer to it as the ''Red Tape Reduction Act.''

The bill Senator Shelby and I are introducing today builds on the work initiated by the Red Tape Reduction Act. Specifically, Subtitle E of that important law, known as the Congressional Review Act (CRA), enhances the ability of Congress to serve as a backstop against excessive regulations. Senators NICKLES and REID sponsored the CRA portion of the Red Tape Reduction Act to provide a new process for Congress to review and disapprove new regulations and to make sure regulators are not exceeding or ignoring the Congressional intent of statutory law.

Despite strong support for the CRA, Congress thus far has been hesitant to use the streamlined procedures for reviewing a regulation provided under the CRA. In fact, since enactment of the Congressional Review Act, more than 7,400 new regulations have been issued—on average 25–30 per day. While many of these rules are routine and others certainly would have survived Congressional scrutiny, the fact remains that more than 110 major final rules have been issued, each having an annual affect on the economy of $100 million or more.

In the 104th Congress, one of two resolutions of disapproval introduced in the Senate reached the floor for a vote and was defeated. In the 105th Congress, only one resolution of disapproval has been introduced in the Senate. Consequently, Congress has been criticized for not fulfilling its role under the CRA. The fact is that, without a separate, reliable, source of in-depth analysis of these new rules, Congress has been limited in its ability to exercise its new authority over these rules. With Federal regulations costing our constituents $688 billion last year, and proposed and final rules accounting for more than 68,000 pages in the Federal Register in 1997 alone, it is time for Congress to take aggressive steps to ensure that the regulations flowing from Congressionally-passed legislation are fairly and reasonably fulfilling the purposes Congress intended.

To provide Congress with the information needed to review new regulations and access whether a resolution of disapproval under the CRA should be considered. Senator SHELBY and I are today introducing legislation to create a Congressional Office of Regulatory Analysis (CORA). CORA would provide an objective source of regulatory analysis to assist Congress in its review of new regulations. This small office will provide the missing information required by Congress to utilize better the potential oversight powers provided under the CRA.

Patterned after the Congressional Budget Office, but on a smaller scale, CORA would be a professional, nonpartisan office, using available information to analyze major and nonmajor regulations. The sponsor of the companion bill in the other body estimates the cost of such an office at $5 million, comparable to the Office of Management and Budget's Office of Information and Regulatory Affairs (OIRA). Consistent with the limited resources available to CORA, the bill places first priority on analysis of major rules, second priority on nonmajor rules recommended for analysis by a Congressional Committee, and third priority on non-major rules recommended for review by individual Members of Congress.

The bill we introduce today also would consolidate within CORA certain activities assigned to the Congressional Budget Office under the Unfunded Mandates Reform Act of 1995 and the Governmental Accounting Office under the Congressional Review Act. This would provide Congress with one office, dedicated to the analysis of regulations and their costs. Finally, the bill instructs CORA to provide an annual report on the estimated total cost of regulations—a valuable piece of information the Administration failed to provide adequately despite Congress requiring such a regulatory accounting.

With regulation expanding, Congress must re-take the reigns of accountability and good governance. CORA provides an essential tool in that effort and is consistent with the advances made by Congress in passing the Red Tape Reduction Act, the Congressional Review Act, and Unfunded Mandates Reform Act. I urge all my colleagues to review this legislation and join in our efforts to ensure that Congress has the information it needs to fulfill its responsibilities under the Congressional Review Act and the Constitution.

By Ms. MOSELEY-BRAUN:

S. 1676. A bill to amend section 507 of the Omnibus Parks and Public Land Management Act of 1996 to provide additional funding for the preservation and restoration of historic buildings and structures at historically black colleges and universities, and for other purposes; to the Committee on Energy and Natural Resources.

HISTORICALLY BLACK COLLEGES AND UNIVERSITIES LEGISLATION

Ms. MOSELEY-BRAUN. Mr. President, today I am pleased to introduce legislation to protect and preserve some of our Nation's most important historic landmarks that are at risk of being lost forever. I speak of buildings located on the campuses of our Nation's 103 historically black colleges and universities. Like so much of our infrastructure, many of the buildings that make up these schools are literally falling down.

Our Nation's HBCUs have promoted academic excellence for over 130 years. They have produced some of our Nation's most distinguished leaders, including Dr. Martin Luther King, Jr., Thurgood Marshall, our former colleague Harris Wofford, and many current Members of Congress. These schools have distinguished themselves in the field of higher education over the years by maintaining the highest academic standards while increasing educational opportunities for economically- and socially-disadvantaged Americans, including tens of thousands of African-Americans.

Although they represent only three percent of all U.S. institutions of higher education, HBCUs graduate 33 percent of all African-Americans with bachelor's degrees and 43 percent of all African-Americans who go on to earn their Ph.D.'s.

Nonetheless, in order to meet the educational needs of these promising individuals, these schools have had to keep their tuition and fees well below those at comparable institutions. The average tuition and fees charged by private historically black colleges and universities, for example, is less than half the average charged by private colleges nationwide.

HBCUs have also had to keep their costs low in order to increase financial aid for their students, who are disproportionately more dependent on financial aid than students at other U.S. colleges. A study by the United Negro College Fund found that 90 percent of students at private historically black colleges and universities require financial aid, compared with 65 percent of private college students nationally. The study also found that nearly one-half of these students come from families earning less than $25,000.

Given that historically black colleges and universities have found it increasingly difficult to support student aid, it should not be surprising that they are unable to restore and preserve the historic landmarks that sit on their campuses.

According to a new report being released today by the U.S. General Accounting Office, $755 million are needed to restore and preserve 712 historic structures on the campuses of historically black colleges and universities. 323 of these structures are already on the National Register of Historic Places. The others are either eligible for the National Register on the basis of State historic preservation officers' surveys or are considered historic by the colleges and universities.

Some HBCUs have large numbers of historic properties. Talladega College, for example, has 32 properties on the Historic Register and one additional properties eligible for the Historic Register. The college needs $13,239,000 in order to restore and preserve these facilities.

One of these buildings is Swayne Hall, Talladega's first building. Swayne Hall, which is on the National Register, was built with slave labor in 1852 for the Talladega Baptist Male High School, and later was used to house Federal prisoners during the Civil War. Two of the slaves who helped build Swayne Hall later went on to found Talladega College. Swayne Hall now houses three floors of classrooms and offices, and needs $1.5 million worth of repairs and refurbishment.

Congress authorized $29 million under the Omnibus Parks and Public Lands Management Act of 1996 to fund restoration of certain historic buildings on HBCU campuses, including Swayne Hall. Last year, $4 million was appropriated for this purpose. In addition, Congress has provided $4.3 million over the years to the National Park Service to restore other historic properties on the campuses of HBCUs.

Those actions, while helpful, do not come close to addressing the needs of HBCUs around the country. The legislation I am introducing today will meet those needs. It authorizes the Secretary of the Interior to award $377.5 million to HBCUs to restore and preserve their historic properties. The bill preserves the matching ratio that currently exists, so that when these Federal funds are matched, dollar-for-dollar, HBCUs will have the funds to restore and preserve all their historic structures.

This legislation will help protect the national treasures found on the campuses of our historically black colleges and universities, and will ensure that these schools can continue to provide a quality education in the 21st century. I urge all of my colleagues to cosponsor this important legislation.

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

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

S. 1676

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

SECTION 1. ADDITIONAL FUNDING FOR BUILDINGS AND STRUCTURES AT HISTORICALLY BLACK COLLEGES AND UNIVERSITIES.

Section 507 of the Omnibus Parks and Public Land Management Act of 1996 (16 U.S.C. 470a note; 110 Stat. 4156) is amended by striking subsection (d) and inserting the following:

"(d) FUNDING.—

"(1) AUTHORIZATION OF ADDITIONAL APPROPRIATIONS TO THE HISTORIC PRESERVATION FUND.—In addition to other funds covered into the Historic Preservation Fund under section 108 of the National Historic Preservation Act (16 U.S.C. 470f) or under any other law, there is authorized to be appropriated to the Historic Preservation Fund $377,500,000 for fiscal years beginning after fiscal year 1998.

"(2) AVAILABILITY TO CARRY OUT THIS SECTION.—For fiscal years beginning after fiscal year 1998, $377,500,000 shall be made available pursuant to section 108 of the National Historic Preservation Act (16 U.S.C. 470f) to carry out this section.".

By Mr. CHAFEE (for himself, Mr. KEMPTHORNE, Mr. BAUCUS, Mr. BOND, Mr. REID, Mr. MOYNIHAN, Mr. LIEBERMAN, Mr. WARNER, Mr. SMITH of New Hampshire, Mrs. BOXER, Mr. SESSIONS, Mr. ALLARD, Mr. GRAHAM, Mr. WYDEN, Mr. LAUTENBERG, Mr. HUTCHINSON, Mr. THOMAS, Mr. REED, Mr. FAIRCLOTH, Mr. JEFFORDS, Mr. BREAUX, Mr. STEVENS, and Mr. COCHRAN):

S. 1677. A bill to reauthorize the North American Wetlands Conservation Act and the Partnerships for Wildlife Act; to the Committee on Environment and Public Works.

THE NORTH AMERICAN WETLANDS CONSERVATION ACT REAUTHORIZATION ACT OF 1998

Mr. CHAFEE. Mr. President, I am proud to introduce a bill to reauthorize the North American Wetlands Conservation Act (NAWCA), a law that has played a major role in conservation of wetland habitats across this continent. I am joined by many members of the Committee on Environment and Public Works.

This tremendous showing of bipartisan support is nothing less than a celebration of one of the great success stories in wildlife conservation. This is a story about the recovery of more than 30 species of ducks, geese, and other waterfowl and migratory birds from their lowest population numbers just 12 years ago, to some of their highest population numbers this year.

To appreciate why NAWCA is such a success, it is necessary to review its background. In the early 1980s populations of duck and other waterfowl plummeted precipitously. The numbers were stark: between the 1970s and 1985, breeding populations of ducks dropped an average of 31 percent, with some species declining by as much as 61 percent. This decline was due to several factors, including over-hunting, loss of habitat, and an extended drought in many parts of the country.

In 1986, the U.S. and Canada worked cooperatively to develop the North American Waterfowl Management Plan. Mexico joined the Plan in 1994, so that the entire continent now participates in this effort. The Plan established ambitious goals and innovative strategies for conserving waterfowl habitat. Under the leadership of former Senator George Mitchell of Maine, Congress provided a funding mechanism for the Plan when it passed the North American Wetlands Conservation Act in 1989.

I believe that NAWCA has been successful for three reasons. First, NAWCA focuses on the real key to wildlife conservation: the habitat itself. Populations of birds and other wildlife will fluctuate naturally over time, but if the habitat is not there, the species don't have a chance. Under NAWCA, approximately 3.7 million acres of wetlands and associated wetlands have been acquired, enhanced or restored.

Second, the law sets up voluntary partnerships, without the heavy hand of government regulations. These partnerships involve federal, state and local government agencies, businesses, conservation organizations, and private individuals. Under NAWCA, funding has been provided for about 260 projects, with more than 700 partners—across 45 states—plus Mexico and Canada.

Third, NAWCA leverages federal dollars with state, local and private dollars. Since its passage, the Act has provided more than $200 million in Federal funds, that have been matched by more than $420 million in state and private funds.

The benefits of NAWCA and other wetlands protection programs —combined with a few years of heavy rainfall—have been enormous. Populations of ducks and other waterfowl have, in large measure, rebounded to the levels of the 1970s. Every year since 1995 has been billed as a ''banner year,'' and each year the numbers are even greater than the previous one. This past year's fall migration totaled 92 million ducks, the highest since 1972, and surveys counted 42 million breeding ducks, the highest level since the surveys began in 1955.

Also, wetlands losses, while still occurring, have declined dramatically: the rate of loss has slowed by 60 percent below that experienced in the 1970s and 1980s. This is a result of regulatory protections under the Clean Water Act and, perhaps even more, voluntary programs like NAWCA and the Wetlands Reserve Program in the Farm Bill.

But our conservation successes are no reason for complacency. More can and should be done. Each year, good projects must be turned down because there is not enough funding. In addition, abundant rainfall has helped the waterfowl populations rebound, but it is up to us to maintain these population increases when the rainfall abates. Lastly, the pressure to develop wetlands continues to grow each year. By the year 2020, more than half the U.S. population will live in coastal plains. Laws like NAWCA will become ever more important in protecting these areas.

Support for NAWCA has always crossed party lines. In 1996, 78 Senators signed a letter supporting the North American Wetlands Conservation Act. The need for a healthy environment is a need that transcends politics. With support for laws like NAWCA, we can meet today's challenges and protect the environment for the benefit of our children, and future generations after them.

The bill we are introducing also reauthorizes the Partnerships for Wildlife Act. This law was first enacted in 1992 to encourage partnerships among the Service, state agencies, and private organizations and individuals to undertake projects to conserve non-game wildlife species. It is modeled after NAWCA, and is the only Federal grants program for the sole purpose of benefiting non-game species—species that are not hunted, fished, or trapped. Projects funded under the Act have covered numerous species across 40 States, and have entailed management programs, research, education and outreach. Since 1994, Federal funding for grants has totaled $4.2 million. States leverage each Federal dollar with one State dollar and one additional private-sector dollar.

The bill would reauthorize the North American Wetlands Conservation Act through the year 2003, at a level of $30 million per year. It would also reauthorize the Partnerships for Wildlife Act through the year 2003, at a level of $6.25 million per year. These amounts are the same in the current laws, which expire at the end of 1998.

I urge my colleagues to fully support this bill. Thank you, Mr. President.

By Mr. FEINGOLD (for himself and Mr. HOLLINGS):

S. 1678. A bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to extend and clarify the pay-as-you-go requirements regarding the Social Security trust funds; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, as modified by the order of April 11, 1986, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

THE SOCIAL SECURITY TRUST FUND PROTECTION ACT OF 1998

Mr. FEINGOLD. Mr. President, I am pleased to join my good friend, the Senator from South Carolina (Mr. HOLLINGS) in offering the Social Security Trust Fund Protection Act of 1998, legislation extending our current PAYGO budget rules, and clarifying that Congress may not use so-called budget surpluses to pay for tax cuts or new spending when those surpluses are really Social Security Trust Fund balances.

Mr. President, it gives me particular pleasure to join with Senator HOLLINGS in offering this bill. Both in this body and in the Budget Committee, he has been a consistent voice for fiscal prudence in this body.

Mr. President, fiscal prudence is popular in theory, but often less attractive in practice. Senator HOLLINGS has taken tough positions, even when those positions may not have been politically attractive. That is the true measure of commitment to honest and prudent budgeting, and I am proud to join him in this effort today. I am also pleased to be introducing a measure which is similar in many respects to a measure introduced in the other body by Congressman MINGE, who has an outstanding record of working in a bipartisan manner to bring fiscal discipline to the budget.

The Minge bill, too, seeks to prevent the irresponsible use of Social Security Trust Fund balances, and I very much look forward to working with the Congressman to advance these proposed budget rules.

Mr. President, we are entering a budget era of transition. For decades, Congress and the White House ran up huge deficits, producing a mounting national debt. For the past few years, we have worked to bring down those deficits. Those efforts have paid off, in large part, and we are now about to consider something Congress has not seen in 30 years—a unified budget submitted by the President that actually reaches balance.

Mr. President, if we can work together to pass a balanced unified budget this year that will be a notable accomplishment, and it deserves to be highlighted. But, Mr. President, even if we do pass a balanced unified budget this year, that is not the end of our work. Balancing the unified budget isn't a touchdown. It's more like first and ten at mid-field. It's not a bad place to be, but we still have a way to go.

But, Mr. President, some act as if the goal posts are really on the 50; that all we have to do is balance the unified budget and we've scored a touchdown. They want to declare victory once the unified budget is in balance, and use any projected unified budget surpluses for increased spending or tax cuts. Just last week, a member of this body was reported to have complained about needing to find offsets for tax cuts. The implied intention of that member was to support a large tax cut without also cutting enough spending to fully pay for the tax cut. Instead, the unspoken intention of this member was to rely on a projected surplus in the unified budget as an offset.

Mr. President, that would be a grave mistake. As the President cautioned us during his State of the Union address, we should not touch the unified budget surplus. In fact, that admonition may have been just as important as the achievement of proposing the first balanced unified budget in 30 years.

Mr. President, while I strongly agree with the President's comments, I approach this matter from a different perspective. There are many of us who do not view the unified budget as the appropriate measure of our Nation's budget.

In particular, I want to acknowledge my fellow Budget Committee colleagues, Senators HOLLINGS and CONRAD, for their consistent warnings to the body on this very issue.

Mr. President, as I have noted before, the unified budget is not the budget which should guide our policy decisions. The projected surpluses in the unified budget are not real. In fact, far from surpluses, what we really have are continuing on-budget deficits, masked by Social Security revenues. The distinction is absolutely fundamental. As I have noted before, the very word ''surplus'' connotes some extra amount or bonus. One dictionary defines ''surplus'' as: ''something more than or in excess of what is needed or required.''

Mr. President, the projected unified budget surplus is not ''more than or in excess of what is needed or required.''

Those funds are needed. They were raised by the Social Security system, specifically in anticipation of commitments to future Social Security beneficiaries. Mr. President, let me just note that the problem of using Social Security trust fund balances to mask the real budget deficit is not a partisan issue.

Both political parties have used this accounting gimmick—here in Congress and in the White House. But it must stop, and this legislation can help us stop it.

Mr. President, budget rules cannot by themselves reduce the deficit, but they can protect what has been achieved and guard against abuse. The PAYGO rule governing entitlements and taxes, along with the discretionary spending caps, have kept Congress disciplined and on track. The bill we are introducing today ensures the PAYGO rule continues to require new entitlement spending or tax cuts are fully paid for.

Our bill clarifies current PAYGO procedures to remove any doubt that tax cuts or increased spending must continue to be offset. It extends the PAYGO rule, which currently covers legislation enacted through 2002, until we are no longer using Social Security to mask the deficit. Under our bill, Congress could not use a so-called surplus until it is real, namely when the budget runs a surplus without using Social Security Trust Funds.

Mr. President, earlier I said we are in a budget era of transition. With some hard work this year, we can leave the years of unified budget deficits behind us. And with some more work, we can move toward real budget balances without using Social Security revenues. Mr. President, that must be our highest priority.

If Congress does not begin to rid itself of its addiction to Social Security trust fund balances, we will put the benefits of future retirees at serious risk. Fortunately, Mr. President, we are within reach of the goal of balancing the budget without using the Social Security trust funds. If we stay the course, and continue the tough, sometimes unpopular work of reducing the deficit, we can give this Nation an honest budget, one that is truly balanced. And the time to act is now.

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. 1678

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 ''Social Security Trust Fund Protection Act of 1998''.

SEC. 2. EXTENSION AND MODIFICATION OF PAY-AS-YOU-GO REQUIREMENT.

(a) EXTENSION.—(1) Section 252(a) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking ''enacted before October 1, 2002,'' both places it appears.

(2) Section 275(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking the last sentence.

(b) MODIFICATION.—(1) Section 250(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following new paragraph:

''(20) The term 'budget increase' means, for purposes of section 252, an increase in direct spending outlays or a decrease in receipts relative to the baseline, and the term 'budget decrease' means, for purposes of section 252, a decrease in direct spending outlays or an increase in receipts relative to the baseline.''.

(2) Section 252(a) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(A) by striking ''increases the deficit'' and inserting ''results in a net budget increase''; and

(B) by inserting before the period the following: ''except to the extent that the total budget surplus exceeds the social security surplus''.

(3) Section 252(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(A) in its side heading by inserting ''AND AMOUNT'' after ''TIMING''; and

(B) by striking ''net deficit increase'' and inserting ''net budget increase'' and by adding at the end the following new sentence: ''The requirement of the preceding sentence shall apply for any fiscal year only to the extent that the surplus, if any, before the sequestration required by this section in the total budget (which, notwithstanding section 710 of the Social Security Act, includes both on-budget and off-budget Government accounts) is less than the combined surplus for that year in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund.''.

(4) Section 252(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(A) in its side heading by striking ''DEFICIT INCREASE'' and inserting ''NET BUDGET INCREASE'';

(B) by striking ''deficit increase or decrease'' the first place it appears and inserting ''any net budget increase''; and

(C) by striking ''any net deficit increase or decrease in the current year resulting from''.

(5) The side heading of section 252(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking ''DEFICIT INCREASE'' and inserting ''NET BUDGET INCREASE''.

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

S. 1680. A bill to amend title XVIII of the Social Security Act to clarify that licensed pharmacists are not subject to the surety bond requirements under the medicare program; to the Committee on Finance.

PROVIDING PARITY FOR LICENSED PHARMACISTS LEGISLATION

Mr. DORGAN. Mr. President, I am introducing today legislation that will exempt licensed pharmacists from the Medicare surety bond requirement imposed by the Balanced Budget Act of 1997 for suppliers of durable medical equipment (DME). I am pleased to be joined in offering this legislation by Senators JOHNSON, CONRAD, and DASCHLE.

Let me say right off that I understand and generally support the rationale behind the surety bond requirement. This will be an important new tool for the Health Care Financing Administration to prevent Medicare fraud and abuse by raising the threshold for participating in Medicare and thereby helping to ensure that only legitimate medical suppliers participate. I am sure we have all heard the horror stories about some of the scams uncovered by the HHS Office of Inspector General, in which businesses with no employees and no actual physical location were billing Medicare for unneeded services and supplies. It was these kinds of ''fly-by-night'' operations that the surety bond is intended to weed out, and I certainly support this goal.

I do not, however, think it makes sense to apply this requirement to pharmacists, who are already licensed and heavily regulated by the states, and I do not believe that was Congress' intention. Pharmacists are highly skilled health care providers who are licensed by the states, and the pharmacies they operate are also licensed and regularly inspected by state boards of pharmacy. Clearly, pharmacists are not the kind of fly-by-night business owners the surety bond was aimed at.

Congress already exempted physicians and other health care practitioners from the surety bond requirement, but HCFA has determined that this exemption does not extend to pharmacists since they do not typically bill Medicare for the services they provide. My legislation would simply ensure that pharmacists receive the same treatment as other licensed health care practitioners for purposes of the DME surety bond requirement.

Without this legislation, older Americans stand to lose access to needed durable medical equipment and prescription drugs. Pharmacies are reputable and convenient providers of medical equipment, and in many rural areas, they are the only local medical suppliers. In addition, since HCFA now requires that prescription drugs covered by Medicare be purchased from a pharmacy, driving pharmacies out of Medicare will reduce patient access not only to medical equipment but also to prescription drugs.

Pharmacies dropping out of the Medicare program is not an unjustifiable fear; it may be an economic reality. For the vast majority of pharmacies, providing durable medical equipment constitutes less than 10 percent of their total business. Yet, they provide this service for the convenience of their Medicare customers. If required to purchase even the minimum surety bond of $50,000, pharmacists have told me they will be forced to drop out of the Medicare program because it would actually cost them money to participate. For instance, in an informal survey of North Dakota pharmacists, 75 percent did less than $5,000 in business annually as a Medicare supplier, and not coincidentally, 70 percent said they would have to drop out of Medicare if they must purchase a surety bond.

I am pleased to have worked with and have the support of the National Community Pharmacists Association, the American Pharmaceutical Association, the North Dakota Pharmaceutical Association, and many individual pharmacists. I ask unanimous consent that letters of support from these organizations be included in the RECORD.

I hope my colleagues will join me in supporting this common-sense bill and acting on it promptly before Medicare beneficiaries lose access to dependable suppliers of medical equipment.

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

S. 1680

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

SECTION. 1. EXEMPTION OF LICENSED PHARMACISTS FROM SURETY BOND REQUIREMENTS.

(a) IN GENERAL.—The last sentence of section 1834(a)(16) of the Social Security Act (42 U.S.C. 1395m(a)(16)) (as added by section 4312(c) of the Balanced Budget Act of 1997 (Public Law 105–33; 111 Stat. 387)) is amended by inserting before the period at the end the following: '', except that the Secretary may not impose a surety bond described in subparagraph (B) of that sentence on suppliers that are licensed pharmacies for which the person signing the supplier application is a licensed pharmacist under State law who has the authority to bind the business entity''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect as if included in the enactment of the Balanced Budget Act of 1997 (Public Law 105–33; 111 Stat. 251).

NATIONAL COMMUNITY PHARMACISTS ASSOCIATION,
Alexandria, VA, December 16, 1997.

Hon. BYRON L. DORGAN,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR DORGAN: We are especially appreciative of your initiative to amend the recently enacted Medicare Provider Surety Bond program to exempt licensed pharmacists who supply Medicare beneficiaries with covered products. We have worked closely with Stephanie Mohl and the North Dakota Pharmacist Association and look forward to a sensible solution that will assure continued access for Medicare beneficiaries and is consistent with the exemption for other licensed health care providers.

If appropriate we can target your legislation in early March at our 30th Annual Legislative Conference.

Warm Regards,

JOHN M. RECTOR, Esq.,
Senior Vice President of Government Affairs and General Counsel.

AMERICAN PHARMACEUTICAL ASSOCIATION,
Washington, DC, January 28, 1998.

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

DEAR SENATOR DORGAN: The American Pharmaceutical Association (APhA), the national professional society of pharmacists, would like to express its support for your legislation to exempt pharmacists from the surety bond requirement for Medicare suppliers of durable medical equipment. APhA, the first established and largest association of pharmacists in the United States, has a membership of more than 50,000 practicing pharmacists, pharmaceutical scientists, and pharmacy students. This requirement will have serious consequences for both pharmacists and their patients as many pharmacies who bill Medicare for less than the required $50,000 bond amount will be unable to continue supplying beneficiaries with much needed durable medical equipment. In addition, the bonding requirement would impose a regulation upon a health care profession that is already licensed and regulated by State Boards of Pharmacy.

APhA appreciates the work you and your staff have expended to exempt pharmacists from this additional regulation. As you know, congressional conferees specifically indicated in report language for the Balanced Budget Act of 1997 that they did not intend for this regulation to be imposed upon health care professionals. Unfortunately, the proposed rules issued by the Health Care Financing Administration (HCFA) do not reflect this intent. APhA believes that your legislation is an important first step towards realizing the intentions of the Conferees.

Please feel free to contact Lisa Geiger of my staff should you require any assistance from APhA and its members. Again, thank you for your work on this important issue for the profession of pharmacy.

Sincerely,

JOHN A. GANS,
PharmD, Executive Vice President.

NORTH DAKOTA PHARMACEUTICAL ASSOCIATION,
Bismarck, ND, January 26, 1998.

Hon. BYRON DORGAN,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR DORGAN: This letter is to inform you of the strong support of the North Dakota Pharmaceutical Association for the introduction of legislation to exempt pharmacists and certain other licensed health care providers from the DMEPOS Surety Bond requirement. This requirement is a result of the Balanced Budget Act of 1997. The exemption for licensed pharmacists will place them in the same position as physicians and other practitioners who are currently exempted from the requirement.

Now that HCFA has published the rules notice for Medicare DME suppliers, we can see that our members are faced with a very difficult situation. In the proposed rules, HCFA estimates that the minimum $50,000 bond will cost approximately $788—an amount greater than we had originally heard from the bonding companies. In the proposed rules HCFA estimated that Medicare accounts for approximately 40% of the average supplier's revenue and that for most suppliers the additional costs of the bond would be outweighed by the benefits gained by continuing to be a supplier. A survey of our members showed that these figures certainly do not apply to the pharmacists of North Dakota who act as suppliers. Approximately 75% of pharmacists responding to the survey did less than $5,000 business annually as a Medicare supplier. Less than 5% indicated doing more than $25,000 in Medicare business. When asked if they would continue providing Medicare supplies if bond costs were $400–500, almost 70% indicated that they would drop out of the Medicare program.

The bonding requirement will drive a number of pharmacies out of the Medicare supplier business. Those who stay will essentially be paying a bonding fee that exceeds their revenue from the Medicare program. In North Dakota rural areas, the local pharmacy is a supplier that can be relied upon to obtain supplies for Medicare eligible patients. While provision of these supplies is not even a profitable portion of pharmacists' business under the present circumstances, it is an important service that they provide to their patients and community. The surety bond requirement will cause patients to lose access to a local supplier with the ability to assist them in a place and manner that is most convenient. Quality of health care outcomes for these patients will suffer.

We feel that you are taking the right approach with legislation to exempt pharmacists from the DME supplier surety bond requirement on the same basis as other licensed health care practitioners. The pharmacists of North Dakota are personally licensed and regulated by the State Board of Pharmacy. The Board also licenses the pharmacy facilities where they practice. These licensure provisions along with other requirements for insurance and state accountability insure that pharmacists doing business as Medicare suppliers are already sufficiently screened and regulated.

Our Association feels that legislation to exempt pharmacists from surety bond requirements is very significant to our profession and we will support your efforts to the fullest. More significantly it will preserve high quality local access service to Medicare beneficiaries in all rural areas and under served areas of our country. This action will be a benefit for Medicare patients at a time when our population is aging and access to services must be maintained. Please let us know what additional actions we can take to assist you on this issue. Thank you for all the efforts that you make on behalf of pharmacy and for the patients we serve.

Sincerely,

GALEN JORDRE,
R.Ph., Executive Vice President.

Mr. JOHNSON. Mr. President, today I am pleased to join my colleagues from North Dakota, Senators DORGAN and CONRAD, and our distinguished Minority Leader and my friend from South Dakota, Senator DASCHLE, in introducing this legislation which will clarify that licensed pharmacies are not included, nor were they ever intended to be included, in the surety bond requirements imposed on certain health care providers under the Balanced Budget Act of 1997. At a time when we are properly addressing the rise in fraud and abuse of the Medicare system, we must also be cognizant of the impact some of these efforts will have on the intended beneficiaries of Medicare. This misapplication of the surety bond requirement is one such circumstance, and I urge my colleagues to join us in clarifying that licensed pharmacies were not intended to be in the scope of the surety bond requirement.

While the vast majority of health care providers are honest and do their best to comply with Medicare rules, repeated studies have found a great amount of Medicare fraud within the national system—some estimates would place the cost to the American taxpayers at an incredible $24 billion per year. These are dollars that could be used to better compensate honest health care providers, or expand Medicare coverage. I have always been supportive of, and will continue to strongly support, these efforts to crack down on fraud and abuse. We must continue our efforts in that regard.

As part of the effort to curb fraud and abuse in the Medicare system, last year Congress enacted a $50,000 surety bond requirement for home health agencies, Durable Medical Equipment (DME) providers, rehabilitation services providers and ambulance services. The law was aimed at fly-by-night home health agencies and DME providers who abuse the system, and not small rural pharmacies. Unfortunately, these pharmacies have been caught up in this broadly written provision of last year's budget reconciliation.

Under the definitions incorporated in this surety bond provision, all pharmacies are considered to be DME providers if even a small portion of their business is DME-related. Thus, they must obtain a minimum $50,000 surety bond regardless of how much or how little of their business consists of providing durable medical equipment to Medicare beneficiaries.

The surety bond requirement is intended to ensure that the federal government will have recourse in the event of fraud. Many of the perpetrators of fraud and abuse are fly-by-night organizations that can quickly disappear. Many rural pharmacies, however, only offer DME as a service to their Medicare patients. It is not a major profit center for them, and many will stop providing this service rather than undergo the expense of obtaining a minimum $50,000 bond. Rural Medicare patients would then have greater difficulty in obtaining needed DME.

The surety bond requirement attacks fraud indirectly, by mandating financial accountability. Pharmacies engaging in fraud will still be liable for their actions. This bill would clarify that the federal surety bond requirement does not apply to licensed pharmacies. It allows states to enforce their own licensing requirements, which can include surety bonds if states feel it necessary.

Mr. President, while we must continue our efforts to root out the fraud and abuse that is plaguing our Medicare system, this important clarification will help ensure that our efforts are appropriately targeted and do not have the unintended consequence of denying critical services to Medicare beneficiaries, and I urge my colleagues to support our efforts and to support this bill.

Mr. DASCHLE. Mr. President, it is my pleasure today to join my colleagues, Senator DORGAN, Senator CONRAD and Senator JOHNSON, in introducing legislation to clarify that licensed pharmacists are not subject to a surety bond requirement under the Medicare program. This bill will help ensure continued access to durable medical equipment (DME) in rural areas for those covered by Medicare.

The Balanced Budget Act of 1997 requires that all DME suppliers purchase a surety to qualify for a supplier number. The minimum amount for the bond is $50,000. The Health Care Financing Administration has estimated that these bonds will cost about $788 per year for each supplier. Many South Dakota pharmacists do not take in sufficient revenue from Medicare DME sales to support the purchase of a bond. Therefore, the surety bond requirement in the Balanced Budget Act could severely compromise the availability of services for Medicare patients in rural areas.

The surety bond requirement was established as an important way to combat Medicare fraud and abuse. I remain in strong support of efforts to combat fraud and abuse, because they are crucial to protecting and strengthening the Medicare program. Because the ultimate aim of fraud and abuse measures is to improve Medicare, they should be applied in ways that are consistent with the goal of quality health care and should not jeopardize access to necessary services and supplies.

This legislation retains the surety bond requirement for many DME suppliers, but it exempts licensed pharmacists. This policy is not only logical in terms of fairness to these pharmacists; it is the right thing to do for the beneficiaries who depend on their services.

I urge my colleagues to join me in support of this amendment to title XVIII of the Social Security Act. It will lift an unreasonable burden from small pharmacists without jeopardizing fraud and abuse prevention efforts, and it will enable pharmacists to continue to provide quality health care services in their local communities.

ADDITIONAL COSPONSORS

S. 1096

At the request of Mr. KERREY, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1096, a bill to restructure the Internal Revenue Service, and for other purposes.

S. 1283

At the request of Mr. BUMPERS, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 1283, a bill to award Congressional gold medals to Jean Brown Trickey, Carlotta Walls LaNier, Melba Patillo Beals, Terrence Roberts, Gloria Ray Karlmark, Thelma Mothershed Wair, Ernest Green, Elizabeth Eckford, and Jefferson Thomas, commonly referred collectively as the ''Little Rock Nine'' on the occasion of the 40th anniversary of the integration of the Central High School in Little Rock, Arkansas.

S. 1308

At the request of Mr. BREAUX, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 1308, a bill to amend the Internal Revenue Code of 1986 to ensure taxpayer confidence in the fairness and independence of the taxpayer problem resolution process by providing a more independently operated Office of the Taxpayer Advocate, and for other purposes.

S. 1314

At the request of Mrs. HUTCHISON, the name of the Senator from Kansas (Mr. BROWNBACK) 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. 1334

At the request of Mr. BOND, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 1334, a bill to amend title 10, United States Code, to establish a demonstration project to evaluate the feasibility of using the Federal Employees Health Benefits program to ensure the availablity of adequate health care for Medicare-eligible beneficiaries under the military health care system.

S. 1389

At the request of Ms. SNOWE, the names of the Senator from Hawaii (Mr. INOUYE), the Senator from Georgia (Mr. COVERDELL), and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 1389, a bill to amend title 39, United States Code, to allow postal patrons to contribute to funding for prostate cancer research through the voluntary purchase of certain specially issued United States postage stamps.

S. 1606

At the request of Mr. WELLSTONE, the names of the Senator from New York (Mr. MOYNIHAN) and the Senator from California (Mrs. BOXER) were added as cosponsors of S. 1606, a bill to fully implement the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment and to provide a comprehensive program of support for victims of torture.

S. 1631

At the request of Mr. HUTCHINSON, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 1631, a bill to amend the General Education Provisions Act to allow parents access to certain information.

S. 1644

At the request of Mr. REED, the names of the Senator from Washington (Mr. GORTON) and the Senator from Illinois (Ms. MOSELEY-BRAUN) were added as cosponsors of S. 1644, a bill to amend subpart 4 of part A of title IV of the Higher Education Act of 1965 regarding Grants to States for State Student Incentives.

S. 1647

At the request of Mr. BAUCUS, the names of the Senator from Maryland (Mr. SARBANES), the Senator from New York (Mr. MOYNIHAN), the Senator from Indiana (Mr. LUGAR), and the Senator from New York (Mr. D'AMATO) were added as cosponsors of S. 1647, a bill to reauthorize and make reforms to programs authorized by the Public Works and Economic Development Act of 1965.

SENATE JOINT RESOLUTION 30

At the request of Mr. WARNER, the names of the Senator from Utah (Mr. BENNETT), the Senator from Rhode Island (Mr. REED), and the Senator from