## 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. CAMPBELL:

S. 1797. A bill to reduce tobacco use by Native Americans and to make the proposed tobacco settlement applicable to tobacco-related activities on Indian lands; to the Committee on Indian Affairs.

By Mrs. FEINSTEIN:

S. 1798. A bill to provide for an alternative penalty procedure for States that fail to meet Federal child support data processing requirements; to the Committee on Finance.

By Mr. MCCAIN:

S. 1799. A bill to amend section 121 of the Internal Revenue Code of 1986 to provide that a member of the Armed Forces of the United States shall be treated as using a principal residence while away from home on extended active duty; to the Committee on Finance.

By Mr. GLENN (for himself and Mr. DEWINE):

S. 1800. A bill to designate the Federal building and United States courthouse located at 85 Marconi Boulevard in Columbus, Ohio, as the ''Joseph P. Kinneary United States Courthouse''; to the Committee on Environment and Public Works.

By Mr. LAUTENBERG:

S. 1801. A bill to suspend until December 31, 2000, the duty on Benzenepropanal, 4-(1,1-Dimethylethyl)-Methyl-; to the Committee on Finance.

By Mr. MCCAIN (for himself, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. INOUYE, Mr. LOTT, Mr. FORD, and Mr. STEVENS):

S. 1802. A bill to authorize appropriations for the Surface Transportation Board for fiscal years 1999, 2000, and 2001; to the Committee on Commerce, Science, and Transportation.

By Mr. ROBB:

S. 1803. A bill to reform agricultural credit programs of the Department of Agriculture, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. KENNEDY:

S. 1804. A bill to amend title XXVII of the Public Health Service Act to limit the amount of any increase in the payments required by health insurance issuers for health insurance coverage provided to individuals who are guaranteed an offer of enrollment under individual health insurance coverage relative to other individuals who purchase health insurance coverage; to the Committee on Labor and Human Resources.

By Mr. KENNEDY (for himself, Mr. DODD, Mr. DASCHLE, Mr. INOUYE, Mr. BUMPERS, Mr. LEAHY, Mr. MOYNIHAN, Mr. SARBANES, Mr. LEVIN, Mr. LAUTENBERG, Mr. HARKIN, Mr. KERRY, Mr. ROCKEFELLER, Ms. MIKULSKI, Mr. WELLSTONE, Mrs. BOXER, Mr. FEINGOLD, Mrs. FEINSTEIN, Ms. MOSELEY-BRAUN, Mr. DURBIN, Mr. REED, and Mr. TORRICELLI):

S. 1805. A bill to amend the Fair Labor Standards Act of 1938 to increase the Federal minimum wage; to the Committee on Labor and Human Resources.

By Mr. COCHRAN (for himself and Mr. INOUYE):

S. 1806. A bill to state the policy of the United States regarding the deployment of a missile defense system capable of defending the territory of the United States against limited ballistic missile attack; to the Committee on Armed Services.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CAMPBELL:

S. 1797. A bill to reduce tobacco use by Native Americans and to make the proposed tobacco settlement applicable to tobacco-related activities on Indian lands; to the Committee on Indian Affairs.

THE REDUCTION IN TOBACCO USE AND REGULATION OF TOBACCO PRODUCTS IN INDIAN COUNTRY ACT OF 1998

Mr. CAMPBELL. Mr. President, I am pleased today to introduce the ''Reduction in Tobacco Use and Regulation of Tobacco Products in Indian Country Act of 1998''.

After many hard months of negotiations between the states Attorneys General, class action plaintiffs, and the tobacco representatives, in June, 1997, a proposed settlement was agreed to.

The proposed agreement tries to accomplish a number of goals: avoiding costly and lengthy lawsuits that will enrich the trial lawyers; creating a multi-billion pot of money to be used by the states and the tribes for tobacco-related health problems; and implementing a comprehensive set of advertising limits that the companies would agree to voluntarily.

In reviewing the proposed settlement agreement, the objective of the Committee on Indian Affairs was to review the matters under its jurisdiction and make recommendations on how to implement that agreement on Indian lands.

After two Committee hearings I am confident that as to the Indian issues, we have crafted a bill that addresses the concerns of both the tribes and the parties that seek enactment of the proposed agreement.

In its hearings the Committee heard testimony on the use of tobacco products by Native Americans and how the proposed tobacco settlement would impact tobacco-related activities on Indian lands.

Even though smoking is on the decline in other segments of American society, available statistics show that smoking and use of smokeless tobacco in Native American communities is at crisis levels. The percentage of Native American kids who use tobacco is breathtaking—in some parts of the country 80% of Indian high school students use tobacco products.

Further, the health problems Native Americans face such as alcoholism and diabetes are compounded by the use of tobacco products. Vigorous efforts need to be made at the federal and tribal levels to prohibit access to tobacco and reduce youth smoking in Native communities.

After hearing the concerns and recommendations regarding the proposed settlement by Indian tribal leaders, state Attorneys General, federal health and legal experts, and Indian legal scholars, a bill was crafted which addresses the major issues involved in tobacco regulation on Indian lands.

The legislation I am introducing today includes legal protections for traditional and ceremonial uses of tobacco by tribal members; respects tribal sovereignty and authority to make and enforce laws on Indian lands; includes a commitment to provide the necessary licensing and enforcement funding to tribal governments that is consistent with allocations the states will receive; and a commitment to ensure sufficient funding to treat tobacco-related illnesses and reduce the epidemic of tobacco abuse in Indian country.

I am hopeful that if a comprehensive agreement is enacted, the principles and provisions contained in this bill are included to make the agreement applicable to tobacco-related activities on Indian lands, to protect the traditional use of tobacco by Native Americans, and preserve tribal authority to make and enforce laws to govern themselves.

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. 1797

*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 ''Reduction in Tobacco Use and Regulation of Tobacco Products in Indian Country Act of 1998''.

**SEC. 2. FINDINGS AND PURPOSES.**

(a) FINDINGS.—Congress finds that—

(1) Native Americans have used tobacco products for recreational, ceremonial, and traditional purposes for centuries;

(2) the sale, distribution, marketing, advertising, and use of tobacco products are activities substantially affecting commerce among the States and the Indian tribes and, as such, have a substantial effect on the economy of the United States;

(3) the sale, distribution, marketing, advertising, and use of tobacco products are activities substantially affecting commerce by virtue of the health care-related and other costs that Federal, State, and tribal governmental authorities have incurred because of the usage of tobacco products;

(4) the sale, distribution, marketing, advertising, and use of tobacco products on Indian lands are activities which materially and substantially affect the health and welfare of members of Indian tribes and tribal organizations;

(5) the use of tobacco products is a serious ad growing public health problem, with impacts on the health and well-being of Native Americans;

(6) the use of tobacco products in Native communities is particularly serious with staggering rates of smoking in Native American communities;

(7) enhancing existing legal mechanisms for the protection of public health are inadequate to deal effectively with the use of tobacco products; and

(8) enhancing prevention, research, and treatment resources with respect to tobacco will allow Indian tribes to address more effectively the problems associated with the use of tobacco products.

(b) PURPOSES.—It is the purpose of this Act to—

(1) provide for the implementation of any national tobacco legislation with respect to the regulation of tobacco products and other tobacco-related activities on Indian lands;

(2) recognize the historic Native American traditional and ceremonial use of tobacco products, and to preserve and protect the cultural, religious, and ceremonial uses of tobacco by members of Indian tribes;

(3) recognize and respect Indian tribal sovereignty and tribal authority to make and enforce laws regarding the regulation of tobacco distributors and tobacco products on Indian lands;

(4) ensure that the necessary funding is made available to tribal governments for licensing and enforcement of tobacco distributors and tobacco products on Indian lands;

(5) ensure that the necessary funding is made available to tribal governments to treat tobacco-related illnesses and alleviate the epidemic of tobacco abuse by Native Americans;

(6) reduce the marketing of tobacco products to, and reduce the rate of smoking by, young Native Americans; and

(7) decrease tobacco use by Native Americans by encouraging public education and smoking cessation programs.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) COMMERCE.—The term ''commerce'' means—

(A) commerce between any State, Indian tribe, or tribal organization, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Mariana Islands, or any territory or possession of the United States;

(B) commerce between points in any State, Indian tribe, or tribal organization, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, America Samoa, the Mariana Islands, or any territory or possession of the United States; and

(C) commerce wholly within the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Mariana Islands, or any territory or possession of the United States.

(2) CONSENT DECREE.—The term ''consent decree'' means a consent decree executed by a 1 or more participating manufacturers and a State or an Indian tribe or tribal organization pursuant to the provisions of any Act enacted in order to give effect to the national tobacco settlement agreement of June 20, 1997.

(3) COURT.—The term ''court'' means any judicial or agency court, forum, or tribunal within the United States, including any Federal, State, or tribal court.

(4) DISTRIBUTOR.—The term ''distributor'' means any person who furthers the distribution of tobacco or tobacco products, whether domestic or imported, at any point from the original place of manufacture to the person who sells or distributes the product to individuals for second consumption. Such term shall not include common carriers.

(5) INDIAN LANDS.—The term ''Indian lands'' has the meaning given the term ''Indian country'' by section 1151 of title 18, United States Code, and includes lands under the jurisdiction of an Indian tribe or tribal organization.

(6) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given such term in section 4(e) of the Indian Self Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(7) MANUFACTURER.—

(A) IN GENERAL.—The term ''manufacturer'' means—

(i) a person who directly (not through a subsidiary or affiliate) manufactures tobacco products for sale in the United States;

(ii) a successor or assign of a person described in subparagraph (A);

(iii) an entity established by a person described in subparagraph (A);

(iv) an entity to which a person described in subparagraph (A) directly or indirectly makes a fraudulent conveyance after the date of enactment of this Act, or any Act to amend the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.) in order to give effect to the national tobacco settlement agreement of June 20, 1997, or a transfer that would otherwise be voidable under chapter 7 of title 11, United States Code, but only to the extent of the interest or obligation transferred.

(B) LIMITATION.—The term ''manufacturer'' shall not include a parent or affiliate of a person who manufactures tobacco products unless such parent or affiliate itself is a person described in subparagraphs (A).

(8) PERSON.—The term ''person'' means an individual, partnership, corporation, or any other business or legal entity.

(9) POINT OF SALE.—The term ''point of sale'' means any location at which an individual can purchase or otherwise obtain tobacco products for personal, non-traditional consumption.

(10) RETAILER.—The term ''retailer'' means any person who sells tobacco products to individuals for personal consumption, or who operates a facility where vending machines or self-service displays are permitted.

(11) SALE.—The term ''sale'' includes the selling, providing samples of, or otherwise making tobacco products available for personal consumption in any place or location as permitted under law.

(12) SECRETARY.—Unless otherwise provided, the term ''Secretary'' means the Secretary of Health and Human Services.

(13) STATE.—The term ''State'' includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, America Samoa, the Mariana Islands, or any territory or possession of the United States. Such term also includes any political subdivision of any State.

(14) TOBACCO.—The term ''tobacco'' means tobacco in its unmanufactured form.

(15) TOBACCO PRODUCT.—The term ''tobacco product'' means cigarettes, cigarette tobacco, and smokeless tobacco.

(16) TOBACCO TRUST FUND.—The term ''tobacco trust fund'' means any national tobacco settlement trust fund established under any Act enacted in order to give effect to the national tobacco settlement agreement of June 20, 1997.

(17) TRIBAL ORGANIZATION.—The term ''tribal organization'' has the meaning given such term in section 4(e) of the Indian Self Determination and Education Assistance Act (25 U.S.C. 45Ob(e)).

(18) VOLUNTARY COOPERATIVE AGREEMENT.—The term ''voluntary cooperative agreement'' means any agreement, contract, compact, memorandum of understanding, or similar agreement.

**SEC. 4. APPLICATION OF TOBACCO-RELATED PROVISIONS TO NATIVE AMERICANS.**

(a) IN GENERAL.—The provisions of any Act enacted in order to give effect to the national tobacco settlement agreement of June 20, 1997 shall apply to the manufacture, distribution, or sale of tobacco or tobacco products within the exterior boundaries of Indian reservations or on lands within the jurisdiction of an Indian tribe or tribal organization.

(b) TRADITIONAL USE EXCEPTION.—

(1) IN GENERAL.—In recognition of the religious, ceremonial, and traditional uses of tobacco and tobacco products by Indian tribes and the members of such tribes, nothing in this Act (or any Act enacted to give effect to the national tobacco settlement agreement of June 20, 1997) shall be construed to infringe upon the right of such tribes or members of such tribes to acquire, possess, use, or transfer any tobacco or tobacco products for such purposes.

(2) APPLICATION OF PROVISIONS.—Paragraph (1) shall apply only to those quantities of tobacco or tobacco products necessary to fulfill the religious, ceremonial, or traditional purposes of an Indian tribe or the members of such tribe, and shall not be construed to permit the general marketing of tobacco or tobacco products in a manner that is not in compliance with chapter IX of the Federal Food, Drug, and Cosmetic Act.

(3) LIMITATION.—Nothing in this Act (or any Act enacted to give effect to the national tobacco settlement agreement of June 20, 1997) shall be construed to permit an Indian tribe or member of such a tribe to acquire, possess, use, or transfer any tobacco or tobacco product in violation of section 2341 of title 18, United States Code, with respect to the transportation of contraband cigarettes.

(c) PAYMENTS TO TOBACCO TRUST FUND.—Any Indian tribe or tribal organization that engages in the manufacture of tobacco products shall be subject to liability for any fee payments that are levied on other manufacturers for purposes of any tobacco trust fund. Any Indian tribe or tribal organization that does not pay such fees shall be considered a nonparticipating manufacturer and shall be subject to surcharges made applicable to such nonparticipating manufacturers under any Act enacted to give effect to the national tobacco settlement agreement of June 20, 1997).

(d) APPLICATION OF FEDERAL FOOD, DRUG, AND COSMETIC ACT REQUIREMENTS.—

(1) IN GENERAL.—The Secretary, in consultation with the Secretary of Interior, shall promulgate regulations to provide for the waiver of any requirement of the Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.) with respect to tobacco products manufactured, distributed, or sold within the exterior boundaries of Indian reservations or on lands within the jurisdiction of an Indian tribe as appropriate to comply with this section.

(2) JURISDICTION.—With respect to tobacco-related activities that take place within the exterior boundaries of Indian reservations or on lands within the jurisdiction of an Indian tribe, the responsibility for enforcing the regulations promulgated pursuant to paragraph (1) shall be vested in—

(A) the Indian tribe or the tribal organization involved;

(B) the State within which the lands of the Indian tribe or tribal organization are located, pursuant to a voluntary cooperative agreement entered into by the State and the Indian tribe or tribal organization; or

(C) the Secretary.

(3) ELIGIBILITY FOR ASSISTANCE.—Under the regulations promulgated under paragraph (1), the Secretary, in consultation with the Secretary of the Interior, shall provide assistance to an Indian tribe or tribal organization in meeting and enforcing the requirements under such regulations if—

(A) the tribe or tribal organization has a governing body that has powers and carries out duties that are similar to the powers and duties of State or local governments;

(B) the functions to be exercised through the use of such assistance relate to activities conducted within the exterior boundaries of Indian reservations or on lands within the jurisdiction of the tribe or tribal organization involved; and

(C) the tribe or tribal organization is reasonably expected to be capable of carrying out the functions required by the Secretary.

(4) DETERMINATIONS.—Not later than 60 days after the date on which an Indian tribe or tribal organization submits an application for assistance under paragraph (3), the Secretary shall make a determination concerning the eligibility of such tribe or organization for such assistance.

(5) IMPLEMENTATION BY THE SECRETARY.—If the Secretary determines that the Indian tribe or tribal organization is not willing or not qualified to administer the requirements of the regulations promulgated under this subsection, the Secretary, in consultation with the Secretary of the Interior, shall implement and enforce such regulations on behalf of the tribe or tribal organization.

(6) DEFICIENT APPLICATIONS; OPPORTUNITY TO CURE.—If the Secretary determines under paragraph (4) that a tribe is not eligible for assistance under this subsection, the Secretary shall—

(A) submit to such tribe or organization, in writing, a statement of the reasons for such determination; and

(B) shall assist such tribe in overcoming any deficiencies that resulted in the determination of ineligibility.

After an opportunity to review and cure such deficiencies, the tribe or organization may re-apply to the Secretary for assistance under this subsection.

(e) RETAIL LICENSING REQUIREMENTS.—

(1) IN GENERAL.—The requirements of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.), or any Act enacted in order to give effect to the national tobacco settlement agreement of June 20, 1997, with respect to the licensing of tobacco retailers shall apply to retailers that sell tobacco or tobacco products within the exterior boundaries of Indian reservations or on lands within the jurisdiction of an Indian tribe or tribal organization.

(2) MINIMUM FEDERAL STANDARDS.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall promulgate regulations to authorize an Indian tribe or tribal organization to implement a tribal tobacco product licensing program within Indian reservations or on lands within the jurisdiction of an Indian tribe or tribal organization.

(B) MODEL STATE LAW.—The terms, conditions, and standards contained in the model State law contained in any Act enacted to give effect to the national tobacco settlement agreement of June 20, 1997 shall constitute the minimum Federal regulations that an Indian tribe or tribal organization must enact in order to assume responsibility for the licensing and regulation or tobacco-related activities conducted within the exterior boundaries of Indian reservations or on lands within the jurisdiction of an Indian tribe or tribal organization.

(C) WAIVER.—An Indian tribe or tribal organization shall have the same right to apply for waiver and modification of the law described in subparagraph (B) as a State pursuant to the Act involved.

(3) IMPLEMENTATION BY THE SECRETARY.—If the Secretary, in consultation with the Secretary of the Interior, determines that the Indian tribe or tribal organization is not qualified to administer the relevant requirements of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.) or any Act enacted in order to give effect to the national tobacco settlement agreement of June 20, 1997, the Secretary, in consultation with the Secretary of the Interior, shall implement such requirements on behalf of the Indian tribe or tribal organization.

(f) ELIGIBILITY FOR PUBLIC HEALTH PAYMENTS.—

(1) GRANT.—

(A) IN GENERAL.—For each fiscal year the Secretary shall award a grant to each Indian tribe or tribal organization that has an approved anti-smoking plan for the fiscal year involved under paragraph (2) in an amount equal to the amount determined under paragraph (3).

(B) REDUCTION IN STATE AMOUNTS.—With respect to any State in which the service area or areas of an Indian tribe or tribal organization that receives a grant under subparagraph (A) are located, the Secretary shall reduce the amount otherwise payable to such State, under any Act enacted in order to give effect to the national tobacco settlement agreement of June 20, 1997, by the amount of such grant.

(2) TRIBAL PLANS.—To be eligible to receive a grant under paragraph (1), an Indian tribe or tribal organization shall prepare and submit to the Secretary an anti-smoking plan and shall otherwise meet the requirements of subsection (e). The Secretary shall promulgate regulations providing for the form and content of anti-smoking plans to be submitted under this paragraph.

(3) AMOUNT DETERMINED.—Except as provided in this subsection, the amount of any grant for which an Indian tribe or tribal organization is eligible under paragraph (1) shall be determined by the Secretary based on the product of—

(A) the ratio of the total number of individual residing on or in such tribe's or tribal organization's reservation, jurisdictional lands, or the active user population, relative to the total population of the State involved; and

(B) the amount allocated to the State for such public health purposes.

(4) USE.—Amounts provided to a tribe or tribal organization under this subsection shall be used to reimburse the tribe for smoking-related health expenditures, to further the purposes of this Act or any Act enacted in order to give effect to the national tobacco settlement agreement of June 20, 1997, and in accordance with a tribal anti-smoking plan approved by the Secretary. Indian tribes and tribal organizations shall have the flexibility to utilize such amounts to meet the unique health care needs of persons within their service populations within the context of tribal health programs if such programs meet the fundamental Federal goals and purposes of Federal Indian health care law and policy.

(5) REALLOTMENT.—Amounts set aside and not expended under this subsection shall be reallotted among other eligible Indian tribes and tribal organizations.

(g) OBLIGATIONS OF MANUFACTURERS.—Manufacturers participating in, or covered under this Act or any Act enacted in order to give effect to the national tobacco settlement agreement of June 20, 1997 shall not engage in any activity on lands within the jurisdiction of an Indian tribe or tribal organization that is prohibited by this Act or such other Act.

(h) USE OF TRUST FUND PAYMENTS.—Amounts made available from the tobacco trust fund pursuant to any Indian health provisions of any Act enacted in order to give effect to the national tobacco settlement agreement of June 20, 1997 shall be provided to the Indian Health Service and, through the provisions of the Indian Self Determination and Education Assistance Act (25 U.S.C. 450b et seq.) to Indian tribes or tribal organizations to be used to reduce tobacco consumption, promote smoking cessation, and to fund related activities including—

(1) clinic and facility design, construction, repair, renovation, maintenance, and improvement;

(2) health care provider services and equipment;

(3) domestic and community sanitation associated with clinic and facility construction and improvement;

(4) inpatient and outpatient services; and

(5) other programs and services which have as their goal raising the health status of Indians.

(i) PREEMPTION.—

(1) IN GENERAL.—Except as otherwise provided in this section, nothing in this Act of any Act enacted in order to give effect to the national tobacco settlement agreement of June 20, 1997, shall be construed to prohibit an Indian tribe or tribal organization from imposing requirements, prohibitions, penalties, or other measures to further the purposes of this Act that are in addition to the requirements, prohibitions, or penalties required by this Act or such other Act.

(2) PUBLIC EXPOSURE TO SMOKE.—Nothing in this Act shall be construed to preempt or otherwise affect any Indian tribe or tribal organization rule or practice that provides greater protections from the health hazards of environmental tobacco smoke.

(3) NATIVE AMERICANS.—A State may not impose obligations or requirements relating to the application of this Act or any other Act enacted in order to give effect to the national tobacco settlement agreement of June 20, 1997, to Indian tribes and tribal organizations.

---

By Mrs. FEINSTEIN:

S. 1798. A bill to provide for an alternative penalty procedure for States that fail to meet Federal child support data processing requirements; to the Committee on Finance.

THE CHILD SUPPORT PENALTY FAIRNESS ACT OF 1998

Mrs. FEINSTEIN. Mr. President, I am introducing today, the Child Support Penalty Fairness Act of 1998. Similar to the House passed Child Support Performance and Incentive Act, this legislation decreases penalties for states who didn't make the October 1997 child support enforcement system deadline but this legislation provides exemptions for those counties, such as Los Angeles county, that made the deadline even if the state didn't.

This legislation decreases the overall penalties to 4% of the child support administrative funds in the first year, and doubles the percentage of penalties each year, capping it at 20% by the fourth year. Additionally, if the state becomes certified during the year, 75% of the penalties would be forgiven for that fiscal year. The penalty structure in this legislation is the same as CLAY SHAW's bill, HR3130, which passed the House of Representatives two weeks ago and awaits consideration in the Senate Finance Committee.

The current penalties for not having the child support enforcement system up and running are enormous. States would be penalized all their TANF (AFDC) funding and their child support administration funds for the year.

The total loss in TANF funds and child support administrative funds from the 14 states amount to over $8 billion annually and for California, the penalty would be $3.7 billion in TANF funds and $300 million in child support administrative funds annually.

What is unique about this legislation is that in addition to lowering penalties, it exempts from the penalties those counties who had their own certifiable systems prior to October 31, 1997.

All of us agree that for states who did not make the deadline, they should be held accountable. But for those

states who have county based child support systems where individual counties could have been certified by HHS independently, it is unfair to penalize the counties with the state.

For California, 25% or $75 million of the penalty will be borne by LA County, the largest county in the nation serving 550,000 families and whose program is larger than 42 other states. Despite the fact that LA County completed its system by the October 1997 deadline and could be certified as recognized by HHS in its March 2, 1998 proposed rules, LA County will be penalized along with the rest of California.

This is unfair and wrong. As I propose in my legislation, when counties have met the system requirement by building their own system with separate HHS funding, their portion should be exempted from the total penalties imposed on a state.

Mr. President, I know there is bi-partisan support for my proposal which is similar to CLAY SHAW's bill which passed the House. My proposal differs from SHAW's bill in that it exempts penalties for those counties who met all the requirements and completed their child support enforcement system before the October 1997 deadline. This provision is critical for many states whose counties have done their job but will suffer enormous penalties because the state as a whole have failed.

I urge all my colleagues to support this legislation, and I ask unanimous consent that the text of the bill, the memorandum of understanding, and excerpts from 42 CFR Part 307 be printed into the RECORD.

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

S. 1798

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

**SECTION. 1. ALTERNATIVE PENALTY PROCEDURE FOR CHILD SUPPORT DATA PROCESSING REQUIREMENTS.**

(a) IN GENERAL.—Section 455(a) of the Social Security Act (42 U.S.C. 655(a)) is amended by adding at the end the following:

''(4)(A) If—

''(i) the Secretary determines that a State plan under section 454 would (in the absence of this paragraph) be disapproved for the failure of the State to comply with section 454(24)(A), and that the State has made and is continuing to make a good faith effort to so comply; and

''(ii) the State has submitted to the Secretary a corrective compliance plan that describes how, by when, and at what cost the State will achieve such compliance, which has been approved by the Secretary,

then the Secretary shall not disapprove the State plan under section 454, and the Secretary shall reduce the amount otherwise payable to the State under paragraph (1)(A) of this subsection for the fiscal year by the penalty amount.

''(B) In this paragraph:

''(i) The term 'penalty amount' means, with respect to a failure of a State to comply with section 454(24)—

''(I) 4 percent of the penalty base, in the case of the 1st fiscal year in which such a failure by the State occurs;

''(II) 8 percent of the penalty base, in the case of the 2nd such fiscal year;

''(III) 16 percent of the penalty base, in the case of the 3rd such fiscal year; or

''(IV) 20 percent of the penalty base, in the case of the 4th or any subsequent such fiscal year.

''(ii) The term 'penalty base' means, with respect to a failure of a State to comply with section 454(24) during a fiscal year, the amount otherwise payable to the State under paragraph (1)(A) of this subsection for the preceding fiscal year, minus the applicable share of such amount which would otherwise be payable to any county to which the Secretary granted a waiver under the Family Support Act of 1988 (Public Law 100-485; 102 Stat. 2343) for 90 percent enhanced Federal funding to develop an automated data processing and information retrieval system provided that such system was implemented prior to October 1, 1997.

''(C)(i) The Secretary shall waive a penalty under this paragraph for any failure of a State to comply with section 454(24)(A) during fiscal year 1998 if—

''(I) by December 31, 1997, the State has submitted to the Secretary a request that the Secretary certify the State as having met the requirements of such section;

''(II) the Secretary has provided the certification as a result of a review conducted pursuant to the request; and

''(III) the State has not failed such a review.

''(ii) If a State with respect to which a reduction is made under this paragraph for a fiscal year achieves compliance with section 454(24)(A) by the beginning of the succeeding fiscal year, the Secretary shall increase the amount otherwise payable to the State under paragraph (1)(A) of this subsection for the succeeding fiscal year by an amount equal to 75 percent of the reduction for the fiscal year.

''(D) The preceding provisions of this paragraph (except for subparagraph (C)(i)) shall apply, separately and independently, to a failure to comply with section 454(24)(B) in the same manner in which the preceding provisions apply to a failure to comply with section 454(24)(A).''.

(b) INAPPLICABILITY OF PENALTY UNDER TANF PROGRAM.—Section 409(a)(8)(A)(i)(III) of such Act (42 U.S.C. 609(a)(8)(A)(i)(III)) is amended by inserting ''(other than section 454(24))'' before the semicolon.

**SEC. 2. AUTHORITY TO WAIVE SINGLE STATEWIDE AUTOMATED DATA PROCESSING AND INFORMATION RETRIEVAL SYSTEM REQUIREMENT.**

(a) IN GENERAL.—Section 452(d)(3) of the Social Security Act (42 U.S.C. 652(d)(3)) is amended to read as follows:

''(3) The Secretary may waive any requirement of paragraph (1) or any condition specified under section 454(16), and shall waive the single statewide system requirement under sections 454(16) and 454A, with respect to a State if—

''(A) the State demonstrates to the satisfaction of the Secretary that the State has or can develop an alternative system or systems that enable the State—

''(i) for purposes of section 409(a)(8), to achieve the paternity establishment percentages (as defined in section 452(g)(2)) and other performance measures that may be established by the Secretary;

''(ii) to submit data under section 454(15)(B) that is complete and reliable;

''(iii) to substantially comply with the requirements of this part; and

''(iv) in the case of a request to waive the single statewide system requirement, to—

''(I) meet all functional requirements of sections 454(16) and 454A;

''(II) ensure that the calculation of distribution of collected support is according to the requirements of section 457;

''(III) ensure that there is only 1 point of contact in the State for all interstate case processing and coordinated intrastate case management;

''(IV) ensure that standardized data elements, forms, and definitions are used throughout the State; and

''(V) complete the alternative system in no more time than it would take to complete a single statewide system that meets such requirement;

''(B)(i) the waiver meets the criteria of paragraphs (1), (2), and (3) of section 1115(c); or

''(ii) the State provides assurances to the Secretary that steps will be taken to otherwise improve the State's child support enforcement program; and

''(C) in the case of a request to waive the single statewide system requirement, the State has submitted to the Secretary separate estimates of the total cost of a single statewide system that meets such requirement, and of any such alternative system or systems, which shall include estimates of the cost of developing and completing the system and of operating the system for 5 years, and the Secretary has agreed with the estimates.''.

(b) PAYMENTS TO STATES.—Section 455(a)(1) of such Act (42 U.S.C. 655(a)(1)) is amended—

(1) by striking ''and'' at the end of subparagraph (B);

(2) by striking the semicolon at the end of subparagraph (C) and inserting '', and''; and

(3) by inserting after subparagraph (C) the following:

''(D) equal to 66 percent of the sums expended by the State during the quarter for an alternative statewide system for which a waiver has been granted under section 452(d)(3), but only to the extent that the total of the sums so expended by the State on or after the date of the enactment of this subparagraph does not exceed the least total cost estimate submitted by the State pursuant to section 452(d)(3)(C) in the request for the waiver.''.

---

MEMORANDUM OF UNDERSTANDING

This agreement is entered into by Wayne A. Stanton, Administrator, Family Support Administration (FSA), Department of Health and Human Services, Ira Reiner, Los Angeles County District Attorney, Richard B. Dixon, Los Angeles County Chief Administrative Officer, and Dennis Boyle, Deputy Director, State Department of Social Services, to resolve certain issues relating to needed improvement in the Los Angeles County child support enforcement program.

It is understood and agreed that there is a top level management commitment to accomplish management standards to performance and to develop an automated system that can adequately support the program operations and to employ sufficient staff to carry out the duties of the Child Support Program.

It is further understood and agreed that the lack of an automation system that can adequately support the program operations and the present number of employees assigned to carry out the duties of the family support program have significantly contributed to the current level of child support collections.

All concerned parties will work together to quickly complete Requests For Proposals for the following areas consistent with applicable County charter and ordinance provisions which require findings of cost effectiveness or feasibility:

1. To replace, enlarge, or modify Los Angeles County's existing Automated Child Support Enforcement System;

2. Supplemental locate and collection services for hard-to-find absent parents;
3. An automated billing system;
4. Process serving;
5. Banking/Court Trustee operations;
6. Blood testing;
7. Data preparation of case backlog in anticipation of automation.

The District Attorney's Office will immediately begin hiring within current budgetary authorizations the necessary additional qualified employees to provide required child support enforcement program services.

All concerned parties will work together to:

1. Develop and approve a six to ten page planning Advance Planning Document (as detailed on the Attachment).
2. Revise Request For Proposals and Advance Planning Document so as to require the use of existing hardware.

The FSA will advise the State that Los Angeles County, in recognition of the size of its caseload, is eligible to establish its own automated system which may be separate from any other system(s) which may be required of other countries.

The State will request and FSA will consider in a timely manner an 1115 waiver so as to provide Los Angeles County 90% funding to replace, enlarge or modify Los Angeles County's existing Automated Child Support Enforcement System and not jeopardize 90% funding for other systems within the State.

This document expresses the will and commitment of the Federal, State, and County Governments to expedite the approval processes necessary to accomplish the goals set forth herein.

WAYNE A. STANTON,
*Administator, Family Support Administration.*
GREGORY THOMPSON,
*Chief, Deputy District Attorney, District Attorney's Office.*
RICHARD B. DIXON,
*Chief Administrative Officer, Chief, Administrative Office.*
DENNIS BOYLE,
*Deputy Director, State Department of Social Services.*

---

EXCERPTS FROM 45 CFR PART 307

AUTOMATED DATA PROCESSING FUNDING LIMITATION FOR CHILD SUPPORT ENFORCEMENT SYSTEMS

Summary: The Federal share of funding available at an 80 percent matching rate for child support enforcement automated systems changes resulting from the Personal Responsibility and Work Opportunity Reconciliation Act is limited to a total of $400,000,000 for fiscal years 1996 through 2001. This proposed rule responds to the requirement that the Secretary of Health and Human Services issue regulations which specify a formula for allocating this sum among the States, Territories and eligible systems.

PRWORA requires the Secretary of Health and Human Services to issue regulations which specify a formula for allocating the $400,000,000 available at 80 percent FFP among the States and Territories. The Balanced Budget Act Amendments add specified systems to the entities included in the formula. The allocation formula must take into account the relative size of State and systems IV–D (child support enforcement) caseloads and the level of automation needed to meet title IV–D automated data processing requirements. Accordingly, we propose to revise 45 CFR Part 307 to include conforming changes and to add §307.31.

*Conditions That Must Be Met for 80 Percent Federal Financial Participation*

Pub. L. 104–193 provides enhanced funds to complete development of child support enforcement systems which meet the requirements of both the Family Support Act and PRWORA. From this we conclude that no change in the conditions for receipt of funds was anticipated by Congress. Thus, we propose to retain in 45 CFR Part 307.31 the same conditions for receipt funds at 80 percent FFP which appear at §307.30 (a), (b), (c), and (d) and apply to claims for FFP at the 90 percent rate.

Throughout this notice of proposed rulemaking we use ''State'' as the inclusive term for States, Territories and approved systems as described in 42 U.S.C. 655(a)(3)(B)(iii) (section 455(a)(3)(B)(iii) of the Act) as added to the Act by section 5555 of the Balanced Budget Act of 1997 (Pub. L. 105–33). The technical amendments to section 455(a)(3)(B) of the Act changed the entities included in the allocation formula by adding ''system'' to States and Territories. For purposes of this proposed rule, a system eligible for enhanced funding is a system approved by the Secretary to receive funding at the 90 percent rate for the purpose of developing a system that meets the requirements of section 454(16) of the Act (42 U.S.C. 654(16)) (as in effect on and after September 30, 1995) and section 454A of the Act (42 U.S.C. 654A), including a system that received funding for this purpose pursuant to a waiver under section 1115(a) of the Act (42 U.S.C. 1315(a)).

*Allocation Formula*

Section 344(b)(3)(C) of PRWORA requires the Secretary to allocate by formula the $400,000,000 available at the 80 percent FFP rate. This section specifies that the formula take into account the relative size of State IV–D caseloads and the level of automation needed to meet applicable automatic data processing requirements. The legislative history does not elaborate on the meaning of these factors.

The allocation formula proposed in this section is the product of consultation with a wide range of stakeholders. We sought information from child support enforcement systems experts, financial experts, economists, State IV–D directors, and national associations. Before drafting regulations we asked States to suggest approaches for allocating the available Federal share of the funds. In a number of open forums we sought suggestions for the allocation formula. An internal working group considered the information from States, reviewed the suggestions, then developed the proposed allocation formula.

Simply stated, the proposed formula first allots a base amount of $2,000,000 to each State to take into account the level of automation needed to meet the automated data processing requirements of title IV–D. The formula, then, allots an additional amount to States based on both their reported IV–D caseload and their potential caseload based on Census data on children living with one parent.

As indicated earlier, we use ''State'' as the inclusive term for States, Territories and systems described in 42 U.S.C. 655(a)(3)(B)(iii) (455(a)(3)(B)(iii) of the Act) as amended by section 5555 of the Balanced Budget Act of 1997. The technical amendments to section 455(a)(3)(B) of the Act changed the entities included in the allocation formula by adding ''system'' to States.

At this time caseload and census data are not available for Los Angeles County. Therefore, the tables in appendix A show a base amount allocated to Los Angeles County and blank cells for the caseload factor and the census factor. With a base amount assigned for Los Angeles County, we can calculate the total remaining funds available for allocation among the other States. California's caseload factor and census factor represent the total for the State, including Los Angeles County. The California IV–D agency and the Los Angeles County IV–D agency have been asked to provide us with caseload and census data, as described below, showing Los Angeles County's share of the California total.

---

By Mr. MCCAIN:

S. 1799. A bill to amend section 121 of the Internal Revenue Code of 1986 to provide that a member of the Armed Forces of the United States shall be treated as using a principal residence while away from home on extended active duty; to the Committee on Finance.

TAX EXCLUSION LEGISLATION

Mr. MCCAIN. Mr. President, I am proud to sponsor this bill to amend the Internal Revenue Code. This bill would modify the home ownership test for Sales of Primary Residence so that members of our Armed Forces, who are away on active duty, qualify for the existing tax relief on the profit generated when they sell their main residence. This amendment will not create a new tax benefit; it merely modifies current law to include the time military personnel are away from home on active duty when calculating the number of years the home owner has lived in their primary residence. In short, this amendment is narrowly tailored to remedy a specific dilemma.

The Taxpayer Relief Act of 1997 delivered sweeping tax relief to millions of Americans through a wide variety of important tax changes that affect individuals, families, investors and businesses. It is also one of the most complex tax laws enacted in recent memory.

Mr. President, as with any complex legislation, there are winners and losers. But in this instance, there is an unintended loser: military personnel. The 1997 act gives taxpayers who sell their principal residence a much-needed tax break when they sell their primary residence. Under the old rule, taxpayers received a one-time exclusion on the profit they made when they sold their principal residence, but the taxpayer had to be at least 55 years old and live in the residence for 2 of the 5 years preceding the sale. This provision primarily benefited elderly taxpayers, while not providing any relief to younger taxpayers and their families.

Fortunately, the 1997 act addressed this issue. Under the new law, all taxpayers who sell their personal residence on or after May 7, 1997, are not taxed on the first $250,000 of profit from the sale. Joint filers are not taxed on the first $500,000 of profit they made from selling their principal residence.

Mr. President, I applaud the bi-partisan cooperation that resulted in this much-needed form of tax relief. The home sales provision sounds great, and it is. However, when we delve deeper

into this law, we note that the taxpayer must meet two requirements to qualify for this tax relief. To qualify, the taxpayer must (1) own the home for at least 2 of the 5 years preceding the sale, and (2) live in the home as their MAIN home for at least 2 years of the last 5 years.

The second part of this test unintentionally prohibits many of our women and men in the Armed Services from qualifying for this beneficial tax relief. Constant travel across the U.S. and abroad is inherent to military service. Nonetheless, some military personnel choose to purchase a home in a certain locale, even though they will not live there for much of the time. Under the new law, if you do not have a spouse, and are also forced to travel, you will not qualify for the full benefit of the new home sales provision, because no one ''lives'' in the home for the required period of time. The current law also hits dual-military couples that are often away on active duty. They, would not qualify for the home sales exclusion because neither spouse ''lives'' in the house for enough time to qualify for the exclusion.

Today, the United States has approximately 37,000 men and women deployed to the Persian Gulf region, preparing to go into combat, if so ordered. There are another 8,000 American troops deployed in Bosnia, and another 70,000 U.S. military personnel deployed in support of other commitments worldwide. That is a total of 108,000 women and men deployed outside of the United States, away from their primary home. These women and men are abroad protecting and furthering the freedoms we Americans hold so dear.

It is fundamentally unfair to deny these men and women the same tax relief as their civilian counterparts. The newly enacted current home sale provision unintentionally discourages home ownership among military personnel. Many of our troops simply do not qualify for the homes sales tax relief because they are away from their home so much of the time.

Discouraging home ownership among military personnel is unfair and bad fiscal policy. Home ownership has numerous benefits for communities and individual homeowners. Having a fixed home provides Americans with a sense of community, and adds stability to our nation's neighborhoods. Home ownership also generates valuable property taxes for our nation's communities.

We are in a period of robust growth. Americans who are fortunate enough to do so, reap the benefits of our country's growth by investing in the stock market. Many of our nation's recent millionaires became millionaires through the stock market. However, many middle- and lower-income Americans don't hold vast amounts of stocks, bonds, mutual funds, and the like. Therefore, how does the average American participate in our nation's robust growth? Through home ownership.

Appreciation in the value of a home resulting from our country's overall economic growth allows everyday Americans to participate in our country's prosperity. Fortunately, the Taxpayer Relief Act of 1997 recognized this, and provided this break to lessen the amount of tax most Americans will pay on the profit they make when they sell their main homes.

This bill simply remedies an inequality in the new law. The bill amends the Internal Revenue Code so that members of our Armed Forces will be considered to be using their house as their main residence for any period that they are away on extended active duty. In short, military personnel will be deemed to be using their house as their main home, even if they are stationed in Bosnia, the Persian Gulf, in the ''no man's land,'' commonly called the DMZ between North and South Korea, or anywhere else on active duty orders.

We cannot afford to discourage Military service by penalizing military personnel with higher taxes merely because they are doing their job. Military service in itself entails sacrifice, such as long periods of time away from friends and family, and the constant threat of mobilization into hostile territory. We must not use the tax code to heap additional burdens upon our women and men in uniform.

In my view, the way to decrease the likelihood of further inequities such as the current Home Sales provision is to adopt a fairer, flatter tax that is far less complicated than our current system. But, in the meantime, we must insure that the tax code is fair and equitable.

The Taxpayers' relief Act of 1997 was designed to provide sweeping tax relief to all Americans, including our women and men in uniform. Yes, it is true that there are winners and losers in any tax code. However, this inequity is unintended. We should enact this narrowly tailored remedy to grant equal tax relief to the members of our Armed Services.

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. 1799

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

**SECTION 1. ARMED FORCES MEMBER TREATED AS USING PRINCIPAL RESIDENCE WHILE AWAY FROM HOME ON ACTIVE DUTY.**

(a) IN GENERAL.—Section 121(d) of the Internal Revenue Code of 1986 (relating to special rules) is amended by adding at the end the following new paragraph:

''(9) DETERMINATION OF USE DURING PERIODS OF ACTIVE DUTY WITH ARMED FORCES.—

''(A) IN GENERAL.—A taxpayer shall be treated as using property as a principal residence during any period the taxpayer (or the taxpayer's spouse) is serving on extended active duty with the Armed Forces of the United States, but only if the taxpayer used the property as a principal residence for any period before the period of extended active duty.

''(B) EXTENDED ACTIVE DUTY.—For purposes of this paragraph, the term 'extended active duty' means any period of active duty pursuant to a call or order to such duty for a period in excess of 90 days or for an indefinite period.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to sales or exchanges after May 6, 1997.

---

By Mr. GLENN (for himself and Mr. DEWINE):

S. 1800. A bill to designate the Federal building and United States courthouse located at 85 Marconi Boulevard in Columbus, Ohio, as the ''Joseph P. Kinneary United States Courthouse''; to the Committee on Environment and Public Works.

JOSEPH KINNEARY UNITED STATES COURTHOUSE LEGISLATION

Mr. GLENN. Mr. President, I rise today to introduce a bill naming the Federal Building and Courthouse at 85 Marconi Boulevard in Columbus, Ohio after one of my home state's most highly esteemed members of the federal bench, Judge Joseph P. Kinneary.

Judge Kinneary has served on the United States District Court of Ohio for over 32 years. But Judge Kinneary's commitment to public service goes much further beyond these past three decades. He has given a lifetime to public service. In fact, that service continues even today where, at age 92, Judge Kinneary continues to serve as a senior judge carrying a docket of cases.

I'd like to take a few minutes of my colleagues' time to talk about this amazing gentleman and what he's done for my home state of Ohio and our entire nation.

Judge Kinneary graduated from the University of Cincinnati's College of Law in 1935. After practicing law in both Columbus and Cincinnati for two years, Judge Kinneary served as Assistant Attorney General of Ohio until 1939.

But, as happened to many Americans in those days, World War II changed Joseph Kinneary's career plans. He served in the Army from 1942 to 1946, and worked as the Chief of the Legal Branch for the Field Headquarters of the Quartermaster Corps.

After his war service, Judge Kinneary returned to private practice. In 1949, however, Judge Kinneary returned to public service and became the First Assistant Attorney General of Ohio. And, in 1961, President Kennedy appointed Judge Kinneary to United States Attorney for the Southern District of Ohio where he served until 1966.

In 1966, President Johnson appointed Judge Kinneary to the District Court for the Southern District of Ohio. Well-respected among his colleagues, he served as Chief Judge from January 1973 to September 1975.

And, today, 32 years after his appointment to the bench, Judge Kinneary still presides and draws a docket that is approximately 80 percent of an active judge. I find Judge Kinneary's dedication to the people of

Ohio and America inspiring, as I'm sure many of my colleagues do on hearing of his career.

I can think of no better way for the U.S. Senate, for the entire country, to honor Judge Kinneary than to name one of Columbus, Ohio's, most important federal buildings and courthouses in his honor. So, it is with great thanks and a deep sense of honor that I introduce today a bill to name the Columbus Courthouse after Judge Kinneary. I urge my colleagues to give this legislation quick consideration and approval.

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

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

S. 1800

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

**SECTION 1. DESIGNATION OF JOSEPH P. KINNEARY UNITED STATED COURTHOUSE.**

The Federal building and United States courthouse located at 85 Marconi Boulevard in Columbus, Ohio, shall be known and designated as the ''Joseph P. Kinneary United States Courthouse''.

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building and United States courthouse referred to in section 1 shall be deemed to be a reference to the ''Joseph P. Kinneary United States Courthouse''.

---

By Mr. LAUTENBERG:

S. 1801. A bill to suspend until December 31, 2000, the duty on Benzenepropanal, 4-(1, 1-Dimethylethyl)-Methyl-; to the Committee on Finance.

DUTY SUSPENSION LEGISLATION

Mr. LAUTENBERG. Mr. President, I rise today to introduce legislation to temporarily reduce the rate of duty imposed on a fragrance additive with the chemical name of Benzenepropanal, 4-(1,1-Dimethylethyl)-Methyl-. The chemical has a lily-like floral aroma and used in fragrances.

My constituent who requested this duty reduction, Bush Boake Allen Inc. of Montvale, New Jersey, knows of no opposition to this legislation. The last United States manufacturer of this chemical, Givaudan-Roure, will cease all production of this additive by June 1998. I have drafted this legislation to ensure that it will not go into effect before July 15. Givaudan-Roure, which is also a constituent, knows of this legislation and the effective date, and does not oppose it.

I ask my colleagues to support this legislation. Reducing the duties paid by American companies for products which have no American manufacturer keep our companies from being placed at a competitive disadvantage in the global marketplace. In addition, these lower duties will benefit American consumers and business customers of Bush Boake Allen Inc.

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. 1801

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

**SECTION 1. REDUCTION OF DUTY ON BENZENEPROPANAL, 4-(1,1-DIMETHYLETHYL)-METHYL-.**

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new item:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| '' | 9902.29.57 | Benzenepropanal, 4-(1,1-Dimethylethyl)-Methyl- (CAS No. 80–54–6) provided for in subheading 2912.29.60) ..... | 6% | No change | No change | On or before 12/31/2000 | ''. |

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the later of—

(1) the 15th day after the date of enactment of this Act; or

(2) July 15, 1998.

---

By Mr. MCCAIN (for himself, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. INOUYE, Mr. LOTT, and Mr. FORD):

S. 1802. A bill to authorize appropriations for the Surface Transportation Board for fiscal years 1999, 2000, and 2001; to the Committee on Commerce, Science, and Transportation.

THE SURFACE TRANSPORTATION BOARD REAUTHORIZATION ACT OF 1998

Mr. MCCAIN. Mr. President, today I am introducing the Surface Transportation Board (STB) Reauthorization Act of 1998. I am pleased to be joined in sponsoring this measure by several members of the Senate Committee on Commerce, Science, and Transportation, including Senator HOLLINGS, Ranking Member, Senators HUTCHISON and INOUYE, Chair and Ranking Member of the Surface Transportation and Merchant Marine Subcommittee, as well as Senators LOTT and FORD.

Mr. President, the introduction of this bill today is intended to demonstrate our Committee's firm commitment to enact legislation extending the authorization for the Surface Transportation Board during this session of Congress. The bill we are introducing is simple. It proposes to reauthorize the STB for three years and provide sufficient resources to ensure the agency is able to continue to carry out its serious responsibilities.

Mr. President, I want to stress to my colleagues that this is a working piece of legislation. The Senate Commerce Committee intends to fully explore the resource needs of the Board, along with proposals to provide for any statutory changes as may be necessary. The Surface Transportation and Merchant Marine Subcommittee has already scheduled a hearing on the STB reauthorization for March 31st and I want to commend Chairman HUTCHISON for her expeditious action on this important reauthorization hearing.

During the reauthorization process, I further anticipate we will continue our examination of rail service and rail shipper problems in addition to the more general reauthorization issues. The Surface Transportation and Merchant Marine Subcommittee has held two fields hearings and a third hearing on rail service problems will be conducted next month.

Rail service and rail shipper issues warrant serious consideration, but I believe specific rail service and rail shipper problems and cases are best resolved by the Board. The Congress established the STB as an independent non-political authority to deal with these very exact problems and I believe we must continue to assist the Board in fulfilling its statutory duties responsibly and independently.

I look forward to working on this important transportation legislation and hope my colleagues will agree to join with me and the other sponsors in expeditiously moving this necessary transportation reauthorization through the legislative process.

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

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

S. 1802

*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 ''Surface Transportation Board Reauthorization Act of 1998''.

**SEC. 2. AUTHORIZATION LEVELS.**

There are authorized to be appropriated to the Surface Transportation Board $16,190,000 for fiscal year 1999, $16,642,000 for fiscal year 2000, and $17,111,000 for fiscal year 2001.

Mr. HOLLINGS. Mr. President, I am happy to cosponsor, along with Senators MCCAIN, INOUYE, HUTCHISON, LOTT, and FORD, this bill to reauthorize appropriations for the Surface Transportation Board (Board). The Board is the independent agency which oversees the nation's rail transportation industry. The Board also has some authority over the interstate bus system, pipeline system, and rail labor-management disputes. It should be said that the Congress gave this small agency, with less than 150 people, the job that had been done by the old Interstate Commerce Commission with, at its peak, 1600 people. We demanded that

the Board do more with less and we demanded that it be evenhanded, fairminded, and tackle some very tough, contentious issues. I am happy to report that the Board has done all of that and more.

Since its inception, the Board has had a pending caseload of between 400 and 500 adjudications related to all of its functions. The number of rail cases pending at the Board remains relatively constant because, even as cases are resolved, new cases are filed. Even with its relatively meager resources the Board has met every rulemaking deadline set by Congress in the Interstate Commerce Commission Termination Act. It has resolved close to 200 motor carrier undercharge cases. It has set and met deadlines and established simplified procedures for handling pending cases. It has also dealt with the important and difficult issue of rail carriers providing rates to shippers in the so-called ''bottleneck'' cases. While this issue is now before the courts, it is the Board that has tried to steer a course allowing the rail carriers to earn a decent return on their investment while providing shippers with needed transportation at reasonable rates.

In the area of rail regulation, the Board has worked on several important rail restructuring cases, including several complex line construction cases, the Union Pacific/Southern Pacific merger, and the pending Conrail acquisition case (in which approximately 80 decisions have already been issued). It has tackled the rail service emergency in the West in many ways, including its issuance of an emergency service order on October 31, 1997, which has been extended and expanded upon twice and is in place through August 2, 1998. In addition, the Board is holding two days of hearings on the rail service emergency in the beginning of next month. We must applaud Linda Morgan, the Chairman of the Board, on her leadership and the men and women of the Board on their hard work and dedication and as we do so we must be mindful that more, much more, will be expected of them. Two additional rail mergers have been announced, both of critical importance to the nation. I have every confidence in Chairman Morgan and the STB to meet and surmount these latest challenges.

This bill represents my commitment to seeing that the Board is reauthorized for a multi-year span and is given the resources it needs to continue its vital work. Absent the Board, neither shippers nor rail carriers would have an effective forum to adjudicate disputes and ensure a first rate nationwide rail transportation system.

---

By Mr. ROBB:

S. 1803. A bill to reform agricultural credit programs of the Department of Agriculture, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE AGRICULTURAL CREDIT RESTORATION ACT

Mr. ROBB. Mr. President, every day small and minority farmers are struggling to survive. They struggle in the field as they try to grow a plentiful crop, they struggle with the ever unpredictable Mother Nature, and they struggle to compete with large farm operations. They have a very tough job, but they provide us, the consumers, with the abundant food supply we take for granted. Historically, when credit is unavailable from private sources, farmers have turned to USDA to finance land, seed, equipment and fertilizer, or for funds to offset disaster losses. USDA direct and guaranteed operating loan programs allow small farmers to be self-sustaining, successful, contributing members of their rural communities.

But Mr. President, a little, unknown provision in the 1996 Farm Bill is prohibiting farmers and ranchers from receiving USDA loans if their farm debt has been written off, or forgiven, by the Department in the past for any reason. This provision constitutes a lifetime ban, is more severe than private sector lending policies, and particularly disadvantages small and minority farmers who often have difficulty securing credit. It is a one strike you're out policy and Mr. President, it is simply un-American.

I believe this provision that prohibits farmers who have had their farm debt written-off or restructured from ever receiving a USDA loan again was probably added to the 1996 Farm bill to protect the public interest. However, it is actually forcing some small and minority farmers into impoverished retirement.

That is why I rise today to introduce the Agricultural Credit Restoration Act of 1998. While safeguarding the integrity of USDA lending programs, this bill provides credit-worthy farmers and ranchers a second opportunity to participate in lending programs. The legislation, which was formulated by the USDA, eliminates the lifetime ban. It limits eligibility to two write-downs and farmers and ranchers are given a second opportunity to participate in USDA lending programs. Secondly, an exemption from the ban is included for one write-down that may result from a natural disaster or medical condition affecting farmers or their immediate family, or where discrimination by USDA has occurred. Thirdly, the bill gives the Secretary of Agriculture the authority to give loan funds for socially disadvantaged farmers to states where need is greatest.

In my state, Virginia, and throughout the South, farmers have been denied or delayed loans by USDA local agents because of their race. This has been confirmed by USDA and acknowledged by Agriculture Secretary Dan Glickman and President Clinton. This discrimination has forced farmers into bankruptcy and statistics show that the black farmer is dwindling at three times the rate of other farmers in the United States.

In the Dakotas, farmers were devastated by the great floods of 1997. Due to a terrible act by Mother Nature, they lost everything and had to declare bankruptcy.

Whether it is a man-mad or a natural disaster, conditions beyond a farmer's control have left him or her in a desperate position. This does not mean these are bad farmers with bad business sense. They have simply experienced bad times, and USDA, the lender of last resort, should not be forbidden from lending these farmers a helping hand.

Last year, responding to complaints by Virginia farmers, I added $50 million in direct operating loan funding to the 1997 Supplemental Appropriations bill. Many deserving farmers were unable to access these funds because of the lifetime ban included in the 1996 Farm bill.

Mr. President, it is time to repeal this unjust one strike you're out provision. We need to do so now, before another planting season goes by and farmers are denied the resources they need to get their corps in the ground.

Small farmers are hardworking individuals with many daily struggles. The Federal government should be there to offer them a chance to survive, not forcing them to move out of the farming business.

Mr. President, I ask unanimous consent that the full text of my bill be inserted in the RECORD, and I urge my fellow colleagues to support small farmers and pass this legislation.

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

S. 1803

*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 ''Agricultural Credit Restoration Act''.

**SEC. 2. AMENDMENTS TO THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.**

(a) Section 343(a)(12)(B) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)(12)(B)) is amended to read as follows:

''(B) EXCEPTION.—The term 'debt forgiveness' does not include—

''(i) consolidation, rescheduling, reamortization, or deferral of a loan;

''(ii) 1 debt forgiveness in the form of a restructuring, write-down, or net recovery buy-out during the lifetime of the borrower that is due to a financial problem of the borrower relating to a natural disaster or a medical condition of the borrower or of a member of the immediate family of the borrower (or, in the case of a borrower that is an entity, a principal owner of the borrower or a member of the immediate family of such an owner); and

''(iii) any restructuring, write-down, or net recovery buy-out provided as a part of a resolution of a discrimination complaint against the Secretary.''.

(b) Section 353(m) of such Act (7 U.S.C. 2001(m)) is amended by striking all that precedes paragraph (2) and inserting the following:

''(m) LIMITATION ON NUMBER OF WRITE-DOWNS AND NET RECOVERY BUT-OUTS PER BORROWER.—

''(1) IN GENERAL.—The Secretary may provide a write-down or net recovery but-out under this section or not more than 2 occasions per borrower with respect to loans made after January 6, 1988.''.

(c) Section 353 of such Act (7 U.S.C. 2001) is amended by striking subsection (o).

(d) Section 355(c)(2) of such Act (7 U.S.C. 2003(c)(2)) is amended to read as follows:

''(2) RESERVATION AND ALLOCATION.—

''(A) IN GENERAL.—The Secretary shall, to the greatest extent practicable, reserve and allocate the proportion of each State's loan funds made available under subtitle B that is equal to that State's target participation rate for use by the socially disadvantaged farmers or ranchers in that State. The Secretary shall, to the extent practicable, distribute the total so derived on a county by county basis according to the number of socially disadvantaged farmers or ranchers in the county.

''(B) REALLOCATION OF UNUSED FUNDS.—The Secretary may pool any funds reserved and allocated under this paragraph with respect to a State that are not used as described in subparagraph (A) in a State in the first 10 months of a fiscal year with the funds similarly not so used in other States, and may reallocate such pooled funds in the discretion of the Secretary for use by socially disadvantaged farmers and ranchers in other States.''.

(e) Section 373(b)(1) of such Act (7 U.S.C. 2008h(b)(1)) is amended to read as follows:

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary may not make or guarantee a loan under subtitle A or B to a borrower who on, 2 or more occasions, received debt forgiveness on a loan made or guaranteed under this title.''.

(f) Section 373(c) of such Act (7 U.S.C. 2008h(c)) is amended to read as follows:

''(c) NO MORE THAN 2 DEBT FORGIVENESSES PER BORROWER ON DIRECT LOANS.—The Secretary may not, on 2 or more occasions, provide debt forgiveness to a borrower on a direct loan made under this title.''.

**SEC. 2. REGULATIONS.**

Not later than 90 days after the date of the enactment of this Act, the Secretary of Agriculture shall promulgate regulations necessary to carry out the amendments made by this Act, without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code; and

(2) the statement of policy of the Secretary of Agriculture relating to notices of proposed rulemaking and public participation in rulemaking that became effective on July 24, 1971 (36 Fed. Reg. 13804).

---

By Mr. KENNEDY:

S. 1804. A bill to amend title XXVII of the Public Health Service Act to limit the amount of any increase in the payments required by health insurance issuers for health insurance coverage provided to individuals who are guaranteed an offer of enrollment under individual health insurance coverage relative to other individuals who purchase health insurance coverage; to the Committee on Labor and Human Resources.

AFFORDABLE HEALTH INSURANCE ACT OF 1998

Mr. KENNEDY. Mr. President, a recent GAO report makes clear that significant insurance company abuses are undercutting the effectiveness of one of the key parts of the Kassebaum-Kennedy health insurance reforms enacted in 1996. The legislation that I am introducing today will stop these unconscionable practices.

The 1996 legislation was enacted in response to several serious problems. Large numbers of Americans felt locked into their jobs because of pre-existing health conditions that would have subjected them to exclusions coverage if they changed jobs.

Many more who did change jobs found themselves and members of their families exposed to devastating financial risks because of exclusions for such conditions. Other families faced the same problems if their employers changed insurance plans. Still others were unable to buy individual coverage because of health problems if they left their job or lost their job and did not have access to employer-based coverage.

The legislation addressed each of these problems. It banned exclusions for pre-existing conditions for people who maintained coverage, even if they changed jobs or changed insurers. It required insurance companies to sell insurance policies to small businesses and individuals losing group coverage, regardless of their health status. It banned higher charges for those in poor health in employment-based groups.

A GAO study in 1995 had found that 25 million Americans faced one or more of these problems and would be helped by the Kassebaum-Kennedy proposal. For the vast majority of these Americans, the legislation is working well. They can change jobs without fear of new exclusions for pre-existing conditions, denial of coverage, or insurance company gouging.

But as the GAO study released last week makes clear, many of the two million people a year who lose employer-based group coverage are vulnerable to flagrant industry price-gouging if they try to purchase individual coverage. Under the Kassebaum-Kennedy legislation, individuals who leave their jobs and want to buy coverage in the individual market are guaranteed access to coverage without regard to their health status and without being subject to pre-existing condition exclusions. But there is no clear limit in the Federal law on how much they can be charged for that coverage—and some unscrupulous companies are taking advantage of that loophole to effectively deny coverage to those in poor health by requiring them to pay exorbitant premiums.

We recognized that potential problem in 1996, but Republican opposition blocked clear, strict federal limits to prevent such abuse, on the ground that state regulation would be an adequate remedy. At least in some states, as the GAO report makes clear, state regulation is no match for insurance industry price-gouging.

The legislation that I am introducing today is a straightforward response to that problem. It will limit insurance company charges to eligible individuals, so that they will have to pay no more than 150% of the rate charged to those in good health. That is well within the range that the American Academy of Actuaries said would have negligible impact on the premiums of those who already have coverage, but it will end the worst of the current price-gouging. This approach of limiting premium increases based on health conditions has worked and worked well in the small group market for many years. It should have been included in the 1996 bill, and Congress should act on it promptly this year.

The verdict of experience is in. The GAO report makes clear that some insurance firms are guilty of abuse beyond a reasonable doubt, and Congress has to act.

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. 1804

*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 ''Affordable Health Insurance Act of 1998''.

**SEC. 2. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT.**

(a) PREMIUM LIMITATIONS WITH RESPECT TO INDIVIDUAL COVERAGE.—Section 2741 of the Public Health Service Act (42 U.S.C. 300gg–41) is amended—

(1) by redesignating the second subsection (e) and subsection (f) as subsection (f) and (g) respectively; and

(2) by adding at the end thereof the following:

''(h) PREMIUM LIMITATIONS.—

''(1) IN GENERAL.—With respect to an eligible individual desiring to enroll in, or renew, individual health insurance coverage under this section, the health insurance issuer that offers such coverage shall not charge such individual a premium rate for such coverage that is higher than a rate equal to 150 percent of the average standard risk rate (as determined under paragraph (2)) of the issuer for individual health insurance offered in the State or applicable marketing or service area (as determined pursuant to regulations).

''(2) AVERAGE STANDARD RISK RATE.—As used in paragraph (1), the term 'average standard risk rate' means the following:

''(A) GUARANTEED ISSUE OF ALL POLICIES.—In the case of a health insurance issuer that meets the requirements of this section with respect to individual health insurance coverage by meeting the requirements of subsection (a)(1), the standard risk rate for the policy in which the eligible individual is enrolled or desires to enroll.

''(B) GUARANTEED ISSUE OF TWO MOST POPULAR POLICIES.—In the case of a health insurance issuer that meets the requirements of this section with respect to individual health insurance coverage through a mechanism described in subsection (c)(2), the standard risk rate for the policy in which the eligible individual is enrolled or desires to enroll.

''(C) GUARANTEED ISSUE OF TWO POLICY FORMS WITH REPRESENTATIVE COVERAGE.—In the case of a health insurance issuer that meets the requirements of this section with respect to individual health insurance coverage through a mechanism described in subsection (c)(3), the average of the standard risk rates for the most common policy forms offered by the issuer in the State or applicable marketing or service area (as determined pursuant to regulations), established using reasonable actuarial techniques to adjust for the difference in actuarial values among

such policy forms, subject to review and approval or disapproval of the applicable regulatory authority.

(b) STATE FLEXIBILITY.—Section 2744(c) of the Public Health Service Act (42 U.S.C. 300gg–44(c)) is amended—

(1) in paragraph (1), by inserting before the period the following: '', except that in applying any such model act, an eligible individual shall not be charged a premium rate that is higher than a rate equal to 150 percent of the standard risk rate of the issuer'';

(2) in paragraph (2)(B), by inserting before the period the following: '', except that an eligible individual shall not be charged a premium rate that is higher than a rate equal to 150 percent of the standard risk rate as determined under the Model Plan''; and

(3) by adding at the end the following:

''(4) LIMITATION.—

''(A) IN GENERAL.—In the case of a mechanism described in subparagraph (A) or (B) of paragraph (3), a State shall not be considered to be implementing an acceptable alternative mechanism unless the mechanism limits the amount of premium rates that may be charged to eligible individuals to not more than 150 percent of the standard risk rate.

''(B) STANDARD RISK RATE.—For purposes of subparagraph (A), the term 'standard risk rate' means—

''(i) in the case of a mechanism under paragraph (3)(A), and as determined by the Secretary to be appropriate with respect to the State mechanism involved—

''(I) the rate determined under section 2741(h)(2)(A);

''(II) the rate determined pursuant to the standards included in the Model Plan described in paragraph (2)(B); or

''(III) the rate determined pursuant to such other method of calculation as is determined by the State and approved by the Secretary as appropriate to achieve the goal of this subsection; and

''(ii) in the case of a mechanism under paragraph (3)(B), the rate determined under section 2741(h)(2)(A).''.

**SEC. 3. EFFECTIVE DATE.**

The amendments made by—

(1) section 2(a) shall apply to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on the date that is 6 months after the date of enactment of this Act; and

(2) section 2(b) shall apply with respect to a State that adopted an alternative mechanism under section 2744 of the Public Health Service Act (42 U.S.C. 300gg–44) on the date that is 1 year after the date of enactment of this Act.

---

By Mr. KENNEDY (for himself, Mr. DODD, Mr. DASCHLE, Mr. INOUYE, Mr. BUMPERS, Mr. LEAHY, Mr. MOYNIHAN, Mr. SARBANES, Mr. LEVIN, Mr. LAUTENBERG, Mr. HARKIN, Mr. KERRY, Mr. ROCKEFELLER, Ms. MIKULSKI, Mr. WELLSTONE, Mrs. BOXER, Mr. FEINGOLD, Mrs. FEINSTEIN, Ms. MOSELEY-BRAUN, Mr. DURBIN, Mr. REED, and Mr. TORRICELLI):

S. 1805. A bill to amend the Fair Labor Standards Act of 1938 to increase the Federal minimum wage; to the Committee on Labor and Human Resources.

THE FAIR MINIMUM WAGE ACT OF 1998

Mr. KENNEDY. Mr. President, it is an honor to join with Senator DASCHLE and other Democratic Senators to introduce the Fair Minimum Wage Act of 1998. This proposal is strongly supported by President Clinton, and is also being introduced today in the House of Representatives by Congressman DAVID BONIOR, Democratic Leader RICHARD GEPHARDT, and many of their colleagues.

The federal minimum wage is now $5.15 an hour. Our bill will raise it by $1.00 over the next two years—a 50 cent increase on January 1, 1999, and another 50 cent increase on January 1, 2000, so that the minimum wage will reach the level of $6.15 at the turn of the century.

These modest increases will help 20 million workers and their families. Twelve million Americans earning less than $6.15 an hour today will see a direct increase in their pay, and another 8 million Americans earning between $6.15 and $7.15 an hour are also likely to benefit from the increase.

The nation's economy is the best it has been in decades. Under the leadership of President Clinton, the country as a whole is enjoying a remarkable period of growth and prosperity. Enterprise and entrepreneurship are flourishing—generating an extraordinary expansion, with remarkable efficiencies and job creation. The stock market is soaring. Inflation is low, unemployment is low, and interest rates are low.

In the past 30 years, the stock market, adjusted for inflation, has gone up by 115%. In 1997, the average compensation of a Wall Street executive was $280,000—a stunning $120,000 increase over 1996. These lavish salaries contrast starkly with the 30% decline in the value of the minimum wage over the past three decades. To have the purchasing power it had in 1968, the minimum wage would have to be $7.38 an hour today, instead of $5.15.

But the benefits of this prosperity have not flowed fairly to minimum wage earners. Working 40 hours a week, 52 weeks a year, they earn $10,712 a year—$2,600 below the poverty line for a family of three.

According to the Department of Labor, 60% of minimum wage earners are women. Nearly three-fourths are adults. Three-fifths are the sole breadwinners in their families. More than half work full time. These families need help, and they deserve this increase in the minimum wage.

Increasing the minimum wage can make all the difference to these workers and their families. They will be able to survive without food stamps or other social services to supplement their incomes. They can fix up their homes and invest in their neighborhoods. They can spend more at the local grocery store. They can work two jobs rather than three, and spend more time with their families. Their utilities won't be cut off. They can pay the medical bills they accumulated from not having health benefits at their jobs. As one minimum wage earner told me earlier this year, ''The best welfare reform is an increase in the minimum wage.''

Opponents typically claim that, if the minimum wage goes up, the sky will fall—small businesses will collapse and jobs will be lost. This hasn't happened in the past, and it won't happen in the future. In fact, in the time that has passed since the most recent increases in the federal minimum wage—a 50-cent increase on October 1, 1996 and a 40-cent increase on September 1, 1997—employment has increased in all sectors of the population.

Since September 1996, 700,000 new retail jobs have been added in the economy, including 200,000 new restaurant jobs. Overall employment is at an all-time high. Overall unemployment is at an historically low rate—4.6 %. The teenage unemployment rate has declined by 1.3 percentage points. The unemployment rate for African-Americans has declined by 1 percentage point over the same period.

Seventeen renowned economists—including Nobel Prize winner Lawrence R. Klein and former Secretary of Labor Ray Marshall—recently wrote to President Clinton, supporting an increase in the minimum wage. According to these experts, ''the 1996 and 1997 increases had a beneficial effect, not only on those whose earnings were increased by 90 cents an hour, but also on the economy as a whole. Billions in added consumer demand helped fuel our expanding economy in those years. . . . Given the nation's low unemployment rate and strong economy without inflation, now is the time to deepen our public commitment to a decent minimum wage.''

The American people understand that you can't raise a family on $5.15 an hour. We intend to do all we can to see that the minimum wage is increased this year. No one who works for a living should have to live in poverty.

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. 1805

*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 ''Fair Minimum Wage Act of 1998''.

**SEC. 2. MINIMUM WAGE INCREASE.**

(a) WAGE.—Paragraph (1) of section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

''(1) except as otherwise provided in this section, not less than—

''(A) $5.65 an hour during the year beginning on January 1, 1999; and

''(B) $6.15 an hour during the year beginning on January 1, 2000.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on January 1, 1999.

---

By Mr. COCHRAN (for himself and Mr. INOUYE):

S. 1806. A bill to state the policy of the United States regarding the deployment of a missile defense system

capable of defending the territory of the United States against limited ballistic missile attack; to the Committee on Armed Services.

THE AMERICAN MISSILE PROTECTION ACT OF 1998

Mr. COCHRAN. Mr. President, I am introducing today a bill to make it the policy of the United States to deploy a national missile defense system as soon as technology permits. I am pleased that the distinguished Senator from Hawaii, Mr. INOUYE, is joining me as cosponsor of this legislation, the American Missile Protection Act of 1998.

A new type of ballistic missile threat is emerging in the world today, one that derives not from a cold war strategic balance but from the increasing proliferation of ballistic missile technology, from the stated desire of some nation states to acquire such delivery systems, and from their evident progress in doing so. Last year, the Governmental Affairs Subcommittee on International Security, Proliferation, and Federal Services held a series of 11 hearings examining proliferation-related issues. The evidence from those hearings forms the basis for the findings in this bill.

First, we found, and this bill recites, that the threat of weapons of mass destruction delivered by long-range ballistic missiles is among the most serious security issues facing the United States. There is widespread agreement on this. For the last 4 years, the President has annually declared that the proliferation of nuclear, biological, and chemical weapons, and the means of delivering such weapons, constitute ''an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States.'' And the Senate said in legislation in 1996 that ''it is in the supreme interest of the United States to defend itself from the threat of limited ballistic missile attack, whatever the source.''

The second finding in the bill is that the long-range ballistic missile threat to the United States is increasing. The leaders of several rogue states have stated their belief that missiles capable of striking our territory would enable them to coerce or deter the United States, and they have declared their desire and intent to acquire these delivery systems. Ballistic missiles are increasingly the weapon of choice. They were used only once between World War II and 1980, but thousands have been fired in at least six conflicts since 1980. Furthermore, the clear trend is toward missiles with greater range. For example, since the early 1980s, North Korea has progressed from having to purchase 300-kilometer-range Scud missiles to developing its own 6,000-kilometer-range ballistic missile, which the intelligence community says may be capable of striking Alaska and Hawaii in less than 15 years. Iran's progress in developing extended range missiles has been dramatic and sudden, posing a new threat to U.S. forces in the Middle East.

The technological advances of the information age have made vast amounts of previously classified, arcane technical information available to anyone with Internet access. Advances in commercial aerospace have made once-exotic components and materials commonplace and more easily obtainable, and the demand for space-based telecommunications has vastly increased demand for space launch vehicles. These developments mean that the technical information, hardware, and other resources necessary to build ballistic missiles are increasingly available and accessible worldwide.

So, too, is scientific and technical expertise from Russia and China, which have been primary suppliers of equipment, materials, and technology related to weapons of mass destruction. Efforts by the administration to stop such assistance from these two countries have not been successful.

America's well-known vulnerability serves to feed this growing threat. As long as potential adversaries know we cannot defend ourselves against these weapons, they have every incentive to acquire or develop them.

The third finding in the bill is that the ability of the United States to anticipate the rate of progress in rogue ballistic missile programs is questionable. In the past, the United States has been surprised by the technical innovation of other nations, particularly with respect to ballistic missiles. There are many reasons for this, including help from other nations and the willingness of some states to field systems with lower accuracy requirements than would be acceptable to the United States. In both cases, the result can be progress that is more rapid than expected. Just 2 months ago, for example, the Director of Central Intelligence stated, ''Iran's success in getting technology and materials from Russian companies, combined with recent indigenous Iranian advances means that it could have a medium-range missile much sooner than I assessed last year.''

That year, last year, in 1997, Mr. Tenet testified that Iran could have such a missile by 2007, the year 2007. While he didn't say how much sooner than 2007 when he testified recently, State Department officials have testified since then that Iran could develop this missile this year, 9 years earlier than had been predicted only a year ago.

Iran's rapid progress demonstrates how external assistance can affect the pace of missile programs. And, of course, predicting the amount of outside assistance any nation will receive is nearly impossible. The CIA has recognized this difficulty, stating recently to the Senate that, ''gaps and uncertainties preclude a good projection of exactly when 'rest of the world' countries will deploy ICBMs.''

This bill's fourth finding is that the failure to prepare a defense against ballistic missiles could have grave security and foreign policy consequences for the United States. An attack on the United States by a ballistic missile equipped with a weapon of mass destruction would be catastrophic, inflicting death and injury to potentially thousands of American citizens. Even the threat of such an attack could constrain American options in dealing with regional challenges to our interests, deter us from taking action, or prompt allies to question America's security guarantees. All of this would have serious consequences for the United States and international stability.

The fifth finding is that it is imperative for the United States to be prepared for rogue nations acquiring long-range ballistic missiles armed with weapons of mass destruction. The Senate, in its resolution of ratification for the START II treaty, declared that ''. . . because deterrence may be inadequate to protect the United States against long-range ballistic missile threats, missile defenses are a necessary part of new deterrent strategies.'' Former Defense Secretary Perry said in 1994 that we have an opportunity to move from ''mutual assured destruction'' to ''mutual assured safety.'' And in 1997, the Under Secretary of Defense for Policy testified in the Senate that we ''are quite willing to acknowledge that if we saw a rogue state, a potential proliferant, beginning to develop a long-range ICBM capable of reaching the United States, we would have to give very, very serious attention to deploying a limited national missile defense.'' Mr. President, our Nation's interests will be served better being prepared 1 year too soon rather than 1 year too late.

This bill's sixth and final finding acknowledges the United States has no defenses deployed against weapons of mass destruction delivered by long-range ballistic missiles and no policy to deploy such a national missile defense system. We have only a policy to wait and see.

The bill in its final paragraph provides, ''It is the policy of the United States to deploy as soon as technologically possible, a National Missile Defense system capable of defending the territory of the United States against limited ballistic missile attack (whether accidental, unauthorized, or deliberate).''

This policy statement accomplishes two things. It sends a clear message to any rogue state seeking ballistic missile delivery systems that America will not be vulnerable to these weapons indefinitely. And, second, it affirms that the United States will take the steps necessary to protect its citizens from missile attack. That is what the bill is. That is what it says.

Now, let me briefly say what it is not. It is not a referendum on the ABM Treaty. It does not prescribe a specific system architecture. It does not mandate a deployment date, only that we deploy as soon as the technology is ready. It is not a directive to negotiate or cooperate on missile defense programs. It does not initiate studies or

reports. Nor is it a declaration that the only weapon of mass destruction threat to the United States is from weapons delivered by long-range ballistic missiles—other delivery methods are also of concern but we have programs in place to defend against those threats. This bill is designed to deal only with the accelerating proliferation threat.

In his State of the Union Address President Clinton said, ''preparing for a far off storm that may reach our shores is far wiser than ignoring the thunder 'til the clouds are just overhead.'' He wasn't talking about national missile defense, but his words do apply precisely to this dilemma. We are hearing the thunder now, and the time has come to declare to our citizens and to the world and to demonstrate by our actions that the United States will not remain defenseless against ballistic missiles. That should be our policy and this bill states that it is our policy.

A letter to all Senators is going out inviting cosponsors to join us when we reintroduce the bill within the next 2 weeks. I ask unanimous consent a copy 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. 1806

*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 at the ''American Missile Protection Act of 1998''.

**SEC. 2. FINDINGS.**

Congress makes the following findings:

(1) The threat of weapons of mass destruction delivered by long-range ballistic missiles is among the most serious security issues facing the United States.

(A) In a 1994 Executive Order, President Clinton certified, that ''I ... find that the proliferation of nuclear, biological, and chemical weapons ('weapons of mass destruction') and the means of delivering such weapons, constitute an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, and hereby declare a national emergency to deal with that threat.'' This state of emergency was reaffirmed in 1995, 1996, and 1997.

(B) In 1994 the President stated, that ''there is nothing more important to our security and the world's stability than preventing the spread of nuclear weapons and ballistic missiles''.

(C) Several countries hostile to the United States have been particularly determined to acquire missiles and weapons of mass destruction. President Clinton observed in January of 1998, for example, that ''Saddam Hussein has spent the better part of this decade, and much of his nation's wealth, not on providing for the Iraqi people, but on developing nuclear, chemical and biological weapons and the missiles to deliver them''.

(D) In 1996, the Senate affirmed that, ''it is in the supreme interest of the United States to defend itself from the threat of limited ballistic missile attack, whatever the source.''

(2) The long-range ballistic missile threat to the United States is increasing.

(A) Several adversaries of the United States have stated their intention to acquire intercontinental ballistic missiles capable of attacking the United States.

(i) Libyan leader Muammar Qaddafi has stated, ''If they know that you have a deterrent force capable of hitting the United States, they would not be able to hit you. If we had possessed a deterrent—missiles that could reach New York—we would have hit it at the same moment. Consequently, we should build this force so that they and others will no longer think about an attack.''

(ii) Abu Abbas, the head of the Palestine Liberation Front, has stated, ''I would love to be able to reach the American shore, but this is very difficult. Someday an Arab country will have ballistic missiles. Someday an Arab country will have a nuclear bomb. It is better for the United States and for Israel to reach peace with the Palestinians before that day.''

(iii) Saddam Hussein has stated, ''Our missiles cannot reach Washington. If we could reach Washington, we would strike if the need arose.''

(iv) Iranian actions speak for themselves. Iran's aggressive pursuit of medium-range ballistic missiles capable of striking Central Europe—aided by the continuing collaboration of outside agents—demonstrates Tehran's intent to acquire ballistic missiles of ever-increasing range.

(B) Over 30 non-NATO countries possess ballistic missiles, with at least 10 of those countries developing over 20 new types of ballistic missiles.

(C) From the end of World War II until 1980, ballistic missiles were used in one conflict. Since 1980, thousands of ballistic missiles have been fired in at least six different conflicts.

(D) The clear trend among countries hostile to the United States is toward having ballistic missiles of greater range.

(i) North Korea first acquired 300-kilometer range Scud Bs, then developed and deployed 500-kilometer range Scud Cs, is currently deploying the 1000-kilometer range No-Dong, and is developing the 2000-kilometer range Taepo-Dong 1 and 6000-kilometer range Taepo-Dong 2, which would be capable of striking Alaska and Hawaii.

(ii) Iran acquired 150-kilometer range CSS-8s, progressed through the Scud B and Scud C, and is developing the 1300-kilometer range Shahab-3 and 2000-kilometer range Shahab-4, which would allow Iran to strike Central Europe.

(iii) Iraq, in a two-year crash program, produced a new missile, the Al-Hussein, with twice the range of its Scud Bs.

(iv) Experience gained from extending the range of short- and medium-range ballistic missiles facilitates the development of intercontinental ballistic missiles.

(E) The technical information, hardware, and other resources necessary to build ballistic missiles are increasingly available and accessible worldwide.

(i) Due to advances in information technology, a vast amount of technical information relating to ballistic missile design, much of it formerly classified, has become widely available and is increasingly accessible through the Internet and other distribution avenues.

(ii) Components, tools, and materials to support ballistic missile development are increasingly available in the commercial aerospace industry.

(iii) Increasing demand for satellite-based telecommunications is adding to the demand for commercial Space Launch Vehicles, which employ technology that is essentially identical to that of intercontinental ballistic missiles. As this increasing demand is met, the technology and expertise associated with space launch vehicles also proliferate.

(F) Russia and China have provided significant technical assistance to rogue nation ballistic missile programs, accelerating the pace of those efforts. In June of 1997, the Director of Central Intelligence, reporting to Congress on weapons of mass destruction-related equipment, materials, and technology, stated that ''China and Russia continued to be the primary suppliers, and are key to any future efforts to stem the flow of dual-use goods and modern weapons to countries of concern.''

(G) Russia and China continue to engage in missile proliferation.

(i) Despite numerous Russian assurances not to assist Iran with its ballistic missile program, the Deputy Assistant Secretary of State for Nonproliferation testified to the Senate, that ''the problem is this: there is a disconnect between those reassurances, which we welcome, and what we believe is actually occurring.''

(ii) Regarding China's actions to demonstrate the sincerity of its commitment to nonproliferation, the Director of Central Intelligence testified to the Senate on January 28, 1998, that, ''the jury is still out on whether the recent changes are broad enough in scope and whether they will hold over the longer term. As such, Chinese activities in this area will require continued close watching.''

(H) The inability of the United States to defend itself against weapons of mass destruction delivered by long-range ballistic missile provides additional incentive for hostile nations to develop long-range ballistic missiles with which to threaten the United States. Missiles are widely viewed as valuable tools for deterring and coercing a vulnerable United States.

(3) The ability of the United States to anticipate future ballistic missile threats is questionable.

(A) The Intelligence Community has failed to anticipate many past technical innovations (for example, Iraq's extended-range Al-Hussein missiles and its development of a space launch vehicle) and outside assistance enables rogue states to surmount traditional technological obstacles to obtaining or developing ballistic missiles of increasing range.

(B) In June of 1997, the Director of Central Intelligence reported to Congress that ''many Third World countries—with Iran being the most prominent example—are responding to Western counter-proliferation efforts by relying more on legitimate commercial firms as procurement fronts and by developing more convoluted procurement networks.''

(C) In June of 1997, the Director of Central Intelligence stated to Congress that ''gaps and uncertainties preclude a good projection of exactly when 'rest of the world' countries will deploy ICBMs.''

(D) In 1997, the Director of Central Intelligence testified that Iran would have a medium-range missile by 2007. One year later the Director stated, ''since I testified, Iran's success in getting technology and materials from Russian companies, combined with recent indigenous Iranian advances, means that it could have a medium-range missile much sooner than I assessed last year.'' Department of State officials have testified that Iran could be prepared to deploy such a missile as early as late 1998, nine years earlier than had been predicted one year before by the Director of Central Intelligence.

(4) The failure to prepare adequately for long-range ballistic missile threats could have severe national security and foreign policy consequences for the United States.

(A) An attack on the United States by a ballistic missile equipped with a weapon of mass destruction could inflict catastrophic death or injury to citizens of the United States and severe damage to their property.

(B) A rogue state's ability to threaten the United States with an intercontinental ballistic missile may constrain the United States' options in dealing with regional threats to its interests, deter the United States from taking appropriate action, or prompt allies to question United States security guarantees, thereby weakening alliances of the United States and the United States' world leadership position.

(5) The United States must be prepared for rogue nations acquiring long-range ballistic missiles armed with weapons of mass destruction.

(A) In its resolution of ratification for the START II Treaty, the United States Senate declared that ''because deterrence may be inadequate to protect the United States against long-range ballistic missile threats, missile defenses are a necessary part of new deterrent strategies.''

(B) In September of 1994, Secretary of Defense Perry stated that in the post-Cold War era, ''we now have opportunity to create a new relationship based not on MAD, not on Mutual Assured Destruction, but rather on another acronym, MAS, or Mutual Assured Safety.''

(C) On February 12, 1997, the Under Secretary of Defense for Policy testified to the Senate that ''I and the administration are quite willing to acknowledge that if we saw a rogue state, a potential proliferant, beginning to develop a long-range ICBM capable of reaching the United States, we would have to give very, very serious attention to deploying a limited national missile defense.''

(6) The United States has no defense deployed against weapons of mass destruction delivered by long-range ballistic missiles and no policy to deploy such a national missile defense system.

**SEC. 3. NATIONAL MISSILE DEFENSE POLICY.**

It is the policy of the United States to deploy as soon as is technologically possible a National Missile Defense system capable of defending the territory of the United States against limited ballistic missile attack (whether accidental, unauthorized, or deliberate).

## ADDITIONAL COSPONSORS

S. 217

At the request of Mr. BIDEN, the name of the Senator from Minnesota (Mr. GRAMS) was added as a cosponsor of S. 217, a bill to amend title 38, United States Code, to provide for the payment to States of plot allowances for certain veterans eligible for burial in a national cemetery who are buried in cemeteries of such States.

S. 597

At the request of Mr. BINGAMAN, the name of the Senator from Illinois (Ms. MOSELEY-BRAUN) was added as a cosponsor of S. 597, a bill to amend title XVIII of the Social Security Act to provide for coverage under part B of the medicare program of medical nutrition therapy services furnished by registered dietitians and nutrition professionals.

S. 766

At the request of Ms. SNOWE, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 766, a bill to require equitable coverage of prescription contraceptive drugs and devices, and contraceptive services under health plans.

S. 778

At the request of Mr. LUGAR, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 778, a bill to authorize a new trade and investment policy for sub-Saharan African.

S. 1321

At the request of Mr. TORRICELLI, the name of the Senator from New York (Mr. D'AMATO) was added as a cosponsor of S. 1321, a bill to amend the Federal Water Pollution Control Act to permit grants for the national estuary program to be used for the development and implementation of a comprehensive conservation and management plan, to reauthorize appropriations to carry out the program, and for other purposes.

S. 1325

At the request of Mr. FRIST, the names of the Senator from Massachusetts (Mr. KENNEDY), the Senator from Maine (Ms. SNOWE), and the Senator from Vermont (Mr. JEFFORDS) were added as cosponsors of S. 1325, a bill to authorize appropriations for the Technology Administration of the Department of Commerce for fiscal years 1998 and 1999, and for other purposes.

S. 1352

At the request of Mr. GRASSLEY, the name of the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 1352, A bill to amend Rule 30 of the Federal Rules of Civil Procedure to restore the stenographic preference for depositions.

S. 1413

At the request of Mr. LUGAR, the name of the Senator from Oklahoma (Mr. NICKLES) was added as a cosponsor of S. 1413, a bill to provide a framework for consideration by the legislative and executive branches of unilateral economic sanctions.

S. 1423

At the request of Mr. HAGEL, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 1423, a bill to modernize and improve the Federal Home Loan Bank System.

S. 1504

At the request of Mr. GRAHAM, the name of the Senator from New York (Mr. D'AMATO) was added as a cosponsor of S. 1504, a bill to adjust the immigration status of certain Haitian nationals who were provided refuge in the United States.

S. 1572

At the request of Mr. BRYAN, the names of the Senator from Indiana (Mr. COATS), the Senator from Nebraska (Mr. HAGEL), and the Senator from Missouri (Mr. BOND) were added as cosponsors of S. 1572, a bill to prohibit the Secretary of the Interior from promulgating certain regulations relating to Indian gaming activities.

S. 1621

At the request of Mr. GRAMS, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1621, a bill to provide that certain Federal property shall be made available to States for State use before being made available to other entities, and for other purposes.

S. 1644

At the request of Mr. REED, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor 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 name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 1647, a bill to reauthorize and make reforms to programs authorized by the Public Works and Economic Development Act of 1965.

S. 1667

At the request of Mr. GRASSLEY, the name of the Senator from Michigan (Mr. ABRAHAM) was added as a cosponsor of S. 1667, a bill to amend section 2164 of title 10, United States Code, to clarify the eligibility of dependents of United States Service employees to enroll in Department of Defense dependents schools in Puerto Rico.

S. 1677

At the request of Mr. CHAFEE, the names of the Senator from Pennsylvania (Mr. SANTORUM) and the Senator from New Hampshire (Mr. GREGG) were added as cosponsors of S. 1677, a bill to reauthorize the North American Wetlands Conservation Act and the Partnerships for Wildlife Act.

S. 1695

At the request of Mr. CAMPBELL, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 1695, a bill to establish the Sand Creek Massacre National Historic Site in the State of Colorado.

S. 1747

At the request of Mr. GRASSLEY, the name of the Senator from New York (Mr. D'AMATO) was added as a cosponsor of S. 1747, a bill to amend the Internal Revenue Code of 1986 to provide for additional taxpayer rights and taxpayer education, notice, and resources, and for other purposes.

S. 1758

At the request of Mr. LUGAR, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1758, a bill to amend the Foreign Assistance Act of 1961 to facilitate protection of tropical forests through debt reduction with developing countries with tropical forests.

S. 1760

At the request of Mr. LEVIN, the name of the Senator from Ohio (Mr. GLENN) was added as a cosponsor of S. 1760, a bill to amend the National Sea Grant College Program Act to clarify the term Great Lakes.

S. 1764

At the request of Mr. THURMOND, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 1764, a bill to amend sections 3345