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. HATCH (for himself and Mr. LEAHY):

S. 2143. A bill to amend chapter 45 of title 28, United States Code, to authorize the Administrative Assistant to the Chief Justice to accept voluntary services, and for other purposes; to the Committee on the Judiciary.

By Mr. COVERDELL:

S. 2144. A bill to amend the Fair Labor Standards Act of 1938 to exempt from the minimum wage recordkeeping and overtime compensation requirements certain specialized employees; to the Committee on Labor and Human Resources.

By Mr. SHELBY (for himself, Mr. ROCKEFELLER, and Ms. MOSELEY-BRAUN):

S. 2145. A bill to modernize the requirements under the National Manufactured Housing Construction and Safety Standards Act of 1974 and to establish a balanced consensus process of the development, revision, and interpretation of Federal construction and safety standards for manufactured homes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HATCH (for himself and Mr. BENNETT):

S. 2146. A bill to provide for the exchange of certain lands within the State of Utah; to the Committee on Energy and Natural Resources.

By Mr. DASCHLE (for himself and Mr. JOHNSON):

S. 2147. A bill to amend the Internal Revenue Code of 1986 to provide a deduction for two-earner married couples, to allow self-employed individuals a 100-percent deduction for health insurance costs, and for other purposes; to the Committee on Finance.

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

S. 2148. A bill to protect religious liberty; to the Committee on the Judiciary.

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

S. 2149. A bill to transfer certain public lands in northeastern Nevada; to the Committee on Energy and Natural Resources.

By Mr. FRIST (for himself, Mr. KENNEDY, Mr. JEFFORDS, Mr. WELLSTONE, Ms. MIKULSKI, and Mr. TORRICELLI):

S. 2150. A bill to amend the Public Health Service Act to revise and extend the bone marrow donor program, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. NICKLES (for himself, Mr. LOTT, Mr. COATS, Mr. INHOFE, Mr. HELMS, Mr. MURKOWSKI, Mr. GRAMS, Mr. FAIRCLOTH, Mr. BOND, Mr. ENZI, Mr. SESSIONS, Mr. HAGEL, and Mr. COVERDELL):

S. 2151. A bill to clarify Federal law to prohibit the dispensing or distribution of a controlled substance for the purpose of causing, or assisting in causing, the suicide, euthanasia, or mercy killing of any individual; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

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

S. Res. 245. A resolution expressing the sense of the Senate that it is the interest of both the United States and the Republic of Korea to maintain and enhance continued close U.S-ROK relations, and to commend President Kim Dae Jung and the Republic of Korea for the measures already implemented and those it has committed to implement to resolve the country's economic and financial problems; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH (for himself and Mr. LEAHY):

S. 2143. A bill to amend chapter 45 of title 28, United States Code, to authorize the Administrative Assistant to the Chief Justice to accept voluntary services, and for other purposes; to the Committee on the Judiciary.

SUPREME COURT VOLUNTEER LEGISLATION

Mr. HATCH. Mr. President, year after year, millions of people flock to Washington D.C. to visit the seat of American government. They come from every state of the union and most of the nations of the Earth to view for themselves the workings of the oldest democracy in the world. This city, through its historic edifices, tells the story of our nation. I am grateful for the thousands of professionals and volunteers who help to share that story with all who come to hear it.

Over one million of these visitors come to the Supreme Court Building each year. They come to see, experience, and learn about the workings of American justice. Meeting this large demand can be taxing on the resources of the Court. To satisfy this need, without adding an undue burden to the budget, the Court has asked Congress to enact legislation permitting volunteers from the Supreme Court Historical Society to conduct public tours of the Supreme Court building.

This legislation will provide the Court with the same benefits that have recently been extended to the Congress. Currently, 35 volunteers from the Capitol Guide Service assist Capitol visitors by providing historical perspective and insight. I have been told by the Capitol Guide Service that the influx of volunteers, allowed by legislation in the 104th Congress, enabled them to increase the volume of their tours of the Capitol by approximately twenty-five percent. Moreover, it provided the personnel necessary to expand their service to the exterior of the Capitol. Guides positioned outside the Capitol help direct visitors and provide information about the historic external architecture of this building. The use of volunteers has improved the experience of citizens visiting the Capitol grounds.

The proposed legislation, like that covering congressional volunteers, will have no adverse fiscal impact, nor will it displace any Supreme Court employees. The legislation will, however, dramatically improve the ability of the Supreme Court to educate the public about this distinctly American institution.

I believe that upon passage of this legislation, all Americans who visit our seat of Justice will appreciate the expanded services made available by its enactment.

By Mr. SHELBY (for himself, Mr. ROCKEFELLER, and Ms. MOSELEY-BRAUN):

S. 2145. A bill to modernize the requirements under the National Manufactured Housing Construction and Safety Standards Act of 1974 and to establish a balanced consensus process for the development, revision, and interpretation of Federal construction and safety standards for manufactured homes; to the Committee on Banking, Housing, and Urban Affairs.

MANUFACTURED HOUSING IMPROVEMENT ACT

● Mr. SHELBY. Mr. President, today I introduce a bipartisan bill with my colleagues, Senators JOHN ROCKEFELLER and CAROL MOSELEY-BRAUN. Entitled the ''Manufactured Housing Improvement Act,'' (MHIA) this bill is designed to modernize the requirements under the National Manufactured Housing Construction and Safety Standards Act of 1974 and to establish a balanced consensus process for the development, revision, and interpretation of Federal construction and safety standards for manufactured homes.

Many do not realize that the manufactured homes of today are completely different from those of twenty or even ten years ago. They also do not realize that this is the fastest growing segment of the housing industry, and that it accounts for one out of every three new single family homes sold. Between 1980 and 1990, the industry experienced a 60 percent growth in market share, and last year set a twenty year sales record. There are good consumer-oriented reasons for this tremendous growth—manufactured housing offers quality and aesthetically pleasing housing at an average cost of $37,300, excluding the land. Today, manufactured housing has lowered the threshold to the American Dream of home ownership for millions of Americans, including first-time home buyers, senior citizens, young families, and single parents.

At a time when home ownership is becoming harder for the average American to attain, and with more than 5.3 million Americans paying more than 50 percent of their incomes on rent, I believe it is imperative to update the laws that regulate the private sector solution to affordable housing. In order for the manufactured housing industry to remain competitive, Congress must modernize the National Manufactured Housing Construction and Safety Standards Act of 1974.

My bill would do just that. MHIA would establish a consensus committee that would submit recommendations to the Secretary of Housing and Urban Development (HUD) for developing, amending and revising both the Federal Manufactured Home Construction

and Safety Standards. This provision will allow the manufactured housing industry to update and create applicable building codes and standards just like other participants in the housing industry. In addition, the committee would be authorized to interpret the standards, thereby eliminating confusion and uncertainty in the market place.

The Manufactured Housing Improvement Act would authorize the Secretary of HUD to use industry labeling fees for the administration of the consensus committee and the hiring of additional HUD staff. The Secretary of HUD would also be authorized to use industry label fees to promote the availability and affordability of manufactured housing.

This legislation is a very significant step forward in that both the Manufactured Housing Institute and the Manufactured Housing Association for Regulatory Reform endorse this legislation. The industry participants have modernized the quality and technology of manufactured housing. Congress must now modernize the laws that regulate an industry that provides affordable housing and contributes more than $23 billion annually to our nation's economy.●

● Mr. ROCKEFELLER. Mr. President, I join today with Senator SHELBY to introduce legislation intended to strengthen the manufactured housing industry. Manufactured housing provides a major source of affordable housing for American families and seniors. This industry represents almost 30 percent of new single-family homes sold in the United States. In my state of West Virginia, manufactured housing represents more than 60 percent of new homes.

Manufactured housing should play a strong role to increase the availability of affordable housing. This issue will be especially important to seniors. According to a recent national survey, 45 percent of households living in manufactured homes are headed by a person more than 50 years old.

Manufactured housing is affordable housing, and it is the fastest growing type of housing nationally. The average cost of a new manufactured home without land in 1997 was $38,400. Even with land and installation fees, this cost is well below the typical costs of a newly constructed site-built home.

But this industry faces challenges. Unlike other housing, manufactured housing is regulated by the 1974 National Manufactured Housing Construction and Safety Standards Act by the Department of Housing and Urban Development, (HUD). Because of reform in HUD management, the federal officials overseeing manufactured housing have declined from a staff of 34 to only eight. This decline in staff has occurred at the same time that the industry has grown. Unfortunately, due to a lack of staff, HUD cannot keep pace with the need to update the code on a consistent basis and timely manner. For example, there are new nationally recognized standards for fire protection prepared by the National Fire Protection Association and endorsed by the National Institute for Standards and Technology (NIST). However, there is no indication that HUD is ready to act on using these new standards to upgrade its codes for manufactured housing. In fact, between 1989 and 1996, a consensus committee has made 140 suggestions to HUD about changes for the federal codes on manufactured housing. More than 80 of these provisions are still pending in the Department.

In 1990, Congress established a National Commission on Manufactured Housing and pushed the commission to forge a consensus on key issues for this important industry. Unfortunately that effort collapsed in 1994.

This legislation is a new effort to address the challenges facing the industry. Introduction of the bill is just a first step. We all understand that the legislative process is designed to seek a consensus and improve legislation. I believe that we must work hard to forge a consensus between the industry and the consumers. This will be a challenge, but the potential rewards can be great for both sides. The industry can win and prosper with a more effective, streamlined regulatory process that keeps pace with improvements and standards. Consumers will win if safety standards and regulations are adopted more efficiently, such as the pending fire safety standards. Also, if the industry can use newer standards to provide better housing, manufactured housing could be designed to meet a wider variety of needs including modules for assisted living and stack able units for urban sites.

My hope is that all sides will see this legislation as an opportunity to come together and develop a new, improved program for manufactured housing. Affordable housing is a major issue for families and communities. Manufactured housing is playing a key role in affordable housing, but more could and should be done. To achieve success, we need to develop a bipartisan, consensus approach. We need to help the industry and assure consumers that safety and standards will be retained and improved, not weakened. This is worth our combined effort to provide more affordable housing.

By Mr. HATCH (for himself and Mr. BENNETT):

S. 2146. A bill to provide for the exchange of certain lands within the State of Utah; to the Committee on Energy and Natural Resources.

UTAH SCHOOLS AND LANDS EXCHANGE ACT OF 1998

Mr. HATCH. Mr. President, nearly 2 years ago, President Clinton announced, from the South Rim of the Grand Canyon, the formation of the country's newest national monument, the Grand Staircase-Escalante Monument in southern Utah.

Because of the clandestine manner by which the Administration made this decision and planned its announcement, what should have been cause for celebration among Utahns resulted in feelings of exploitation and abuse. Public trust in our federal government reached an all time low in southern Utah, and many wounds inflicted then still exist today.

Today, I am introducing legislation, along with my colleague Senator BENNETT, which, if passed, will help restore trust in our government and assist the healing process among our rural citizens in Utah.

The Utah Schools and Lands Exchange Act of 1998 codifies a recently signed agreement brokered by the Secretary of Interior, Bruce Babbitt, and Utah Governor Michael Leavitt to exchange Utah School Trust lands located within Utah's national parks, monuments, recreation areas, and forests for cash and federal assets in other parts of Utah. The collaboration that should have taken place prior to the establishment of the Grand Staircase-Escalante Monument has finally taken place to mitigate one of the severest impacts of that presidential declaration.

This agreement is the result of a lengthy and somewhat fragile negotiation, which included such critical issues as achieving the effective management of the public's land, preserving the environment, and consummating a fair and equitable exchange between the federal government and the State of Utah. The result is a mutually beneficial exchange of state and federal property that deserves the support and approval of the Congress.

As my colleagues may recall, when Utah achieved statehood in 1896, a number of sections within each township were set aside for the support of the common schools. By law, these lands, known as School Trust Lands, are to be managed in the best possible way to generate revenue for Utah's school children. Several western states have a similar revenue plan for their public school systems.

Utah's checkerboard pattern of land owernship—squares of federal, state, and private land intermingled throughout the state—has historically created difficulties between the federal and state governments. Conflicts of interest between federal and state land managers became more obvious and divisive as national parks, forests, or monuments were created.

When federal land is set aside or designated as a national park, forest, or monument in Utah, our School Trust Lands are captured within their boundaries. In effect, the state loses its ability to generate revenues from these lands because they have been surrounded by lands in a specially protected designation. By 1990, over 200,000 acres of school trust land were isolated within federal designations.

In 1993, Congress passed legislation I sponsored along with other delegation members—the Utah Schools and Lands Improvement Act of 1993, P.L. 103–93—

to help resolve this land management situation. But implementation has been unsatisfactory. There have been endless arguments over appraisals and literally millions of dollars in expenses to the state for legal and research activities. For this reason alone, the legislation we are introducing today is necessary.

During his announcement to establish the Grand Staircase-Escalante National Monument, President Clinton voiced his firm commitment that Utah's school children would not be negatively affected by the creation of the Monument. In other words, those School Trust Lands captured within the Monument's boundaries would be withdrawn and made fully available, and thus profitable, for the benefit of Utah's public education system. The principal purpose of this bill is to put the bipartisan, federal-state negotiated agreement into effect and to ensure that the President's promise to protect Utah's school children does not ring hollow. This is accomplished in several ways.

First, as I mentioned, this bill will transfer approximately 350,000 acres of School Trust Lands that are located within Utah monuments, recreations areas, national parks, and forests, to the federal government. These lands are similar in nature to the adjacent federal lands and are deserving of the same designation and special management considerations as their federal neighbors. This exchange harmonizes the land ownership pattern within Utah's national parks, forests and monuments, thus eliminating any competing management objectives within these designations. The American people will be greatly benefited once the entire acreage within a park or forest is federal land.

Let me assure my colleagues that those lands to be acquired by the federal government are just as extraordinary as the adjacent federal lands.

For example, this acreage includes: Eye of the Whale Arch, located in Arches National Park; the Perfect Ruin (an Anasazi ruin) and the Jacob Hamblin Arch of Glen Canyon National Recreation Area; several hundred foot red rock cliffs located within in the Grand Staircase-Escalante National Monument; and the high mountain alpine area in the Wasatch-Cache National Forest known as Franklin Basin. It includes many other exciting natural wonders, such as ancient Native American rock art panels in Dinosaur National Monument and unique geologic formations of the Waterpocket Fold within Capitol Reef National Park.

Our proposal will protect these and other precious land forms by transferring their ownership to the federal government.

For its part, the State of Utah will receive $50,000,000 in cash previously set aside in the 103rd Congress for P.L. 103–93. This money has already been appropriated and thus there is no budgetary impact caused by this bill. An additional $13,000,000 produced from unleased coal sales will also be forthcoming to the State. These funds will all be deposited to the Utah Permanent School Fund for the benefit of Utah's current and future school children.

In addition, under the terms of the agreement, the State will gain access to 160 million tons of coal, 185 billion cubic feet of coal bed methane resources, 139,000 acres of land and minerals located in nine Utah counties, and a variety of minerals including limestone, tar sands, oil, and gas.

Coal reserves the state will receive include the Mill Fork Tract and North Horn Tract in Emery County; the West Ridge Tract in Carbon County; and the Muddy Creek and Dugout Canyon Tracts located in both Carbon and Emery Counties.

The coal bed methane resources acquired by the state are situated in the Ferron Field, located in Carbon and Emery counties, and totals 58,000 acres.

Finally, the agreement provides for additional state acquisitions, including limestone deposits, oil and gas properties, and Tar Sands, and several properties identified in 1993 will be transferred to state control: the Blue Mountain Telecommunication Site, located in Uintah County, and the Beaver Mountain ski resort in Cache County.

Mr. President, in closing let me mention one important point regarding the Babbitt-Leavitt agreement to be effectuated by the legislation we are introducing today. The entire exchange is of approximately equal value. This is a delicately structured package that includes an exchange of state lands for federal assets. Each party to the agreement recognizes this fact, which is the glue keeping this agreement together.

And, while protecting the interests of both the State of Utah and the federal government, the agreement and the bill also protect existing stakeholders, such as the affected local governments and the valid existing rights of permittees, such as ranchers and mining leases. As I mentioned earlier, the important fact to keep in mind is there is no impact to the federal budget from this legislation.

Mr. President, Secretary Babbitt and Governor Leavitt have achieved an historic agreement that is truly remarkable. The State of Utah has been trying to exchange School Trust Lands captured within federal reservations for decades, thus allowing these lands to be profitably utilized for the benefit of Utah's school children. We now have an opportunity through this agreement to reach this worthwhile goal.

I hope that the Senate will seriously review this agreement and this legislation will add its support with little, if any, alteration. I believe this proposal is necessary and will provide substantial benefit to the people of Utah and the citizens of this country.

Mr. BENNETT. Mr. President, I am pleased to join my colleague Senator HATCH in introducing the Utah School Lands Exchange Act. This legislation is the result of months of negotiations between the Utah School and Institutional Trust Administration (SITLA), the Governor of Utah and the Secretary of Interior.

Utah is a mosaic of land ownership and the federal government is the largest landlord. With 22 million acres under BLM management alone, eight million acres under the United States Forest Service and another three million in National Parks and Monuments, public lands issues command considerable attention in my state. This is complicated by the 1894 Enabling Act which created a checkerboard pattern of state ownership among federal lands, intermingling five sections of state lands in every township. The federal government and the state of Utah have been trying to resolve the thorny issue of how to manage or dispose of these trust lands for well over a half century now. My father attempted to bring some resolution to the issue when he served in this body more than forty years ago.

In 1993, after extensive negotiations, Congress passed P.L. 103–93 which set in motion a process to exchange lands out of Utah's National Parks and Forest lands for other parcels within the state. The process was marginally successful at best, due to the complex process of appraisals and arbitration established by the legislation. Of the 500 plus parcels identified in that exchange over five years ago, less than forty have actually been exchanged to date. The trust lands issue was further complicated by the creation of the Grand Staircase-Escalante National Monument in September of 1996. Without going into details, 176,000 acres of School Trust Lands were locked up by the creation of the Monument. President Clinton promised to use his office to facilitate the prompt exchange of these lands. Most Utahns were skeptical that this would actually happen. In fact, SITLA and the Utah Association of Counties filed suit over the creation of the Grand Staircase-Escalante National Monument.

Now, nearly two years later, the Clinton Administration has reached a historic agreement with the Governor of Utah and SITLA to exchange 376,000 acres of state lands for 138,000 acres of federal lands. This agreement fulfills the President's commitment to the schoolchildren of Utah and reduces the uncertainty over the future management of the Monument. I hope my colleagues understand that it is in the best interest of the federal government to exchange these lands promptly.

This proposal benefits the school children of Utah as well as the visitors and users of public lands. In exchange for lands encumbered within parks, forests and the Monument, the state of Utah will receive just compensation in the form of mineral assets, comparable lands within the state and a sizable cash payment. These assets will be administered by the State Institutional

Trust Lands Administration for the improvement of public education in Utah. In that context, we must support this agreement. We have a responsibility to help SITLA fulfill its mandate and utilize these lands for the greatest benefit to the children of Utah. Without this exchange, these lands, despite their significant mineral potential, will remain unproductive.

At a time of competing interests and lack of consensus regarding land use in Utah, this is a step in the right direction. I believe that the agreement reached between the state and the Department of Interior bridges the gap that has existed for decades. While some interests are not totally satisfied, I believe the legislation we are introducing today is a fair and equitable agreement. I am also confident that the Committee will listen closely to those parties and make a good-faith effort to resolve any lingering concerns.

I appreciate the good work of my colleague Senator HATCH, Governor Leavitt and Secretary Babbitt, as well as our colleagues in the House. I am confident that we will see a resolution to this longstanding debate in the 105th Congress. I urge my colleagues to support this bill and bring this issue to closure.

By Mr. DASCHLE (for himself and Mr. JOHNSON):

S. 2147. A bill to amend the Internal Revenue Code of 1986 to provide a deduction for two-earner married couples, to allow self-employed individuals a 100-percent deduction for health insurance costs, and for other purposes; to the Committee on Finance.

MARRIAGE PENALTY TAX RELIEF

Mr. DASCHLE. Mr. President, it is my pleasure today to introduce legislation to encourage family and work and to facilitate the purchase of affordable health insurance by self-employed individuals.

It is no secret to many married Americans that the tax code often penalizes marriage. An estimated 21 million American couples with two breadwinners pay more than if they had remained single and filed separate tax returns—an average of nearly $1,400 more.

The marriage penalty is justifiably one of the most unpopular aspects of our tax system, second only to the complexity of the tax code. The federal government should be encouraging family and work, not discouraging them through disincentives in the tax code or any other area of public policy.

The bill I am introducing today would significantly reduce the added tax burden that many middle and lower income couples face when both spouses work. It will do so by providing an above-the-line 20 percent deduction against the earnings of the lesser earning spouse. The 20 percent deduction would be phased out between family adjusted gross incomes of $50,000 and $60,000. It would also be applied against the calculation of earned income for the purpose of determining eligibility for the Earned Income Credit, increasing the size of these refundable credits for a large number of families with incomes between $10,000 and $30,000. Finally, the bill would accelerate the date at which health insurance costs incurred by the self-employed become fully deductible. This is necessary to place farmers and small businessmen and women on the same footing as large, established companies when they purchase health insurance.

Congress has wrestled with the marriage penalty problem several times during the past century in an attempt to reconcile two goals that cannot always be satisfied simultaneously in the context of a progressive tax system. The first is to ensure that a couple's total tax is the same, irrespective of the breakdown of earnings between spouses. The second is to ensure that couples will be taxed the same irrespective of whether they are married or still single.

Before 1969, the tax code treated married couples as if they were composed of two single individuals. This avoided penalties on marriage, but it created higher rates on single taxpayers than married couples in cases in which one spouse earned all or most of the couple's income. Joint returns were computed by applying the normal rates to one-half of the couple's aggregate taxable income and multiplying the resulting amount by two. Single taxpayers' returns were computed by applying the normal rates to the full taxable income, causing a greater amount of the income to be taxed at a higher marginal rate.

When Congress acted in 1969 to redress the perceived inequity to single taxpayers, it created the modern-day marriage penalty by causing some married couples who file a joint return to pay more tax than would two single persons with the same total income. Congress based its action on the assumption that a married couple's expenses are lower than those of two single persons having separate households.

The time has come to reexamine this tradeoff, which was made nearly thirty years ago. Doing so, however, will require us to confront hard budgetary realities. Complete elimination of the marriage penalty without also eliminating the marriage bonus would cost an estimated $29 billion per year, a sum that is far in excess of what can be afforded while maintaining our commitment to a balanced budget and the use of budget surpluses for Social Security reform. While the drive to pay down the national debt and save Social Security will make comprehensive reform of the marriage penalty difficult any time soon, more targeted efforts are not only possible, they are the right thing to do.

We have an historic opportunity to redress the unjustified added tax burden we place on some married couples without undermining our commitment to pass an effective national tobacco policy and enact reforms to save Social Security. My bill would sharply reduce the marriage tax penalty for most couples with incomes of less than $60,000 at a fraction of the budgetary cost of other marriage penalty tax proposals, such as that offered by Senator GRAMM of Texas to increase deductions for all married couples. The reason is that these other proposals fail to distinguish between couples who incur a penalty and those who enjoy a marriage bonus. The Congressional Budget Office estimates that about 29 million families, those in which one spouse earns much more than the other, currently pay less than if they had filed single returns—an average of $1,300 less. Senator GRAMM's proposal and others like it dilute the amount of tax relief they are able to deliver to penalized couples by providing just as much of a tax cut to couples who receive a bonus.

By targeting its tax relief more directly on the couples who experience a marriage penalty, my bill would reduce this penalty far more for most families with incomes below $60,000 than competing approaches. For Example, in the case of a couple making $35,000, split $20,000 and $15,000 between the two spouses, my proposal would provide an additional tax deduction of $3,000 (i.e., 15% of $15,000). This is over twice as much marriage penalty tax relief as could be provided at a comparable cost by a proposal to increase the deduction for all joint filers. Similarly, for a couple making $50,000 divided evenly between the two spouses, my bill would provide a $5,000 deduction (20% of $25,000), representing more than three times as much tax as a proposal that costs the same but extends a supplemental deduction to all married couples.

We simply do not have the luxury of applying tax relief indiscriminately if we are to make good on our other commitments, whether they be passage of an effective tobacco bill that reduces youth smoking or preservation of budget surpluses for the difficult task of shoring up the financing of the Social Security system. The legislation I introduce today is aimed at demonstrating that we can reconcile our competing priorities. We can do right by married couples incurring a tax penalty and farmers and small businesses who must purchase their own health insurance at the same that we do right by our children and our growing population of seniors.

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. 2147

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

SECTION 1. DEDUCTION FOR TWO-EARNER MARRIED COUPLES.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of

1986 (relating to additional itemized deductions for individuals) is amended by redesignating section 222 as section 223 and by inserting after section 221 the following new section:

"SEC. 222. DEDUCTION FOR MARRIED COUPLES TO ELIMINATE THE MARRIAGE PENALTY.

''(a) IN GENERAL.—In the case of a joint return under section 6013 for the taxable year, there shall be allowed as a deduction an amount equal to the applicable percentage of the qualified earned income of the spouse with the lower qualified earned income for the taxable year.

''(b) APPLICABLE PERCENTAGE.—For purposes of this section—

''(1) IN GENERAL.—The term 'applicable percentage' means 20 percent, reduced by 2 percentage points for each $1,000 (or fraction thereof) by which the taxpayer's modified adjusted gross income for the taxable year exceeds $50,000.

''(2) TRANSITION RULE FOR 1999 AND 2000.—In the case of taxable years beginning in 1999 and 2000, paragraph (1) shall be applied by substituting '10 percent' for '20 percent' and '1 percentage point' for '2 percentage points'.

''(3) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this subsection, the term 'modified adjusted gross income' means adjusted gross income determined—

''(A) after application of sections 86,219, and 469, and

''(B) without regard to sections 135, 137, and 911 or the deduction allowable under this section.

''(4) COST-OF-LIVING ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2002, the $50,000 amount under paragraph (1) shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, except that subparagraph (B) thereof shall be applied by substituting 'calendar year 2002' for 'calendar year 1992'. If any amount as adjusted under this paragraph is not a multiple of $2,000, such amount shall be rounded to the next lowest multiple of $2,000.

''(c) QUALIFIED EARNED INCOME DEFINED.—

''(1) IN GENERAL.—For purposes of this section, the term 'qualified earned income' means an amount equal to the excess of—

''(A) the earned income of the spouse for the taxable year, over

''(B) an amount equal to the sum of the deductions described in paragraphs (1), (2), (7), and (25) of section 62 to the extent such deductions are properly allocable to or chargeable against earned income described in subparagraph (A).

The amount of qualified earned income shall be determined without regard to any community property laws.''

''(2) EARNED INCOME.—For purposes of paragraph (1), the term 'earned income' means income which is earned income within the meaning of section 911(d)(2) or 401(c)(2)(C), except that—

''(A) such term shall not include any amount—

''(i) not includible in gross income,

''(ii) received as a pension or annuity,

''(iii) paid or distributed out of an individual retirement plan (within the meaning of section 7701(a)(37)),

''(iv) received as deferred compensation, or

''(v) received for services performed by an individual in the employ of his spouse (within the meaning of section 3121(b)(3)(A)), and

''(B) section 911(d)(2)(B) shall be applied without regard to the phrase 'not in excess of 30 percent of his share of net profits of such trade or business'.''

(b) DEDUCTION TO BE ABOVE-THE-LINE.—Section 62(a) of the Internal Revenue Code of 1986 (defining adjusted gross income) is amended by adding after paragraph (17) the following new paragraph:

''(18) DEDUCTION FOR TWO-EARNER MARRIED COUPLES.—The deduction allowed by section 222.''

(c) EARNED INCOME CREDIT PHASEOUT TO REFLECT DEDUCTION.—Section 32(c)(2) of the Internal Revenue Code of 1986 (defining earned income) is amended by adding at the end the following new subparagraph:

''(C) MARRIAGE PENALTY REDUCTION.—Solely for purposes of applying subsection (a)(2)(B), earned income for any taxable year shall be reduced by an amount equal to the amount of the deduction allowed to the taxpayer for such taxable year under section 222.''

(d) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking the item relating to section 222 and inserting the following new items:

''Sec. 222. Deduction for married couples to eliminate the marriage penalty.
''Sec. 223. Cross reference.''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

SEC. 2. DEDUCTION FOR HEALTH INSURANCE COSTS FOR SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (1) of section 162(l) of the Internal Revenue Code of 1986 is amended to read as follows:

''(1) ALLOWANCE OF DEDUCTION.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to 100 percent (75 percent in the case of taxable years beginning in 1999 and 2000) of the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, his spouse, and dependents.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

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

S. 2148. A bill to protect religious liberty; to the Committee on the Judiciary.

THE RELIGIOUS LIBERTY PROTECTION ACT OF 1998

Mr. HATCH. Mr. President, the first freedom guaranteed in the Bill of Rights is the freedom to believe and to put those beliefs into practice as we think right, without government interference. This promise of freedom of worship is, for many, this country's founding principle—the pilgrims' reason for braving thousands of miles of dark and dangerous seas, and countless privations once here. The Constitutional guarantee of the free exercise of religion for all has been a beacon to the world throughout our history.

In America, priests should not be punished for declining to violate the confidence of the confessional to turn state's evidence against religious confessors. In America, the ability of citizens to hold private Bible studies in their own homes or the freedom of synagogues and churches to locate near their members should not be left entirely to the whims of local zoning boards. Congregants of any faith should not be told by the government who they can and cannot have as religious leaders and teachers. No, not in America.

Last year, when the Supreme Court struck down part of the Religious Freedom Restoration Act in the case of City of Boerne versus Flores (117 S.Ct. 2157 (1997))—an Act that sought to redress a threat to religious liberty of the Court's own making—we who value the free exercise of religion vowed we would rebuild our coalition and craft a solution which appropriately defers to the Court's decision. Well, we have done so, and we are ready to move forward.

We introduce today legislation that uses the full extent of our powers to make government cognizant of and solicitous of the freedom of each American to serve his or her concept of God. Where adjustment in general rules can possibly be made to accommodate this most basic liberty, it ought and must be made. As our government exists to guarantee such freedoms, government should only in the rarest instances itself infringe on this most basic and foundational freedom.

We have worked together across party lines and with a coalition of truly remarkable breadth to fashion federal legislation to protect religious liberty that is consistent with both the vision of the Framers of the First Amendment and the ruling of the current Supreme Court about Congress' power to legislate in this area.

The legislation that we introduce today will subject to strict scrutiny laws that substantially burden religious exercise in those areas within legitimate federal reach through either the commerce or spending powers, and provides procedural helps to ensure a full day in court for believers who must litigate to vindicate Free Exercise claims in areas of predominantly state jurisdiction. The legislation seeks to protect religious activity even in the face of general legislative rules that make that worship difficult or impossible through unawareness, insensitivity, or hidden hostility

We believe we have constructed legislation that can merit the support of all who value the free exercise of religion, our first freedom. We commend it to our colleagues in the Congress, and to all those who wish to keep the Framers' promise of religious freedom alive for all Americans of all faiths.

Mr. President, I commend this important legislation to my colleagues for their support. It is backed by an unprecedented coalition ranging from Focus on the Family, Family Research Council, and the Southern Baptist Convention to People for the American Way and the ACLU. I also ask unanimous consent that a copy of the bill and an explanatory section by section analysis be placed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

S. 2148

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 ''Religious Liberty Protection Act of 1998''.

SEC. 2. PROTECTION OF RELIGIOUS EXERCISE.

(a) GENERAL RULE.—Except as provided in subsection (b), a government shall not substantially burden a person's religious exercise—

(1) in a program or activity, operated by a government, that receives Federal financial assistance; or

(2) in or affecting commerce with foreign nations, among the several States, or with the Indian tribes;

even if the burden results from a rule of general applicability.

(b) EXCEPTION.—A government may substantially burden a person's religious exercise if the government demonstrates that application of the burden to the person—

(1) is in furtherance of a compelling governmental interest; and

(2) is the least restrictive means of furthering that compelling governmental interest.

(c) FUNDING NOT AFFECTED.—Nothing in this section shall be construed to authorize the United States to deny or withhold Federal financial assistance as a remedy for a violation of this Act.

(d) STATE POLICY NOT COMMANDEERED.—A government may eliminate the substantial burden on religious exercise by changing the policy that results in the burden, by retaining the policy and exempting the religious exercise from that policy, or by any other means that eliminates the burden.

(e) DEFINITIONS.—As used in this section—

(1) the term ''government'' means a branch, department, agency, instrumentality, subdivision, or official of a State (or other person acting under color of State law);

(2) the term ''program or activity'' means a program or activity as defined in paragraph (1) or (2) of section 606 of the Civil Rights Act of 1964 (42 U.S.C. 2000d–4a); and

(3) the term ''demonstrates'' means meets the burdens of going forward with the evidence and of persuasion.

SEC. 3. ENFORCEMENT OF THE FREE EXERCISE CLAUSE.

(a) PROCEDURE.—If a claimant produces prima facie evidence to support a claim of a violation of the Free Exercise Clause, the government shall bear the burden of persuasion on all issues relating to the claim, except any issue as to the existence of the burden on religious exercise.

(b) LAND USE REGULATION.—

(1) LIMITATION ON LAND USE REGULATION.—No government shall impose a land use regulation that—

(A) substantially burdens religious exercise, unless the burden is the least restrictive means to prevent substantial and tangible harm to neighboring properties or to the public health or safety;

(B) denies religious assemblies a reasonable location in the jurisdiction; or

(C) excludes religious assemblies from areas in which nonreligious assemblies are permitted.

(2) FULL FAITH AND CREDIT.—Adjudication of a claim of a violation of this subsection in a non-Federal forum shall be entitled to full faith and credit in a Federal court only if the claimant had a full and fair adjudication of that claim in the non-Federal forum.

(3) NONPREEMPTION.—Nothing in this subsection shall preempt State law that is equally or more protective of religious exercise.

(4) NONAPPLICATION OF OTHER PORTIONS OF THIS ACT.—Section 2 does not apply to land use regulation.

SEC. 4. JUDICIAL RELIEF.

(a) CAUSE OF ACTION.—A person may assert a violation of this Act as a claim or defense in a judicial proceeding and obtain appropriate relief against a government. Standing to assert a claim or defense under this section shall be governed by the general rules of standing under article III of the Constitution.

(b) ATTORNEYS' FEES.—Section 722(b) of the Revised Statutes (42 U.S.C. 1988(b)) is amended—

(1) by inserting ''the Religious Liberty Protection Act of 1998,'' after ''Religious Freedom Restoration Act of 1993,''; and

(2) by striking the comma that follows a comma.

(c) PRISONERS.—Any litigation under this Act in which the claimant is a prisoner shall be subject to the Prison Litigation Reform Act of 1995 (including provisions of law amended by that Act).

(d) LIABILITY OF GOVERNMENTS.—

(1) LIABILITY OF STATES.—A State shall not be immune under the 11th amendment to the Constitution from a civil action, for a violation of the Free Exercise Clause under section 3, including a civil action for money damages.

(2) LIABILITY OF THE UNITED STATES.—The United States shall not be immune from any civil action, for a violation of the Free Exercise Clause under section 3, including a civil action for money damages.

SEC. 5. RULES OF CONSTRUCTION.

(a) RELIGIOUS BELIEF UNAFFECTED.—Nothing in this Act shall be construed to authorize any government to burden any religious belief.

(b) RELIGIOUS EXERCISE NOT REGULATED.—Nothing in this Act shall create any basis for regulation of religious exercise or for claims against a religious organization, including any religiously affiliated school or university, not acting under color of law.

(c) CLAIMS TO FUNDING UNAFFECTED.—Nothing in this Act shall create or preclude a right of any religious organization to receive funding or other assistance from a government, or of any person to receive government funding for a religious activity, but this Act may require government to incur expenses in its own operations to avoid imposing a burden or a substantial burden on religious exercise.

(d) OTHER AUTHORITY TO IMPOSE CONDITIONS ON FUNDING UNAFFECTED.—Nothing in this Act shall—

(1) authorize a government to regulate or affect, directly or indirectly, the activities or policies of a person other than a government as a condition of receiving funding or other assistance; or

(2) restrict any authority that may exist under other law to so regulate or affect, except as provided in this Act.

(e) EFFECT ON ON OTHER LAW.—Proof that a religious exercise affects commerce for the purposes of this Act does not give rise to any inference or presumption that the religious exercise is subject to any other law regulating commerce.

(f) SEVERABILITY.—If any provision of this Act or of an amendment made by this Act, or any application of such provision to any person or circumstance, is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provision to any other person or circumstance shall not be affected.

SEC. 6. ESTABLISHMENT CLAUSE UNAFFECTED.

Nothing in this Act shall be construed to affect, interpret, or in any way address that portion of the first amendment to the Constitution prohibiting laws respecting an establishment of religion (referred to in this section as the ''Establishment Clause''). Granting government funding, benefits, or exemptions, to the extent permissible under the Establishment Clause, shall not constitute a violation of this Act. As used in this section, the term ''granting'', used with respect to government funding, benefits, or exemptions, does not include the denial of government funding, benefits, or exemptions.

SEC. 7. AMENDMENTS TO RELIGIOUS FREEDOM RESTORATION ACT.

(a) DEFINITIONS.—Section 5 of the Religious Freedom Restoration Act of 1993 (42 U.S.C. 2000bb–2) is amended—

(1) in paragraph (1), by striking ''a State, or subdivision of a State'' and inserting ''a covered entity or a subdivision of such an entity'';

(2) in paragraph (2), by striking ''term'' and all that follows through ''includes'' and inserting ''term 'covered entity' means''; and

(3) in paragraph (4), by striking all after ''means,'' and inserting ''an act or refusal to act that is substantially motivated by a religious belief, whether or not the act or refusal is compulsory or central to a larger system of religious belief.''.

(b) CONFORMING AMENDMENT.—Section 6(a) of the Religious Freedom Restoration Act of 1993 (42 U.S.C. 2000bb–3(a)) is amended by striking ''and State''.

SEC. 8. DEFINITIONS.

As used in this Act—

(1) the term ''religious exercise'' means an act or refusal to act that is substantially motivated by a religious belief, whether or not the act or refusal is compulsory or central to a larger system of religious belief;

(2) the term ''Free Exercise Clause'' means that portion of the first amendment to the Constitution that proscribes laws prohibiting the free exercise of religion and includes the application of that proscription under the 14th amendment to the Constitution; and

(3) except as otherwise provided in this Act, the term ''government'' means a branch, department, agency, instrumentality, subdivision, or official of a State, or other person acting under color of State law, or a branch, department, agency, instrumentality, subdivision, or official of the United States, or other person acting under color of Federal law.

RELIGIOUS LIBERTY PROTECTION ACT OF 1998—SECTION-BY-SECTION ANALYSIS

Section 1. This section provides that the title of the Act is the Religious Liberty Protection Act of 1998.

Section 2. Section 2(a) tracks the substantive language of the Religious Freedom Restoration Act, providing that government shall not substantially burden a person's religious exercise, and applies that language to cases within the spending power and the commerce power. Section 2(b) also tracks RFRA. It states the compelling interest exception to the general rule that government may not substantially burden religious exercise.

Section 2(a)(1) specifies the spending power applications. The bill applies to programs or activities operated by a government and receiving federal financial assistance. ''Government'' is defined in §2(e)(1) to include persons acting under color of state law. In general, a private-sector grantee acts under color of law only when the government retains sufficient control that ''the alleged infringement of federal rights [is] 'fairly attributable to the State.''' Rendell-Baker v. Kohn, 457 U.S. 830, 838 (1982). Private-sector grantees not acting under color of law are excluded from the bill for multiple reasons: because it is difficult to foresee the consequences of applying the bill to such a diverse range of organizations, because applying the bill to religious organizations would create conflicting rights under the same statute and might restrict religious liberty rather than protect it, and because the free exercise of religion has historically been protected primarily against government action and this bill is not designed to change that.

Section 2(a)(2) applies the bill to religious exercise in or affecting commerce among the States, with foreign nations, or with the Indian tribes. The language is unqualified and exercises the full constitutional limit of the commerce power, whatever that may be. The provision is tautologically constitutional; to the extent that the commerce power does not reach some religious activities, the bill does not reach them either. To the extent that this leaves some religious exercise outside the protections of the bill, that is an unavoidable consequence of constitutional limitations on Congressional authority.

Section 2(c) prevents any threat of withholding all federal funds from a program or activity. The exclusive remedies are set out in §4.

Section 2(d) emphasizes that this bill does not require states to pursue any particular public policy or to abandon any policy, but that each State is free to choose its own means of eliminating substantial burdens on religious exercise.

Section 2(e) contains definitions for purposes of §2.

The definition of ''government'' in §2(e)(1) tracks RFRA, except that the United States and its agencies are excluded. The United States remains subject to the substantially identical provisions of RFRA and need not be included here.

Section 2(e)(2) incorporates part of the definition of ''program or activity'' from Title VI of the Civil Rights Act of 1964—the part that describes programs and activities operated by governments. This definition ensures that federal regulation is confined to the program or activity that receives federal aid, and does not extend to everything a state does. The constitutionality of the Title VI definition has not been seriously questioned.

The definition of ''demonstrates'' in §2(e)(3) is taken verbatim from RFRA.

Section 3. This section enforces the Free Exercise Clause as interpreted by the Supreme Court. Section 3(a) provides generally that if a complaining party produces prima facie evidence of a free exercise violation, the government then bears the burden of persuasion on all issues except burden on religious exercise.

This provision applies to any means of proving a free exercise violation recognized under judicial interpretations. See generally Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah, 508 U.S. 520 (1993); Employment Division v. Smith, 494 U.S. 872 (1990). Thus, if the claimant shows a burden on religious exercise and prima facie evidence of an anti-religious motivation, government would bear the burden of persuasion on the question of motivation. If the claimant shows a burden on religious exercise and prima facie evidence that the burdensome law is not generally applicable, government would bear the burden of persuasion on the question of general applicability. If the claimant shows a burden on religion and prima facie evidence of a hybrid right, government would bear the burden of persuasion on the claim of hybrid right. In general, where there is a burden on religious exercise and prima facie evidence of a constitutional violation, the risk of nonpersuasion is to be allocated in favor of protecting the constitutional right.

Section 3(b) provides prophylactic rules to prevent violations of the Court's constitutional tests as applied to land use regulation. Land use regulation is administered through highly individualized processes, often without generally applicable rules. These individualized processes are conducive to discrimination that is difficult to prove in any individual case, but there appears to be a pattern of religious discrimination when large numbers of cases are examined. Section 3(b)(1) provides that land use regulation may not substantially burden religious exercise, except where necessary to prevent substantial and tangible harm, that jurisdictions may not deny religious assemblies a reasonable location somewhere within each jurisdiction, and that religious assemblies may not be excluded from areas where nonreligious assemblies are permitted.

Subsection 3(b)(2) guarantees a full and fair adjudication of land use claims under subsection (b). Procedural rules before land use authorities may vary widely; any procedure that permits full and fair adjudication of the federal claim would be entitled to full faith and credit in federal court. But if, for example, a zoning board with limited authority refuses to consider the federal claim, does not provide discovery, or refuses to permit introduction of evidence reasonably necessary to resolution of the federal claim, its determination would not be entitled to full faith and credit in federal court. And if in such a case, a state court confines the parties to the record from the zoning board, so that the federal claim still can not be effectively adjudicated, the state court decision would not be entitled to full faith and credit either.

Subsection 3(b)(3) provides that equally or more protective state law is not preempted. Subsection 3(b)(4) provides that §2 shall not apply to land use cases. The more detailed standards of §3(b) control over the more general language of §2.

Section 4. This section provides remedies for violations. Sections 4(a) and (b) track RFRA, creating a cause of action for damages, injunction, and declaratory judgment, creating a defense to liability, and providing for attorneys' fees.

Section 4(c) subjects prisoner claims to the Prison Litigation Reform Act. This permits meritorious prisoner claims to proceed while effectively discouraging frivolous claims; prisoner claims generally dropped nearly a third in one year after the Prison Litigation Reform Act. Crawford-El v. Britton, 66 U.S.L.W. 4311, 4317 n.18 (May 4, 1998).

Section 4(d)(1) overrides the states' Eleventh Amendment immunity in cases in which the claimant shows a violation of the Free Exercise Clause, enforced under §3. Section 4(d)(2) waives the sovereign immunity of the United States in the same cases. This override of state immunity and waiver of federal immunity do not apply to statutory claims under §2.

Section 5. This section states several rules of construction designed to clarify the meaning of all the other provisions. Section 5(a) tracks RFRA, providing that nothing in the bill authorizes government to burden religious belief. Section 5(b) provides that nothing in the bill creates any basis for regulating or suing any religious organization not acting under color of law. These two subsections serve the bill's central purpose of protecting religious liberty, and avoid any unintended consequence of reducing religious liberty.

Sections 5(c) and 5(d) were carefully designed to keep this bill neutral on all disputed questions about government financial assistance to religious organizations and religious activities. Section 5(c) states neutrality on whether such assistance can or must be provided at all. Section 5(d) states neutrality on the scope of existing authority to regulate private entities as a condition of receiving such aid. Section 5(d)(1) provides that nothing in the bill authorizes additional regulation of such entities; §5(d)(2), in an abundance of caution, provides that existing regulatory authority is not restricted except as provided in the bill. Agencies with authority to regulate the receipt of federal funds retain such authority, but their specific regulations may not substantially burden religious exercise without compelling justification.

Section 5(e) provides that proof that a religious exercise affects commerce for purposes of this bill does not give rise to an inference or presumption that the religious exercise is subject to any other statute regulating commerce. Different statutes exercise the commerce power to different degrees, and the courts presume that federal statutes do not regulate religious organizations unless Congress manifested the intent to do so. NLRB v. Catholic Bishop, 440 U.S. 490 (1990).

Section 5(f) states that each provision and application of the bill shall be severable from every other provision and application.

Section 6. This section is taken verbatim from RFRA. It is language designed to state neutrality on all disputed issues under the Establishment Clause.

Section 7. This section amends RFRA to delete any application to the states and to leave RFRA applicable only to the federal government. Section 7(a)(3) amends the definition of ''religious exercise'' in RFRA to clarify that religious exercise need not be compulsory or central to a larger system of religious belief.

Section 8. This section defines important terms used throughout the Act.

Section 8(1) defines ''religious exercise'' to clarify two issues that had divided courts under RFRA: religious exercise need not be compulsory or central to a larger system of religious belief.

Section 8(2) defines ''Free Exercise Clause'' to include the First Amendment clause, which binds the United States, and also the incorporation of that clause into the Fourteenth Amendment, which binds the States.

Section 8(3) defines ''government'' to include both state and federal entities and persons acting under color of either state or federal law. This tracks the RFRA definition. The free exercise enforcement provisions of §3 and the remedies provisions of §4 supplement RFRA, and these provisions are subject to the rules of construction in §5; each of these sections applies to both state and federal governments. This definition does not apply in §2, which has its own definition that reaches only state entities and persons acting under color of state law.

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

S. 2149. A bill to transfer certain public lands in northeastern Nevada; to the Committee on Energy and Natural Resources.

THE NORTHEASTERN NEVADA PUBLIC LANDS TRANSFER ACT

• Mr. REID. Mr. President, I rise to introduce The Northeastern Nevada Public Lands Transfer. This Act provides for the transfer of Federal land to the Cities of Wendover, Carlin, and Wells and the Town of Jackpot, all in Elko County, Nevada.

Mr. President, the rural communities in northeastern Nevada, are growing. For example, in 1997, the City of West Wendover was certified as Nevada's fastest growing city. These communities are surrounded by Federal lands, with every little private land available for expansion and growth. In addition, because over 71 percent of the land in Elko County is in Federal ownership, these local governments do not have the resources to just go out and buy more land.

Mr. President, the property being conveyed in this Act has been determined to be important to the industrial, commercial, residential, infrastructure, and recreational needs of the citizens of Elko County. Conveying these lands in one transaction provides the county certainty about its future, which will allow it to diversify its economy and develop these properties in a planned and orderly manner.

Mr. President, Elko County has valid concerns about its future. The gaming and tourism industry is the primary employer, and every indication is that it will remain healthy. However, an economy, based on a single industry, bears an inherent risk of failure.

Mr. President, the City of West Wendover, in conjunction with the North Eastern Development Authority, has recently completed a countywide Economic Development Plan, which emphasizes the importance of economic diversification as its primary goal. This plan promotes quality development which enhances the quality of life for Elko County residents. West Wendover, Nevada has currently spent $100,000 for the Environmental Assessment and the Baseline Assessment, an Air Force prerequisite for land conveyance. In addition, the West Wendover City Council and the Nevada Rural Development Authority have indicated that they are committed to working together to ensure that economic development in the area is accomplished through a logical, well considered development plan.

Mr. President, I request unanimous consent that the Northeastern Nevada Public Lands Transfer Act to be printed in the RECORD.

S. 2149

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 ''Northeastern Nevada Public Lands Transfer Act''.

SEC. 2. AIR FORCE LAND CONVEYANCE, WENDOVER AIR FORCE BASE AUXILIARY FIELD, NEVADA

(a) CONVEYANCE.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act and subject to subsection (c), the Secretary of the Air Force shall convey, without consideration, to the City of West Wendover, Nevada (in this section referred to as the ''City''), all right, title, and interest of the United States in and to the property described in paragraph (2), for purposes of permitting the City to develop the parcels for economic and public purposes.

(2) PROPERTY DESCRIPTION.—The property described in this paragraph is the land consisting of approximately 15,093 acres of land, including any improvements, located within the Wendover Air Force Base Auxiliary Field, described as follows: Township 32 North, Range 69 East; Township 32 North, Range 70 East; and Township 33 North, Range 70 East; Mount Diablo Base and Meridian, being more particularly described as: All of Section 24 less the United States Alternate Route 93 right-of-way and those portions of sections 12 and 13 east of the east right-of-way line of United States Alternate Route 93 in Township 32 North, Range 69 East; all of sections 3, 4, 5, 8, 9, 10, 15, 16, 17, 18, 19, 20, 21, 22, and the portions of sections 6 and 7 east of the east right-of-way line of United States Alternate Route 93 in Township 32 North, Range 70 East; all of sections 22, 27, 28, 32, 33, 34, and the portions of sections 16, 20, 21, 29, 30, and 31 east of the east right-of-way line of United States Alternate Route 93 and the portion of section 15 east of the east right-of-way line of U.S. Alternate Route 93 and south of the south right-of-way line of the Union Pacific Railroad Company right-of-way in Township 33 North, Range 70 East, not including the land comprising the Lower Jim's Mobile Home Park, Scobie Mobile Home Park, Ventura Mobile Home Park, Airport Way, Scobie Drive, or Opal Drive.

(b) EXCEPTION FROM SCREENING REQUIREMENT.—The Secretary shall make the conveyance under subsection (a) without regard to the requirement under section 2696 of title 10, United States Code, that the property be screened for further Federal use in accordance with the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

(c) HAZARDOUS MATERIALS.—

(1) SURVEY.—Not later than 180 days after the date of enactment of this Act, the Secretary shall complete hazardous material surveys with respect to the property to be conveyed under subsection (a) in order to identify any needed corrective actions that are required with respect to such property.

(2) CORRECTIVE ACTIONS.—The Secretary shall take any corrective actions that are identified by the surveys under paragraph (1) as soon as practicable after the surveys.

(3) POSTPONEMENT OF CONVEYANCE.—The Secretary may not carry out the conveyance of any property under subsection (a) that is identified under paragraph (1) as requiring corrective actions until the Secretary completes the corrective actions.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey mutually satisfactory to the Secretary and the City. The cost of the survey shall be borne by the City.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

(f) WITHDRAWAL.—The public land described in subsection (a) is withdrawn from the operation of the mining and mineral leasing laws of the United States.

SEC. 3. TRANSFER OF CERTAIN PUBLIC LANDS TO THE CITY OF CARLIN, THE CITY OF WELLS, AND THE TOWN OF JACKPOT, NEVADA.

(a) CONVEYANCE.—The Secretary of the Interior, acting through the Director of the Bureau of Land Management, shall convey without consideration, all right, title, and interest of the United States, subject to all valid existing rights, in and to the property described in subsection (b).

(b) DESCRIPTION OF PROPERTY.—

(1) CITY OF CARLIN, NEVADA.—The Secretary shall convey to the City of Carlin, Nevada, in accordance with subsection (a) the property consisting of approximately 60 acres located in the SW¼SW¼ and the E½SE¼SW ¼ of section 22, Township 33 North, Range 52 East, Mount Diablo meridian.

(2) CITY OF WELLS, NEVADA.—The Secretary shall convey to the City of Wells, Nevada, in accordance with subsection (a) the property consisting of approximately 4,767 acres located in the E½SE¼ of section 1, the W½ of section 2, the E½ and the NW¼ of section 3, S½NW¼ of section 4, section 6, the NW¼, the SW¼, and a portion of the SE¼ of section 11, the N½ of section 12, section 14, the N½NW¼ of section 16, section 18, the W½ of section 20, and section 23, all of Township 37 North, Range 62 East, Mount Diablo meridian.

(3) TOWN OF JACKPOT, NEVADA.—The Secretary shall convey to the Town of Jackpot, Nevada, the property, consisting of approximately 532 acres located in a portion of the NE¼NW¼ and the NW¼NE¼ of section 6, the W½NW¼, the NW¼SW¼, and the SW¼SW¼ of section 7, and the NW¼NW¼ of section 18, all of Township 47 North, Range 65 East, Mount Diablo meridian and portions of section 1, portions of section 12, and the NE¼NE¼ of section 13, Township 47 North, Range 64 East, Mount Diablo meridian.

(4) SURVEYS.—

(A) IN GENERAL.—The Secretary may require such surveys as the Secretary considers necessary to determine the exact acreage and legal description of the property to be conveyed under this section.

(B) COST.—The cost of the surveys shall be borne by the City of Carlin, the City of Wells, and the Town of Jackpot, Nevada.

(c) ADDITIONAL TERMS AND CONDITIONS.—In carrying out this section, the Secretary may require such additional terms and conditions as the Secretary considers appropriate to protect the interests of the United States.

(d) WITHDRAWAL.—The public land described in subsection (b) is withdrawn from the operation of the mining and mineral leasing laws of the United States.●

By Mr. FRIST (for himself, Mr. KENNEDY, Mr. JEFFORDS, Mr. WELLSTONE, Ms. MIKULSKI, and Mr. TORRICELLI):

NATIONAL BONE MARROW REGISTRY REAUTHORIZATION ACT OF 1998

Mr. FRIST. Mr. President, I rise today to introduce the National Bone Marrow Registry Reauthorization Act of 1998. Transplantation of bone marrow is a procedure that offers hope to patients and their families and has saved the lives of many patients with leukemia and other life threatening conditions. As a physician, I know first-hand the heartache of waiting for a donor, and how the gift of bone marrow can change a patient's life. Of patients needing bone marrow transplants, 70% do not have a family member with matching bone marrow. These patients must rely on an unrelated donor. The National Marrow Donor Registry helps patients needing a bone marrow transplant find that unrelated donor with matching bone marrow.

Since its inception in 1987, the National Marrow Donor Program has grown to include more than 3 million volunteers willing to donate bone marrow to an unrelated patient. The program has facilitated over 6,500 marrow transplants around the world. The annual number of transplants rose from 840 in 1994 to over 1,280 in 1997.

This bill is companion legislation to H.R. 2202, introduced by Congressman BILL YOUNG which has 218 co-sponsors. Congressman BILL YOUNG helped found the National Marrow Donor Program and has long been a champion of bone marrow transplantation. The companion House bill was unanimously voice voted out of the House Commerce Committee on May 14 and was unanimously passed by the House of Representatives on May 19, 1998. This kind of bipartisan

support stems from the enormous need for this program. In this short legislative year, it is a must-pass bill.

The statutory authority for the legislation expired in 1994. An Act reauthorizing both the solid organ and bone marrow programs passed the Senate in 1996, but failed to pass the House.

This bill is the result of a collaborative effort by the House and Senate to reauthorize the National Bone Marrow Registry. In April, during National Organ and Tissue Donor Awareness Week, the Senate Labor Subcommittee on Public Health and Safety and the House Commerce Subcommittee on Health and Environment held a joint hearing on increasing bone marrow donation and transplantation. During the hearing, we heard from patients and their families, including testimony from Robert Wedge, a young man who continues to wait for a matching donor to be found. Robert's brother, Cornell, is a member of my staff. Our office has partnered with his loving family and the Congressional Black Caucus to hold a bone marrow drive here in Congress. We also heard from a father whose son's life was saved by a bone marrow transplant. We heard from professionals involved in the operation of the program, and the message throughout the hearing was consistent. The need for bone marrow donation is urgent, and we must continue to address the unique issues surrounding recruitment and transplantation of bone marrow among minorities.

The National Bone Marrow Registry clearly helps save lives. However, there is room for improvement in recruitment of donors and in the services provided to patients needing transplant.

Racial and ethnic minority populations are underrepresented in the Registry. The registry is working to increase the number of racial and ethnic minority donors. Today, the Registry includes more than 700,000 minority volunteers, a growth of almost 150%. However, more potential donors are needed before the probability of a match for a minority patient is comparable to that of a patient who is not a minority. This bill addresses the need for increasing the number and availability of minority donors. By directing special attention to informational and educational activities to recruit minority donors, including African Americans, Hispanics, Asians, Native Americans, and those of mixed racial heritage, the registry will increase the number of potential donors and help save lives.

To help patients and their families with the search for a bone marrow donor, the bill also establishes an Office of Patient Advocacy. The office will provide information to patients about the search process, the costs of the transplants, and patient outcomes at different transplant centers, and will also help resolve difficulties with the transplant process.

To facilitate donation, the bill will provide services for those volunteering as potential donors. Activities will help keep the registry of donors up-to-date, and case-management services will be provided to those donors who may be suitably matched to a patient needing bone marrow.

Bone marrow transplantation is a proven life-saving procedure. In recent years, the same type of blood cells used in transplants have been found in the umbilical cord after a baby is delivered. Using cells from umbilical cords may provide an alternative source of cells, but many questions, including those of ethics and safety, need to be answered. In 1996, the National Institutes of Health began a five-year, multi-center study to see if the use of umbilical cord blood cells is a safe and effective alternative to bone marrow transplantation for children and adults with a variety of cancers, blood diseases, and genetic disorders. The ongoing study includes a review of the data throughout the investigation.

The current bill does not include the use of umbilical cord blood cells, but the report language for the House bill includes a request that the Secretary of Health and Human Services keep the appropriate Congressional Subcommittees informed of advances in knowledge about the uses of blood cells from umbilical cords. If the study addresses the concerns about the use of blood cells from umbilical cords, we can then proceed to address possible expansion of the Registry to include this source of blood cells.

The bill also proposes a significant increase in funds to carry out the activities for recruitment and retention of potential donors, and for the patients needing transplants and their families. As I noted earlier, the current authorization expired in 1994. The bill proposes authorization of the program at $18 million (an increase from $15.27 million appropriated in fiscal year 1998).

Mr. President, I am pleased to introduce legislation today and encourage my fellow Senators to support this life-saving program. I hope my colleagues will pass this legislation quickly, so that we can send it to the President for signature this year. I also want to note that this bill has unanimous support from the National Institutes of Health, the Health Resources Services Administration, the Food and Drug Administration, the National Marrow Donor Program, the Red Cross, and the American Association of Blood Banks. Others have voiced their support as well, and this simply underscores the importance of this program, and this legislation. Thank you, Mr. President, and 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. 2150

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 ''National Bone Marrow Registry Reauthorization Act of 1998''.

SEC. 2. REAUTHORIZATION.

(a) ESTABLISHMENT OF REGISTRY.—Section 379(a) of the Public Health Service Act (42 U.S.C. 274k(a)) is amended—

(1) by striking ''(referred to in this part as the 'Registry') that meets'' and inserting ''(referred to in this part as the 'Registry') that has the purpose of increasing the number of transplants for recipients suitably matched to biologically unrelated donors of bone marrow, and that meets'';

(2) by striking ''under the direction of a board of directors that shall include representatives of'' and all that follows and inserting the following: ''under the direction of a board of directors meeting the following requirements:

''(1) Each member of the board shall serve for a term of two years, and each such member may serve as many as three consecutive two-year terms, except that such limitations shall not apply to the Chair of the board (or the Chair-elect) or to the member of the board who most recently served as the Chair.

''(2) A member of the board may continue to serve after the expiration of the term of such member until a successor is appointed.

''(3) In order to ensure the continuity of the board, the board shall be appointed so that each year the terms of approximately ⅓ of the members of the board expire.

''(4) The membership of the board shall include representatives of marrow donor centers and marrow transplant centers; recipients of a bone marrow transplant; persons who require or have required such a transplant; family members of such a recipient or family members of a patient who has requested the assistance of the Registry in searching for an unrelated donor of bone marrow; persons with expertise in the social sciences; and members of the general public; and in addition nonvoting representatives from the Naval Medical Research and Development Command and from the Division of Organ Transplantation of the Health Resources and Services Administration.''.

(b) PROGRAM FOR UNRELATED MARROW TRANSPLANTS.—

(1) IN GENERAL.—Section 379(b) of the Public Health Service Act (42 U.S.C. 274k(b)) is amended by redesignating paragraph (7) as paragraph (8), and by striking paragraphs (2) through (6) and inserting the following:

''(2) carry out a program for the recruitment of bone marrow donors in accordance with subsection (c), including with respect to increasing the representation of racial and ethnic minority groups (including persons of mixed ancestry) in the enrollment of the Registry;

''(3) carry out informational and educational activities in accordance with subsection (c);

''(4) annually update information to account for changes in the status of individuals as potential donors of bone marrow;

''(5) provide for a system of patient advocacy through the office established under subsection (d);

''(6) provide case management services for any potential donor of bone marrow to whom the Registry has provided a notice that the potential donor may be suitably matched to a particular patient (which services shall be provided through a mechanism other than the system of patient advocacy under subsection (d)), and conduct surveys of donors and potential donors to determine the extent of satisfaction with such services and to identify ways in which the services can be improved;

''(7) with respect to searches for unrelated donors of bone marrow that are conducted

through the system under paragraph (1), collect and analyze and publish data on the number and percentage of patients at each of the various stages of the search process, including data regarding the furthest stage reached; the number and percentage of patients who are unable to complete the search process, and the reasons underlying such circumstances; and comparisons of transplant centers regarding search and other costs that prior to transplantation are charged to patients by transplant centers; and''.

(2) REPORT OF INSPECTOR GENERAL; PLAN REGARDING RELATIONSHIP BETWEEN REGISTRY AND DONOR CENTERS.—The Secretary of Health and Human Services shall ensure that, not later than one year after the date of the enactment of this Act, the National Bone Marrow Donor Registry (under section 379 of the Public Health Service Act) develops, evaluates, and implements a plan to effectuate efficiencies in the relationship between such Registry and donor centers. The plan shall incorporate, to the extent practicable, the findings and recommendations made in the inspection conducted by the Office of the Inspector General (Department of Health and Human Services) as of January 1997 and known as the Bone Marrow Program Inspection.

(c) PROGRAM FOR INFORMATION AND EDUCATION.—Section 379 of the Public Health Service Act (42 U.S.C. 274k) is amended by striking subsection (j), by redesignating subsections (c) through (i) as subsections (e) through (k), respectively, and by inserting after subsection (b) the following subsection:

''(c) RECRUITMENT; PRIORITIES; INFORMATION AND EDUCATION.—

''(1) RECRUITMENT; PRIORITIES.—The Registry shall carry out a program for the recruitment of bone marrow donors. Such program shall identify populations that are underrepresented among potential donors enrolled with the Registry. In the case of populations that are identified under the preceding sentence:

''(A) The Registry shall give priority to carrying out activities under this part to increase representation for such populations in order to enable a member of such a population, to the extent practicable, to have a probability of finding a suitable unrelated donor that is comparable to the probability that an individual who is not a member of an underrepresented population would have.

''(B) The Registry shall consider racial and ethnic minority groups (including persons of mixed ancestry) to be populations that have been identified for purposes of this paragraph, and shall carry out subparagraph (A) with respect to such populations.

''(2) INFORMATION AND EDUCATION REGARDING RECRUITMENT; TESTING AND ENROLLMENT.—

''(A) IN GENERAL.—In carrying out the program under paragraph (1), the Registry shall carry out informational and educational activities for purposes of recruiting individuals to serve as donors of bone marrow, and shall test and enroll with the Registry potential donors. Such information and educational activities shall include the following:

''(i) Making information available to the general public, including information describing the needs of patients with respect to donors of bone marrow.

''(ii) Educating and providing information to individuals who are willing to serve as potential donors, including providing updates.

''(iii) Training individuals in requesting individuals to serve as potential donors.

''(B) PRIORITIES.—In carrying out informational and educational activities under subparagraph (A), the Registry shall give priority to recruiting individuals to serve as donors of bone marrow for populations that are identified under paragraph (1).

''(3) TRANSPLANTATION AS TREATMENT OPTION.—In addition to activities regarding recruitment, the program under paragraph (1) shall provide information to physicians, other health care professionals, and the public regarding the availability, as a potential treatment option, of receiving a transplant of bone marrow from an unrelated donor.''.

(d) PATIENT ADVOCACY AND CASE MANAGEMENT.—Section 379 of the Public Health Service Act (42 U.S.C. 274k), as amended by subsection (c) of this section, is amended by inserting after subsection (c) the following subsection:

''(d) PATIENT ADVOCACY; CASE MANAGEMENT.—

''(1) IN GENERAL.—The Registry shall establish and maintain an office of patient advocacy (in this subsection referred to as the 'Office').

''(2) GENERAL FUNCTIONS.—The Office shall meet the following requirements:

''(A) The Office shall be headed by a director.

''(B) The Office shall operate a system for patient advocacy, which shall be separate from mechanisms for donor advocacy, and which shall serve patients for whom the Registry is conducting, or has been requested to conduct, a search for an unrelated donor of bone marrow.

''(C) In the case of such a patient, the Office shall serve as an advocate for the patient by directly providing to the patient (or family members, physicians, or other individuals acting on behalf of the patient) individualized services with respect to efficiently utilizing the system under subsection (b)(1) to conduct an ongoing search for a donor.

''(D) In carrying out subparagraph (C), the Office shall monitor the system under subsection (b)(1) to determine whether the search needs of the patient involved are being met, including with respect to the following:

''(i) Periodically providing to the patient (or an individual acting on behalf of the patient) information regarding donors who are suitability matched to the patient, and other information regarding the progress being made in the search.

''(ii) Informing the patient (or such other individual) if the search has been interrupted or discontinued.

''(iii) Identifying and resolving problems in the search, to the extent practicable.

''(E) In carrying out subparagraph (C), the Office shall monitor the system under subsection (b)(1) to determine whether the Registry, donor centers, transplant centers, and other entities participating in the Registry program are complying with standards issued under subsection (e)(4) for the system for patient advocacy under this subsection.

''(F) The Office shall ensure that the following data are made available to patients:

''(i) The resources available through the Registry.

''(ii) A comparison of transplant centers regarding search and other costs that prior to transplantation are charged to patients by transplant centers.

''(iii) A list of donor registries, transplant centers, and other entities that meet the applicable standards, criteria, and procedures under subsection (e).

''(iv) The posttransplant outcomes for individual transplant centers.

''(v) Such other information as the Registry determines to be appropriate.

''(G) The Office shall conduct surveys of patients (or family members, physicians, or other individuals acting on behalf of patients) to determine the extent of satisfaction with the system for patient advocacy under this subsection, and to identify ways in which the system can be improved.

''(3) CASE MANAGEMENT.—

''(A) IN GENERAL.—In serving as an advocate for a patient under paragraph (2), the Office shall provide individualized case management services directly to the patient (or family members, physicians, or other individuals acting on behalf of the patient), including—

''(i) individualized case assessment; and

''(ii) the functions described in paragraph (2)(D) (relating to progress in the search process).

''(B) POSTSEARCH FUNCTIONS.—In addition to the case management services described in paragraph (1) for patients, the Office may, on behalf of patients who have completed the search for an unrelated donor, provide information and education on the process of receiving a transplant of bone marrow, including the posttransplant process.''.

(e) CRITERIA, STANDARDS, AND PROCEDURES.—Section 379(e) of the Public Health Service Act (42 U.S.C. 274k), as redesignated by subsection (c) of this section, is amended by striking paragraph (4) and inserting the following:

''(4) standards for the system for patient advocacy operated under subsection (d), including standards requiring the provision of appropriate information (at the start of the search process and throughout the process) to patients and their families and physicians;''.

(f) REPORT.—Section 379 of the Public Health Service Act, as amended by subsection (c) of this section, is amended by adding at the end the following subsection:

''(l) ANNUAL REPORT REGARDING PRETRANSPLANT COSTS.—The Registry shall annually submit to the Secretary the data collected under subsection (b)(7) on comparisons of transplant centers regarding search and other costs that prior to transplantation are charged to patients by transplant centers. The data shall be submitted to the Secretary through inclusion in the annual report required in section 379A(c).''.

(g) CONFORMING AMENDMENTS.—Section 379 of the Public Health Service Act, as amended by subsection (c) of this section, is amended—

(1) in subsection (f), by striking ''subsection (c)'' and inserting ''subsection (e)''; and

(2) in subsection (k), by striking ''subsection (c)(5)(A)'' and inserting ''subsection (e)(5)(A)'' and by striking ''subsection (c)(5)(B)'' and inserting ''subsection (e)(5)(B)''.

SEC. 3. RECIPIENT REGISTRY.

Part I of title III of the Public Health Service Act (42 U.S.C. 274k et seq.) is amended by striking section 379A and inserting the following:

''SEC. 379A. BONE MARROW SCIENTIFIC REGISTRY.

''(a) ESTABLISHMENT OF RECIPIENT REGISTRY.—The Secretary, acting through the Registry under section 379 (in this section referred to as the 'Registry'), shall establish and maintain a scientific registry of information relating to patients who have been recipients of a transplant of bone marrow from a biologically unrelated donor.

''(b) INFORMATION.—The scientific registry under subsection (a) shall include information with respect to patients described in subsection (a), transplant procedures, and such other information as the Secretary determines to be appropriate to conduct an ongoing evaluation of the scientific and clinical status of transplantation involving recipients of bone marrow from biologically unrelated donors.

''(c) ANNUAL REPORT ON PATIENT OUTCOMES.—The Registry shall annually submit to the Secretary a report concerning patient

outcomes with respect to each transplant center. Each such report shall use data collected and maintained by the scientific registry under subsection (a). Each such report shall in addition include the data required in section 379(l) (relating to pretransplant costs).''.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended—

(1) by transferring section 378 from the current placement of the section and inserting the section after section 377; and

(2) in part I, by inserting after section 379A the following section:

''SEC. 379B. AUTHORIZATION OF APPROPRIATIONS.

''For the purpose of carrying out this part, there are authorized to be appropriated $18,000,000 for fiscal year 1999, and such sums as may be necessary for each of the fiscal years 2000 through 2003.''.

SEC. 5. STUDY BY GENERAL ACCOUNTING OFFICE.

(a) IN GENERAL.—During the period indicated pursuant to subsection (b), the Comptroller General of the United States shall conduct a study of the National Bone Marrow Donor Registry under section 379 of the Public Health Service Act for purposes of making determinations of the following:

(1) The extent to which, relative to the effective date of this Act, such Registry has increased the representation of racial and ethnic minority groups (including persons of mixed ancestry) among potential donors of bone marrow who are enrolled with the Registry, and whether the extent of increase results in a level of representation that meets the standard established in subsection (c)(1)(A) of such section 379 (as added by section 2(c) of this Act).

(2) The extent to which patients in need of a transplant of bone marrow from a biologically unrelated donor, and the physicians of such patients, have been utilizing the Registry in the search for such a donor.

(3) The number of such patients for whom the Registry began a preliminary search but for whom the full search process was not completed, and the reasons underlying such circumstances.

(4) The extent to which the plan required in section 2(b)(2) of this Act (relating to the relationship between the Registry and donor centers) has been implemented.

(5) The extent to which the Registry, donor centers, donor registries, collection centers, transplant centers, and other appropriate entities have been complying with the standards, criteria, and procedures under subsection (e) of such section 379 (as redesignated by section 2(c) of this Act).

(b) REPORT.—A report describing the findings of the study under subsection (a) shall be submitted to the Congress not later than October 1, 2001. The report may not be submitted before January 1, 2001.

SEC. 6. COMPLIANCE WITH NEW REQUIREMENTS FOR OFFICE OF PATIENT ADVOCACY.

With respect to requirements for the office of patient advocacy under section 379(d) of the Public Health Service Act, the Secretary of Health and Human Services shall ensure that, not later than 180 days after the effective date of this Act, such office is in compliance with all requirements (established pursuant to the amendment made by section 2(d)) that are additional to the requirements that under section 379 of such Act were in effect with respect to patient advocacy on the day before the date of the enactment of this Act.

SEC. 7. EFFECTIVE DATE.

This Act takes effect October 1, 1998, or upon the date of the enactment of this Act, whichever occurs later.

Mr. KENNEDY. Mr. President, it is a privilege to join Senator FRIST on this important legislation, which is strongly supported by the Clinton Administration, patient groups, and the American Association of Blood Banks.

The National Marrow Donor Program was established in 1986 to meet the need for a single large, nationwide registry of bone marrow donors. For those facing the diagnosis of leukemia or other life-threatening diseases, the registry can literally save their lives.

Of particular importance is the need for identifying potential donors for African Americans, Asian/Pacific Islanders, Hispanics, and Native Americans, since each individual's likelihood of finding a matching donor, apart from family members, is higher in the individual's racial or ethnic group. By cooperation with international registries and targeted campaigns to increase the representation of minorities, the NMDP has made remarkable progress in improving the likelihood that patients of every racial and ethnic group can find suitable donors.

Through skillful work and commitment, the NMDP has grown rapidly in recent years. It now maintains a registry of over three million volunteer bone marrow donors. The very important work of the registry must be continued. Its success in identifying matching donors and recipients is bringing the miracle of better health to families across the country. Congress has a responsibility to support this critical work.

In fact, this reauthorization is long overdue, and I hope that Congress will act expeditiously so that the National Marrow Donor Program can continue its life-saving work.

By Mr. NICKLES (for himself, Mr. LOTT, Mr. COATS, Mr. INHOFE, Mr. HELMS, Mr. MURKOWSKI, Mr. GRAMS, Mr. FAIRCLOTH, Mr. BOND, Mr. ENZI, Mr. SESSIONS, Mr. HAGEL, and Mr. COVERDELL):

S. 2151. A bill to clarify Federal law to prohibit the dispensing or distribution of a controlled substance for the purpose of causing, or assisting in causing, the suicide, euthanasia, or mercy killing of any individual; to the Committee on the Judiciary.

LETHAL DRUG ABUSE PREVENTION ACT OF 1998

Mr. NICKLES. Mr. President, today I rise, along with Senators LOTT, COATS, INHOFE, HELMS, MURKOWSKI, GRAMS of Minnesota, FAIRCLOTH, BOND, ENZI, SESSIONS, HAGEL, and COVERDELL to introduce the Lethal Drug Abuse Prevention Act of 1998. This legislation will clarify that physicians entrusted by the federal government with the authority to prescribe and dispense controlled substances may not abuse that authority by using them in assisted suicides. It also strongly reaffirms that physicians should use federally controlled substances for the legitimate medical purpose of relieving pain and discomfort.

Last year, Congress passed the Assisted Suicide Funding Restriction Act of 1997 without a dissenting vote in the Senate and by an overwhelming margin of 398–16 in the House. The President signed the bill, saying it ''will allow the Federal Government to speak with a clear voice in opposing these practices,'' and warning that ''to endorse assisted suicide would set us on a disturbing and perhaps dangerous path.''

The distribution of narcotics and other dangerous drugs is prohibited by federal law under the Controlled Substances Act. Under this law physicians may get a special federal license from the Drug Enforcement Administration (DEA), called a DEA registration, that allows them to prescribe these federally controlled drugs for ''legitimate medical purposes.'' This was confirmed last November in a letter by Thomas Constantine, Administrator of the DEA, who concluded that ''delivering, dispensing or prescribing a controlled substance with the intent of assisting a suicide would not be under any current definition a legitimate medical purpose.''

It is important to understand that while physicians receive their license to practice medicine from state medical boards, they receive this separate DEA registration to prescribe controlled substances from the federal DEA. Each time a doctor orders a controlled substance they must fill our a form in triplicate and one copy goes to the DEA. Physicians must be prepared to explain to DEA officials their use of these drugs, and they lose their registration and even risk criminal penalties if they prescribe such drugs for any reason but ''Legitimate medical purposes.''

On June 5, Attorney General Janet Reno issued a decision which overturned the DEA ruling. According to the Attorney General, the Controlled Substances Act does not restrict the use of federally controlled dangerous drugs for the purpose of assisted suicide. It is for this reason I am introducing this legislation.

I have long been a strong advocate of states' rights and the limited role of the federal government, so let me make clear what this legislation does. It simply clarifies that the dispensing of controlled substances for the purpose of assisted suicide is prohibited under longstanding federal law, the Controlled Substance Act.

This is not the first time the federal government has acted to ensure that federally regulated drugs are not used for purposes that violate federal law. The current Administration is committed to enforcing federal prohibitions on the use of marijuana, despite state referenda that seeks to legitimize such use for what some see as medicinal use. By the same token, one state's referendum rescinding local criminal penalties for assisting a suicide does not magically transform a lethal act into a legitimate medical practice within the meaning of federal law.

Congress cannot remain silent now. Congress acted with one voice to ensure that no federal program, facility or employee is involved in assisted suicide. Enactment of the Lethal Drug Abuse Prevention Act of 1998 will ensure that federal authorization to prescribe DEA-regulated drugs does not include the authority to prescribe such drugs to cause a patient's death.

I urge my colleagues to support and swiftly enact this urgently needed legislation.

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

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

S. 2151

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 ''Lethal Drug Abuse Prevention Act of 1998''.

SEC. 2. FINDINGS; PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the use of certain narcotics and other dangerous drugs is generally prohibited under the Controlled Substances Act;

(2) under the Controlled Substances Act and implementing regulations, an exception to this general prohibition permits the dispensing and distribution of certain controlled substances by properly registered physicians for legitimate medical purposes;

(3) the dispensing or distribution of controlled substances to assist suicide is not a legitimate medical purpose and should not be construed to be permissible under the Controlled Substances Act;

(4) the dispensing or distribution of certain controlled substances for the purpose of relieving pain and discomfort is a legitimate medical purpose under the Controlled Substances Act and physicians should not hesitate to dispense or distribute them for that purpose when medically indicated; and

(5) for the reasons set forth in section 101 of the Controlled Substances Act (21 U.S.C. 801), the dispensing and distribution of controlled substances for any purpose, including that of assisting suicide, affects interstate commerce.

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

(1) to provide explicitly that Federal law is not intended to license the dispensing or distribution of a controlled substance with a purpose of causing, or assisting in causing, the suicide, euthanasia, or mercy killing of any individual; and

(2) to encourage physicians to prescribe controlled substances as medically appropriate in order to relieve pain and discomfort, by reducing unwarranted concerns that their registration to prescribe controlled substances will thereby be put at risk, if there is no intent to cause a patient's death.

SEC. 3. LETHAL DRUG ABUSE PREVENTION.

(a) DENIAL OF REGISTRATION.—Section 303 of the Controlled Substances Act (21 U.S.C. 823) is amended by adding at the end the following:

''(i) DENIAL OF REGISTRATION.—The Attorney General shall determine that registration of an applicant under this section is inconsistent with the public interest if—

''(1) during the 5-year period immediately preceding the date on which the application is submitted under this section, the registration of the applicant under this section was revoked under section 304(a)(4); or

''(2) the Attorney General determines, based on clear and convincing evidence, that the applicant is applying for the registration with the intention of using the registration to take any action that would constitute a violation of section 304(a)(4).''.

(b) SUSPENSION OR REVOCATION OF REGISTRATION.—

(1) IN GENERAL.—Section 304(a) of the Controlled Substances Act (21 U.S.C. 824(a)) is amended—

(A) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and

(B) by inserting after paragraph (3) the following:

''(4) has intentionally dispensed or distributed a controlled substance with a purpose of causing, or assisting in causing, the suicide, euthanasia, or mercy killing of any individual, except that this paragraph does not apply to the dispensing or distribution of a controlled substance for the purpose of relieving pain or discomfort (even if the use of the controlled substance may increase the risk of death), so long as the controlled substance is not also dispensed or distributed for the purpose of causing, or assisting in causing, the death of an individual for any reason;''.

(2) CONFORMING AMENDMENT.—Section 304(a)(5) of the Controlled Substances Act (21 U.S.C. 824(a)(5)) (as redesignated by paragraph (1) of this subsection) is amended by inserting ''other'' after ''such''.

(c) PAIN RELIEF.—Section 304(c) of the Controlled Substances Act (21 U.S.C. 824(c)) is amended—

(1) by striking ''(c) Before'' and inserting the following:

''(c) PROCEDURES.—

''(1) ORDER TO SHOW CAUSE.—After any hearing under paragraph (2), and before''; and

(2) by adding at the end the following:

''(2) MEDICAL REVIEW BOARD ON PAIN RELIEF.—

''(A) IN GENERAL.—The Attorney General shall by regulation establish a board to be known as the Medical Review Board on Pain Relief (referred to in this subsection as the 'Board').

''(B) MEMBERSHIP.—The Attorney General shall appoint the members of the Board—

''(i) from among individuals who, by reason of specialized education or substantial relevant experience in pain management, are clinical experts with knowledge regarding standards, practices, and guidelines concerning pain relief; and

''(ii) after consultation with the American Medical Association, the American Academy of Hospice and Palliative Medicine, the National Hospice Organization, the American Geriatrics Society, and such other entities with relevant expertise concerning pain relief, as the Attorney General determines to be appropriate.

''(C) DUTIES OF BOARD.—

''(i) HEARING.—If an applicant or registrant claims that any action (or, in the case of a proposed denial under section 303(i)(2), any potential action) that is a basis of a proposed denial under section 303(i), or a proposed revocation or suspension under subsection (a)(4) of this section, is an appropriate means to relieve pain that does not constitute a violation of subsection (a)(4) of this section, the applicant or registrant may seek a hearing before the Board on that issue.

''(ii) FINDINGS.—Based on a hearing under clause (i), the Board shall make findings regarding whether the action at issue is an appropriate means to relieve pain that does not constitute a violation of subsection (a)(4). The findings of the Board under this clause shall be admissible in any hearing pursuant to an order to show cause under paragraph (1).''.

SEC. 4. CONSTRUCTION.

(a) IN GENERAL.—Nothing in this Act or the amendments made by this Act shall be construed to imply that the dispensing or distribution of a controlled substance before the date of enactment of this Act for the purpose of causing, or assisting in causing, the suicide, euthanasia, or mercy killing of any individual is not a violation of the Controlled Substances Act (21 U.S.C. 801 et seq.).

(b) INCORPORATED DEFINITIONS.—In this section, the terms ''controlled substance'', ''dispense'', and ''distribute'' have the meanings given those terms in section 102 of the Controlled Substances Act (21 U.S.C. 802).

ADDITIONAL COSPONSORS

S. 268

At the request of Mr. MCCAIN, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 268, a bill to regulate flights over national parks, and for other purposes.

S. 507

At the request of Mr. LEAHY, the name of the Senator from California [Mrs. BOXER] was added as a cosponsor of S. 507, a bill to establish the United States Patent and Trademark Organization as a Government corporation, to amend the provisions of title 35, United States Code, relating to procedures for patent applications, commercial use of patents, reexamination reform, and for other purposes.

S. 773

At the request of Mr. DURBIN, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 773, a bill to designate certain Federal lands in the State of Utah as wilderness, and for other purposes.

S. 831

At the request of Mr. SHELBY, the names of the Senator from Colorado [Mr. ALLARD] and the Senator from Texas [Mr. GRAMM] were added as cosponsors of S. 831, a bill to amend chapter 8 of title 5, United States Code, to provide for congressional review of any rule promulgated by the Internal Revenue Service that increases Federal revenue, and for other purposes.

S. 852

At the request of Mr. LOTT, the names of the Senator from Idaho [Mr. KEMPTHORNE] and the Senator from Montana [Mr. BURNS] were added as cosponsors of S. 852, a bill to establish nationally uniform requirements regarding the titling and registration of salvage, nonrepairable, and rebuilt vehicles.

S. 1092

At the request of Mr. STEVENS, his name was added as a cosponsor of S. 1092, a bill to provide for a transfer of land interests in order to facilitate surface transportation between the cities of Cold Bay, Alaska, and King Cove, Alaska, and for other purposes.

S. 1251

At the request of Mr. D'AMATO, the names of the Senator from Florida [Mr. MACK] and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of S. 1251, a bill to amend the