EC–5391. A communication from the Secretary of Defense, transmitting, notifications of military retirements; to the Committee on Armed Services.

EC–5392. A communication from the Secretary of Defense, transmitting, pursuant to law, the report of a certification relative to the Department of Defense reduction of acquisition positions; to the Committee on Armed Services.

EC–5393. A communication from the Under Secretary of Defense for Acquisition and Technology, transmitting, pursuant to law, a report regarding allocation of core logistics activities among Department of defense facilities; to the Committee on Armed Services.

EC–5394. A communication from the Secretary of the Navy, transmitting, pursuant to law, notification of an exception to the use of competitive procurement procedures for the acquisition of (Stage II) retrofit kits; to the Committee on Armed Services.

EC–5395. A communication from the Chief of the Programs and Legislation Division, Department of the Air Force, transmitting, the report of a cost comparison to reduce the cost of operating base supply functions at Malmstrom Air Force Base, Montana; to the Committee on Armed Services.

EC–5396. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the annual report of the Panama Canal Treaty for fiscal year 1997; to the Committee on Armed Services.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENS, from the Committee on Appropriations: Special Report entitled ''Further Revised Allocation to Subcommittees of Budget Totals for Fiscal Year 1999'' (Rept. 105–211).

By Mr. COCHRAN, from the Committee on Appropriations, without amendment:

S. 2159: An original bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1998, and for other purposes (Rept. No. 105–212).

By Mr. BURNS, from the Committee on Appropriations, without amendment:

S. 2160: An original bill making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1999, and for other purposes (Rept. No. 105–213).

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. SMITH of Oregon:

S. 2156. A bill to amend the Arms Export Control Act to exempt any credit, credit guarantee or other financial assistance provided by the Department of Agriculture for the purchase or other provision of food or other agricultural commodities from sanctions provided for under the Act; to the Committee on Foreign Relations.

By Mr. CLELAND (for himself, Mr. KERRY, Mr. JEFFORDS, and Mr. LIEBERMAN):

S. 2157. A bill to amend the Small Business Act to increase the authorized funding level for women's business centers; to the Committee on Small Business.

By Mr. ROBERTS (for himself, Mr. SMITH of Oregon, Mrs. MURRAY, Mr. BURNS, Mr. CRAIG, Mr. BAUCUS, Mr. LUGAR, Mr. KERREY, Mr. GORTON, and Mr. KEMPTHORNE):

S. 2158. A bill to amend the Arms Export Control Act to provide that certain sanctions provisions relating to prohibitions on credit, credit guarantees, or other financial assistance not apply with respect to programs of the Department of Agriculture for the purchase or other provision of food or other agricultural commodities; to the Committee on Foreign Relations.

By Mr. COCHRAN:

S. 2159. An original bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1999, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. BURNS:

S. 2160. An original bill making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending Sepetember 30, 1999, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. THOMPSON (for himself and Mr. BREAUX):

S. 2161. A bill to provide Government-wide accounting of regulatory costs and benefits, and for other purposes; to the Committee on Governmental Affairs.

By Mr. MACK (for himself and Mr. GRAMS):

S. 2162. A bill to amend the Internal Revenue Code of 1986 to more accurately codify the depreciable life of printed wiring board and printed wiring assembly equipment; to the Committee on Finance.

By Mr. HATCH (for himself, Mr. ASHCROFT, Mr. ABRAHAM, Mr. THURMOND, Mr. SESSIONS, and Mr. KYL):

S. 2163. A bill to modify the procedures of the Federal courts in certain matters, to reform prisoner litigation, and for other purposes; to the Committee on the Judiciary.

By Mrs. HUTCHISON:

S. 2164. A bill to amend title 49, United States Code, to promote rail competition, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. GRASSLEY:

S. 2165. A bill to amend title 31 of the United States Code to improve methods for preventing financial crimes, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HARKIN (for himself, Mr. LEAHY, and Mr. JOHNSON):

S. 2166. A bill to amend the National School Lunch Act and the Child Nutrition Act of 1966 to provide children with increased access to food and nutrition assistance, to simplify program operations and improve program management, to extend certain authorities contained in such Acts through fiscal year 2002, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Ms. COLLINS (for herself and Mr. GRASSLEY):

S. 2167. A bill to amend the Inspector General Act of 1978 (5 U.S.C. App.) to increase the efficiency and accountability of Offices of Inspector General within Federal departments, and for other purposes; to the Committee on Governmental Affairs.

By Mr. MURKOWSKI:

S.J. Res. 52. A joint resolution proposing an amendment to the Constitution of the United States relative to limiting the terms of Senators and Representatives; to the Committee on the Judiciary.

By Mr. INOUYE:

S.J. Res. 53. A joint resolution to express the sense of the Congress that the President should award a Presidential Unit Citation to the final crew of the U.S.S. INDIANAPOLIS, which was sunk on July 30, 1945; to the Committee on Armed Services.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

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

S. Res. 247. A resolution to authorize testimony, document production, and representation of Member and employees of the Senate in United States v. Jack L. Williams, et al; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CLELAND (for himself, Mr. KERRY, Mr. JEFFORDS, and Mr. LIEBERMAN):

S. 2157. A bill to amend the Small Business Act to increase the authorized funding level for women's business centers; to the Committee on Small Business.

SMALL BUSINESS ADMINISTRATION WOMEN'S BUSINESS CENTER AUTHORIZATION ACT

Mr. KERRY. Mr. President, I am delighted to join the Senator from Georgia, Senator CLELAND, in introducing legislation with him to expand the authorized level of the Small Business Administration's Women's Business Centers. I appreciate the leadership of the Senator from Georgia on this issue.

We must provide and over the last few years have provided strong support to help women business owners meet their greatest potential. I am happy to say this bill does just that. The additional funding that would be authorized in the bill will ensure that the SBA is going to achieve the goal of establishing the Women's Business Center in every single State by the year 1999. It will also be used to expand the existing very successful Women's Business Centers in the currently underserved areas of their States.

Just 10 years ago Congress established a demonstration program to help women-owned businesses gain access to capital and assistance, technical assistance, in business development. This program has proven to be a really remarkable success. It has served nearly 50,000 American women, business owners, through 54 sites in 28 States and the District of Columbia.

Women-owned businesses have made extraordinary gains over the past decade, and everyone in America is sharing the economic advantage that has resulted from their endeavors. Current calculations by the Small Business Administration indicate that women now own one-third of all U.S. firms—more than 8 million businesses. Women-owned businesses employ one out of every five U.S. workers, a total of 18.5 million employees, and more people than the Fortune 500 companies. Each year, women-owned businesses now

contribute more than $2.38 trillion into the national economy.

In Massachusetts, where 147,000 women-owned businesses account for over one-third of all our companies, the Center for Women and Business Enterprise has worked to empower women in becoming economically self-sufficient through entrepreneurship. The center provides in-depth courses, workshops, one-on-one counseling, and access to financing for women.

Unfortunately, notwithstanding this extraordinary record of women-owned business, credit has always been something that has been more difficult for women because of credit standards, and frankly some stereotyping that historically has taken place.

Since its inception in 1995, my State's Women's Business Center has served more than 1,000 women business owners, 40 percent of whom are minorities. One hundred cities and towns in eastern Massachusetts are benefiting from the programs and the activities that are available at the center.

I will share a couple of real stories of how this has worked and what it has done. Renata Matsson came to the Center for Women and Enterprise in October 1995 after she had developed a medical device to assist people suffering from chronic eye problems. But Renata didn't know how to transform her invention to a product in a small business. After completing an 11-week class which taught her ''the language of business,'' she developed a detailed business plan and applied for a grant from the Small Business Administration's Small Business Innovation Research Program through the National Institutes of Health. She was recently awarded a grant of $100,000. Today she is using that grant to commercialize her technology and start her own small business.

Another example: 16 years ago, Nancy Engel was a young mother on welfare dreaming of giving her daughter the things that she never had—a home, financial security, and a college education. Nancy took $30 from her last welfare check and bought spices, which she then repackaged and sold at a flea market. She earned $200 from that investment of her $30 from her check. She then used those proceeds to develop a small business called the Sunny Window. In 1996, she enrolled in the Center for Women and Enterprise's business planning course. Since she completed the course, Sunny Window has grown and now generates $250,000 in annual revenues selling spices, dried flower arrangements and soaps throughout the world. It now employs seven women with what Nancy calls ''part-time mothers' hours.'' Nancy was recently named the U.S. Small Business Administration's first Welfare-to-Work Entrepreneur of the Year for Massachusetts. Soon she will be volunteering for the Center for Women and Enterprise, assisting other women entrepreneurs who are trying to make the very difficult transition from public assistance to running their own small business.

These are just two of a myriad of stories, wonderful stories, of success as a result of our efforts at the Federal level to assist women-owned businesses. These success stories are, however, juxtaposed to the reality that far too many women still face unnecessary obstacles to developing their own businesses, ranging from the lack of access to capital to a lack of access to government contracts, to a lack of access to business education or even to training opportunities, not to mention some of the fundamental resistance that has, unfortunately, existed with respect to women's efforts to try to engage in entrepreneurial activities.

We need to expand on the policies and programs that allow women entrepreneurs to grow and to thrive. In turn, it is clear their successes will benefit our country and all of our communities. We know that women entrepreneurs are now breaking records. Women-owned business have a startup rate twice that of male-owned counterparts. Between 1987 and 1992, the number of women-owned businesses increased by 43 percent while business overall grew only 26 percent.

Particularly notable, women-owned companies with 100 or more workers increased employment by 158 percent, more than double the rate for all U.S. firms of similar size. These accomplishments illustrate the importance of women-owned businesses to our economy, and they underscore why we in Congress should support their growth and development.

Last year, I was proud to be an original cosponsor of the Women's Business Centers Act of 1997, which doubled the authorization of funding for women business center programs to $8 million for each of the next 3 years. I was extremely pleased that the major provision of that bill, as well as a mandate for the SBA to conduct studies on how women businesses fare in the contracting and finance areas, was included in the Small Business Reauthorization Act of 1997 and was enacted into law with President Clinton's signature.

The legislation that I join Senator CLELAND in introducing today takes the next step in developing the women's business center program by increasing the authorization to $9 million in fiscal year 1999, $10.5 million in the year 2000, and $12 million in 2001. I underscore that that is a remarkably small amount of money that we are seeking to do a large job, a job which obviously is returning extraordinary results to the Nation.

This increased funding will ensure that the SBA achieves the goal of establishing at least one women's business center in each State by the end of the year in 1999 and will strengthen and expand the existing centers. I also continue to support the development of the women's on-line center, which is a very useful tool for women businessowners—especially those located in rural areas—who want to avail themselves of the women's business center technical expertise.

The legislation that Senator CLELAND and I introduce today is the beginning of a new advancement for women-owned businesses, and I am very proud to be a part of it. I hope that all of our colleagues will join in this important effort. I would like to take the opportunity to thank Senator CLELAND and his staff, particularly John Johnson, for the work they have done in the preparation of this legislation.

Mr. CLELAND. Mr. President, I thank the Senator from Massachusetts, Senator KERRY, for his work on behalf of small businesses. We are both members of the Small Business Committee here in the Senate.

Mr. President, I speak this morning to introduce legislation with my colleague, the Senator from Massachusetts, Senator KERRY, and fellow cosponsors, including Senators DASCHLE, LAUTENBERG, MIKULSKI, ABRAHAM, D'AMATO, BREAUX, DODD, BINGAMAN, KOHL, LANDRIEU, TORRICELLI, LEAHY, GRASSLEY, SNOWE, HARKIN, BUMPERS, and FEINSTEIN. That is an impressive bipartisan list of Senators.

This legislation, simply stated, recognizes the outstanding contributions that women's business centers have made to women entrepreneurs across the Nation. In light of this outstanding achievement in the President's budget request, I am proud to offer this measure expressing the findings of Congress that funding for these centers, these women's business centers, should be increased. I note that the centers are the only organization, nationally, that focus exclusively on entrepreneurial training for women. Increased funding would allow for new centers and subcenters to be established and for continued funding for existing centers, including the on-line women's business center. Increased funding would achieve the goal of expanding centers to all 50 States. Our legislation would increase funding for women's business centers under the SBA in steps, from the current level of $8 million to $9 million for fiscal year 1999, $10.5 million for fiscal year 2000, and $12 million for fiscal year 2001.

Mr. President, I would like to take a moment to talk about four focal points of women's business centers. The first and most important focus is the customer. These centers have responded to women's needs by offering training, and during accessible hours at nights and on weekends. In addition to regular training courses, special instructions on starting at-home child care businesses have also been offered. As the SBA Administrator Aida Alvarez points out, the number of clients served in the second year of the program increased by 40 percent. Approximately 44 percent of clients served were actually socially disadvantaged. More than 33 percent of the clients were economically disadvantaged,

nearly 40 percent were minorities, and 18 percent were actually on public assistance at the time.

Then there is the community focus. Women's business centers are a network of more than 60 community-based women's business centers operating in 36 States, the District of Columbia, and Puerto Rico. Each center offers long-term training, networking, and mentoring to potential and existing entrepreneurs, most of whom could not or would not start businesses without substantial help, and each center tailors its programs to the needs of the individual community it serves.

Next is the economic focus. In terms of job growth, significantly high numbers of full- and part-time jobs were created at average hourly wages at least double the minimum wage. In the area of loan growth, the number of small loans received by clients has more than doubled since the first year of the program. In terms of small business growth, 78 percent of all center clients were startup businessowners or aspiring entrepreneurs. The centers taught them business basics and provided practical support and realistic encouragement.

The last focus is that of technology. The on-line women's business center, at www.onlinewbc.org, is an interactive state-of-the-art web site that offers virtually everything an entrepreneur needs to start and build a successful business, including on-line training, mentoring, individual counseling, topic forums and news groups, market research, a comprehensive State-by-State resource and information guide, and information on all of the SBA's programs and services, plus links to countless other resources. This site was developed by the North Texas Women's Business Development Center in cooperation with more than 60 women's business centers and several corporate sponsors. This summer, information will be available in nine different languages.

Mr. President, I want to conclude my statement by thanking the Senator from Massachusetts, Senator KERRY. I think this legislation offers small businesses and entrepreneurs in America hope, particularly women businessowners and potential women businessowners. It is the hope of a better life for oneself, one's family and community, which actually drives entrepreneurs and also drives the economic engine in this country, which is so vital to our well-being as a Nation. Women's business centers are a distributor of that hope. We in Congress need to recognize that this program works. It makes a positive difference in the lives of so many women and the countless citizens they employ.

I hope all of my colleagues will join me in cosponsoring our bipartisan legislation. I look forward to its future and timely consideration in the Senate Committee on Small Business. I thank my colleagues for the opportunity to be here this morning to present this legislation, which I think will serve the needs of so many.

Mr. ABRAHAM. Mr. President, I rise today as an original cosponsor of legislation increasing the authorization for the Small Business Administration's Women's Business Center program from $9 million in 1999 to $12 million in 2001. These centers provide management, marketing, and financial advice to women-owned small businesses.

Mr. President, the Small Business Administration's Women's Business Center program finances a number of very important initiatives at the state and local levels; initiatives that have proven crucial to women struggling to enter the job world and to start their own businesses. These initiatives have changed the lives of a significant number of women in Michigan and throughout the United States.

For example, Mr. President, Ann Arbor's Women's Initiative for Self-Employment or WISE program was started in 1987 as a means by which to provide low-income women with the tools and resources they need to begin and expand businesses. The WISE program provides a comprehensive package of business training, personal development workshops, credit counseling, start-up and expansion financing, business counseling, and mentoring. In addition to helping create and expand businesses, WISE fights poverty, increases incomes, stabilizes families, develops skills and sparks community renewal.

In addition, Mr. President, Grand Rapids' Opportunities for Women or GROW provides career counseling and training for women in western Michigan. This nonprofit group serves about 250 women per year. GROW helps women get jobs by providing them with basic training and helping them get funds for more specialized training. In addition, they help women obtain appropriate clothing so that they can start work in a professional manner.

I salute the good people at WISE and GROW for their hard work helping the women of Michigan. They provide the kind of services we need to revitalize troubled areas and empower women to build productive lives for themselves and their families.

Because the Small Business Administration's Women's Business Centers program makes these kinds of efforts possible, I believe it deserves our full support, and merits the increase in funding called for in this legislation. I urge my colleagues to support this important bill.

● Mr. LEAHY. Mr. President, I am pleased today to join with my colleagues, Senators CLELAND and KERRY, in introducing legislation that will bring the resources of SBA's Women's Business Center program much closer to those seeking this help as they work to start their own businesses. This bill does more than recognize the contributions that women make as business owners. This bill tangibly supports and encourages more women to become entrepreneurs.

The Office of Women's Business Ownership recently released a report to Congress on the success of Women's Business Centers. This report officially confirms what we already informally know: Women are interested in owning their own businesses, and women appreciate the targeted help the Centers offer that relates directly to the unique opportunities and challenges that women face in creating a business. While existing Small Business Administration offices and Small Business Development Centers help women entrepreneurs, this report found that more than three-fourths of the women who have turned to a Women's Business Center appreciate its special focus. SBA offices and SBDCs do not have the resources available to offer the same kind of help.

Our legislation will supply resources needed to establish a Women's Business Center in each of the fifty states, including in my home state of Vermont. Passage of this bill would give women in Vermont and in other states direct access to information on financing, marketing and managing their own business ventures. Under the provisions of this bill, Vermonters would have access to the wide range of resources that already are available to citizens in 36 other states.

The bill will also extend additional resources for the online Women's Business Center. This resource, located at www.onlinewbc.org, provides assistance to women who are unable to travel long distances to Centers. With this online resource, women have access to much of the same information that is available at the Centers, and they can ask questions of specialists, all with the click of a mouse. Our bill would enable the Center to expand its online services to women in business.

Even without the resources of a Women's Business Center, Vermont is a leader in women-owned businesses. The number of women entrepreneurs in Vermont has almost doubled over the last ten years. Women now own more than thirty-eight percent of all businesses in Vermont, which is above the national average of thirty-six percent. Women also employ thirty percent of Vermont's workers, which also exceeds the national average.

Women have faced unique obstacles and challenges in starting and growing businesses. Some obstacles have been lowered in recent years, and we can all hope that this progress will continue. One step we can take to promote continued progress is by bringing the resources of Women's Business Centers to more women entrepreneurs. We must encourage more Vermont women to tap into this incredible growth. An SBA Women's Business Center in Vermont will do just that by providing women with the framework and support necessary to thrive and excel as business owners.●

By Mr. THOMPSON (for himself and Mr. BREAUX):

S. 2161. A bill to provide Government-wide accounting of regulatory costs and benefits, and for other purposes; to the Committee on Governmental Affairs.

REGULATORY RIGHT-TO-KNOW ACT OF 1998

● Mr. THOMPSON. Mr. President, today I am introducing the ''Regulatory Right-to-Know Act'' of 1998. I believe that this legislation will serve as an important tool to promote the public's right to know about the benefits and burdens of regulation; to increase the accountability of government to the people it serves; and, ultimately, to improve the quality of our government.

This continues the effort begun by Senator STEVENS, then the Chairman of the Governmental Affairs Committee, when he passed the Stevens Regulatory Accounting Amendment in 1996. This legislation would not change any statutory or regulatory standard; it simply would provide information to help the public, Congress and the President to understand the scope and performance of our regulatory system. As OMB stated in its first report under the Stevens Amendment, ''Over time, regulation . . . has become increasingly prevalent in our society, and the importance of our regulatory activities cannot be overstated.'' It is my hope that more information on the benefits and costs of regulation will help us make smarter decisions to get more of the good things that sensible regulation can deliver, and reduce needless waste and redtape at the same time. That's plain common sense.

Regulations have played an important role in improving our quality of life—cleaner air, quality products, safer workplaces, and reliable economic markets—to name a few of the good things that sensible regulation can produce. Achieving these benefits does not come without cost. In its first regulatory accounting report, OMB estimated that the annual cost of regulation of the environment, health, safety and the economy is about $300 billion. Other studies, which include the full costs of paperwork and economic transfers, estimate that regulation costs about $700 billion annually. Those costs are passed on to American consumers and taxpayers through higher prices, diminished wages, increased taxes, or reduced government services. The tab for the average American household is thousands of dollars each year—$7,000 per year by some estimates. At the same time, the public wants and deserves better results from our regulatory system. As the costs of regulation rise with public expectations of better results, the need is greater than ever to get a handle on how regulatory programs are performing, so we can find ways for our government to perform better.

It's no surprise that the seriousness of this need is not widely appreciated, because the costs of regulation are not as obvious as many other costs of government, such as the taxes we pay each year; and the benefits of regulation often are diffuse. But there is substantial evidence that the current regulatory system often misses opportunities for greater benefits and lower costs. As noted by the President's chief spokesperson on regulatory policy, Sally Katzen:

> Regrettably, the regulatory system that has been built up over the past five decades . . . is subject to serious criticism . . . [on the grounds] that there are too many regulations, that many are excessively burdensome, [and] that many do not ultimately provide the intended benefits.

Our regulatory goals are too important, and our resources are too precious, to miss out on opportunities to do better.

It's time to move toward a more open and accountable regulatory system. I am pleased to be introducing this bill with Senator BREAUX. It's important that members from both sides of the aisle work together to solve these problems. I appreciate that Chairman TOM BLILEY introduced a similar bill in the House last fall, and I look forward to working with him. Finally, I appreciate the effort that a few dedicated professionals put into OMB's first regulatory accounting report. While this report is certainly not perfect, it shows that regulatory accounting is doable and can help us better understand the benefits and burdens of regulation. Now let's do better. This bill will promote some important improvements, including:

Making regulatory accounting a permanent requirement.

Adding requirements for a more complete picture, including, to the extent feasible, the costs and benefits of particular programs, not just an aggregate picture, as well as an analysis of regulation's impacts on the State and local government, the private sector, and the federal government.

Ensuring higher quality of information. Requirements for OMB guidelines and peer review should improve future reports.

Ensuring better compliance with basic legislative requirements which the first report neglected. These deficiencies include failing to recommend improvements to current programs; failing to assess the indirect effects of regulation; failing to provide information on specific programs where feasible; and failing to provide a full accounting of all mandates. This bill will help address these problems.

As OMB said in their first regulatory accounting report, ''regulations (like other instruments of government policy) have enormous potential for both good and harm.'' I believe that better information will help us to increase the benefits of regulation and decrease unnecessary waste and red tape. I think we need to work together to contribute to the success of government programs the public values, while enhancing the economic security and well-being of our families and communities.

Mr. President, I ask unanimous consent that the ''Regulatory Right-to-Know Act'' be printed in the RECORD.

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

S. 2161

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 ''Regulatory Right-to-Know Act of 1998''.

SEC. 2. PURPOSES.

The purposes of this Act are to—

(1) promote the public right-to-know about the costs and benefits of Federal regulatory programs and rules;

(2) improve the quality of Federal regulatory programs and rules;

(3) increase Government accountability; and

(4) encourage open communication among Federal agencies, the public, the President, and Congress regarding regulatory priorities.

SEC. 3. DEFINITIONS.

In this Act:

(1) AGENCY.—The term ''agency'' means any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency, but shall not include—

(A) the General Accounting Office;

(B) the Federal Election Commission;

(C) the governments of the District of Columbia and of the territories and possessions of the United States, and their various subdivisions; or

(D) Government-owned contractor-operated facilities, including laboratories engaged in national defense research and production activities.

(2) BENEFIT.—The term ''benefit'' means the reasonably identifiable significant favorable effects, quantifiable and nonquantifiable, including social, health, safety, environmental, economic, and distributional effects, that are expected to result from implementation of, or compliance with, a rule.

(3) COST.—The term ''cost'' means the reasonably identifiable significant adverse effects, quantifiable and nonquantifiable, including social, health, safety, environmental, economic, and distributional effects, that are expected to result from implementation of, or compliance with, a rule.

(4) DIRECTOR.—The term ''Director'' means the Director of the Office of Management and Budget, acting through the Administrator of the Office of Information and Regulatory Affairs.

(5) MAJOR RULE.—The term ''major rule'' means a rule that—

(A) the agency proposing the rule or the Director reasonably determines is likely to have an annual effect on the economy of $100,000,000 or more in reasonably quantifiable costs; or

(B) is otherwise designated a major rule by the Director on the ground that the rule is likely to adversely affect, in a material way, the economy, a sector of the economy, including small business, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments, or communities.

(6) PROGRAM ELEMENT.—The term ''program element'' means a rule or related set of rules.

(7) RULE.—The term ''rule'' has the same meaning given such term in section 551(4) of title 5, United States Code, except that such term shall not include—

(A) administrative actions governed by sections 556 and 557 of title 5, United States Code;

(B) rules issued with respect to a military or foreign affairs function of the United States; or

(C) rules related to agency organization, management, or personnel.

SEC. 4. ACCOUNTING STATEMENT.

(a) IN GENERAL.—

(1) ADMINISTRATION.—The President, acting through the Director, shall be responsible for implementing and administering the requirements of this Act.

(2) ACCOUNTING STATEMENT.—Not later than January 2000, and each January every 2 years thereafter, the President shall prepare and submit to Congress an accounting statement that estimates the costs and corresponding benefits of Federal regulatory programs and program elements in accordance with this section.

(b) YEARS COVERED BY ACCOUNTING STATEMENT.—Each accounting statement (other than the initial accounting statement) submitted under this Act shall cover, at a minimum, the costs and corresponding benefits for each of the 5 fiscal years preceding October 1 of the year in which the report is submitted. Each statement shall also contain, at a minimum, a projection of the costs and corresponding benefits for each of the next 10 fiscal years, based on rules in effect or projected to take effect. The statement may cover any fiscal year preceding such fiscal years for the purpose of revising previous estimates.

(c) TIMING AND PROCEDURES.—

(1) NOTICE AND COMMENT.—The President shall provide notice and opportunity for comment, including consultation with the Comptroller General of the United States, for each accounting statement.

(2) TIMING.—The President shall propose the first accounting statement under this section no later than 1 year after the date of enactment of this Act. Such statement shall cover, at a minimum, each of the preceding fiscal years beginning with fiscal year 1997.

(d) CONTENTS OF ACCOUNTING STATEMENT.—

(1) ESTIMATES OF COSTS.—An accounting statement shall estimate the costs of all Federal regulatory programs and program elements, including paperwork costs, by setting forth, for each year covered by the statement—

(A) the annual expenditure of national economic resources for each regulatory program and program elements; and

(B) such other quantitative and qualitative measures of costs as the President considers appropriate.

(2) ESTIMATES OF BENEFITS.—An accounting statement shall estimate the corresponding benefits of Federal regulatory programs and program elements by setting forth, for each year covered by the statement, such quantitative and qualitative measures of benefits as the President considers appropriate. Any estimates of benefits concerning reduction in health, safety, or environmental risks shall be based on sound and objective scientific practices and shall present the most plausible level of risk practical, along with a statement of the reasonable degree of scientific certainty.

(3) PRESENTATION OF RESULTS.—

(A) COSTS AND BENEFITS CATEGORIES.—To the extent feasible, the costs and benefits under this subsection shall be listed under the following categories:

(i) In the aggregate.

(ii) By agency, agency program, and program element.

(iii) By major rule.

(B) QUANTIFICATION.—To the extent feasible, the Director shall quantify the net benefits or net costs under subparagraph (A).

(C) COST ESTIMATES.—In presenting estimates of costs in the accounting statement, the Director shall provide estimates for the following sectors:

(i) Private sector costs.

(ii) Federal sector administrative costs.

(iii) Federal sector compliance costs.

(iv) State and local government administrative costs.

(v) State and local government compliance costs.

SEC. 5. ASSOCIATED REPORT TO CONGRESS.

(a) IN GENERAL.—

(1) SUBMISSION.—In each year following the year in which the President submits an accounting statement under section 4, the President, acting through the Director, shall, after notice and opportunity for comment, submit to Congress a report associated with the accounting statement (hereinafter referred to as an ''associated report'').

(2) CONTENT.—The associated report shall contain, in accordance with this section—

(A) analyses of impacts;

(B) identification and analysis of jurisdictional overlaps, duplications, and potential inconsistencies among Federal regulatory programs; and

(C) recommendations for reform.

(b) ANALYSES OF IMPACTS.—The President shall include in the associated report the following:

(1) ANALYSES.—Analyses prepared by the president of the cumulative impact of Federal regulatory programs covered in the accounting statement. Factors to be considered in such report shall include impacts on the following:

(A) The ability of State and local governments to provide essential services, including police, fire protection, and education.

(B) Small business.

(C) Productivity.

(D) Wages.

(E) Economic growth.

(F) Technological innovation.

(G) Employment and income distribution.

(H) Consumer prices for goods and services.

(I) Such other factors considered appropriate by the President.

(2) SUMMARY.—A summary of any independent analyses of impacts prepared by persons commenting during the comment period on the accounting statement.

(c) RECOMMENDATIONS FOR REFORM.—The President shall include in the associated report the following:

(1) PRESIDENTIAL RECOMMENDATIONS.—A summary of recommendations of the President for reform or elimination of any Federal regulatory program or program element that does not represent sound use of national economic resources or otherwise is inefficient.

(2) RECOMMENDATIONS FROM COMMENTERS.—A summary of any recommendations for such reform or elimination of Federal regulatory programs or program elements prepared by persons commenting during the comment period on the accounting statement.

SEC. 6. GUIDANCE FROM OFFICE OF MANAGEMENT AND BUDGET.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Director shall, in consultation with the Council of Economic Advisers, issue guidelines to agencies—

(1) to standardize measures of costs and benefits in accounting statements prepared pursuant to this Act, including guidance on estimating the costs and corresponding benefits of regulatory programs and program elements; and

(2) to standardize the format of the accounting statements.

(b) REVIEW.—The Director shall review submissions from agencies to assure consistency with the guidelines under this section.

SEC. 7. PEER REVIEW.

(a) IN GENERAL.—

(1) SCOPE.—The Director shall provide for independent and external peer review of—

(A) the guidelines issued under section 6; and

(B) each accounting statement and associated report.

(2) USE OF COMMENTS.—The Director shall use the peer review comments in preparing the final statement and report.

(b) REVIEW.—Peer review under subsection (a) shall—

(1) involve participants who—

(A) have expertise in the economic and technical issues germane to regulatory accounting and economic and scientific analysis; and

(B) are independent of the Government;

(2) be completed in a timely manner, consistent with applicable deadlines;

(3) provide written comments to the Director containing a balanced presentation of all considerations; and

(4) not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

(c) RESPONSE.—The Director shall provide a written response to all significant peer review comments. Such comments and responses shall be made available to the public.

SEC. 8. RECOMMENDATIONS FROM CONGRESSIONAL BUDGET OFFICE.

After each accounting statement and associated report is submitted to Congress, the Director of the Congressional Budget Office shall make recommendations to the President—

(1) for improving agency compliance with this Act and the guidelines under section 6; and

(2) for improving accounting statements and associated reports prepared under this Act, including recommendations on level of detail, accuracy, and quality of analysis.●

By Mr. MACK (for himself and Mr. GRAMS):

S. 2162. A bill to amend the Internal Revenue Code of 1986 to more accurately codify the depreciable life of printed wiring board and printed wiring assembly equipment; to the Committee on Finance.

PRINTED CIRCUIT INVESTMENT ACT OF 1998

● Mr. MACK. Mr. President, today Senator GRAMS and I introduce the Printed Circuit Investment Act of 1998. This bill would allow manufacturers of printed wiring boards and assemblies, known as the electronic interconnection industry, to depreciate their production equipment in 3 years rather than the 5 year period under current law.

As we approach the 21st Century, our Nation's Tax Code should not stand in the way of technological progress. Printed wiring boards and assemblies are literally central to our economy, as they are the nerve centers of nearly every electronic device from camcorders and televisions to medical devices, computers and defense systems. But the Tax Code places U.S. manufacturers at a disadvantage relative to their Asian competitors, because of different depreciation treatment. This disadvantage is particularly difficult for U.S. firms to bear, as the interconnection industry consists overwhelmingly of small firms that cannot easily absorb the costs inflicted by an irrationally-long depreciation schedule.

As technology continues to advance at light speed, the exhilaration of competition in a dynamic market is dampened by the effects of a Tax Code that has not kept pace with these changes. Obsolete interconnection manufacturing equipment is kept on the books long after this equipment has gone out the door. Companies with the competitive fire to enter such a rapidly-evolving industry must constantly invest in new state-of-the-art equipment, replacing obsolete equipment every 18 to 36 months just to remain competitive. U.S. investments in new printed wiring board and assembly manufacturing equipment have nearly tripled since 1991—growing from $847 million to an estimated $2.4 billion.

But this investment is taxed at an artificially-high rate, because deductions for the cost of the equipment are spread over a period that is several years longer than justified. The industry is at the mercy of tax laws passed in the 1980s, which were based on 1970s-era electronics technology. It is no wonder that the market share of U.S. interconnection companies has been cut in half over this period. Our Tax Code should not continue to undermine the competitiveness of American businesses. The opportunity is before us to correct the tax laws that dictate how rapidly board manufacturers and electronics assemblers can depreciate equipment needed to fabricate and assemble circuit boards.

The Printed Circuit Investment Act of 1998 will provide modest tax relief to the electronics interconnection industry and the 250,000 Americans, residing in every state of the Union, whose jobs rely on the success of this industry. This industry should get fair and accurate tax treatment.

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. 2162

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Printed Circuit Investment Act of 1998''.

SEC. 2. 3-YEAR DEPRECIBLE LIFE FOR PRINTED WIRING BOARD AND PRINTED WIRING ASSEMBLY EQUIPMENT.

(a) IN GENERAL.—Subparagraph (A) of section 168(e)(3) of the Internal Revenue Code of 1986 (relating to classification of property) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following new clause:

''(iv) any printed wiring board or printed wiring assembly equipment.''

(b) 3-YEAR CLASS LIFE.—Subparagraph (B) of section 168(g)(3) of such Code is amended by inserting after the item relating to subparagraph (A)(iii) the following new item:

''(A)(iv) ..... 3''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to equipment placed in service after the date of the enactment of this Act.●

By Mr. HATCH (for himself, Mr. ASHCROFT, Mr. ABRAHAM, Mr. THURMOND, Mr. SESSIONS, and Mr. KYL):

S. 2163. A bill to modify the procedures of the Federal courts in certain matters, to reform prisoner litigation, and for other purposes; to the Committee on the Judiciary.

JUDICIAL IMPROVEMENT ACT OF 1998

Mr. HATCH. Mr. President, I rise today to introduce, along with Senators THURMOND, ABRAHAM, and ASHCROFT, the Judicial Improvement Act of 1998; legislation that will restore public confidence in our democratic process by strengthening the constitutional division of powers between the Federal government and the States and between Congress and the Courts. On the whole, our federal judges are respectful of their constitutional roles, yet a degree of overreaching by some dictates that Congress move to more clearly delineate the proper role of Federal judges in our constitutional system. Increasingly, judges forget that the Constitution has committed to them the power to interpret law, but reserved to Congress the power to legislate.

This careful balancing of legislative and judicial functions is vital to our constitutional system. Regardless of how much we, as individuals, may approve of the results of a certain judge's decision, we must look beyond short-term political interests and remember the importance of preserving our Constitution.

Attempts by certain jurists to encroach upon legislative authority deeply concern me. I have taken the floor in this chamber on numerous occasions to recite some of the more troubling examples of judicial overreaching. I will not revisit them today. Suffice it to say that activism, and by that I mean a judge who ignores the written text of the law, whether from the right or the left, threatens our constitutional structure.

As an elected official, my votes for legislation are subject to voter approval. Federal judges, however, are unelected, hence they are, as a practical matter, unaccountable to the public. While tenure during good behavior, which amounts to life tenure, is important in that it frees judges to make unpopular, but constitutionally sound, decisions, it can become a threat to liberty when placed in the wrong hands. Alexander Hamilton, in the 78th Federalist, warned of the problem when judges ''substitute their own pleasures to the constitutional intentions of the legislature.'' [Federalist No. 78, A. Hamilton]. Hamilton declared that ''The courts must declare the sense of the law; and if they should be disposed to exercise Will instead of Judgment, the consequence would equally be the substitution of their pleasure to that of the legislative body.'' [Ibid.]. And substituting the will of life-tenured federal judges for the democratically elected representatives is not what our Constitution's framers had in mind.

In an effort to avoid this long-contemplated problem, the proposed reform legislation we are introducing today will assist in ensuring that all three branches of the federal government work together in a fashion contemplated by, and consistent with, the Constitution. In addition, this legislation will ensure that federal judges are more respectful of the States.

This bill is not, as some would claim, an assault on the Federal Judiciary. Indeed, the overwhelming majority of our Federal judges would find repugnant the idea of imposing their personal views on the people in lieu of Federal or State law. However, there are currently some activist Federal judges improperly expanding their roles to quash the will of the people. These individuals view themselves as so-called platonic guardians, and believe they know what is in the people's best interest. Judges, however, are simply not entitled to deviate from their roles as interpreters of the law to create new law from the bench. If they believe otherwise, they are derelict in their duties and should resign to run for public office—at least then they would be accountable for their actions. It is time that we pass legislation that precludes any Federal judge from blurring the lines separating the legislative and judicial functions.

It is important to note that the effort to reign in judicial activism should not be limited simply to opposing potential activist nominees. While the careful scrutiny of judicial nominees is one important step in the process, a step reserved to the Senate alone, Congress itself has an obligation to the public to ensure that judges fulfill their constitutionally assigned roles and do not encroach upon those powers delegated to the legislature. Hence, the Congress performs an important role in bringing activist decisions to light and, where appropriate, publicly criticizing those decisions. Some view this as an assault upon judicial independence. That is untrue. It is merely a means of engaging in debate about a decision's merits or the process by which the decision was reached. Such criticism is a healthy part of our democratic system. While life tenure insulates judges from the political process, it should not, and must not, isolate them from the people.

In addition, the Constitution grants Congress the authority, with a few notable limitations, to set federal courts' jurisdiction. This is an important tool that, while seldom used, sets forth the circumstances in which the judicial power may be exercised. A good example of this is the 104th Congress' effort to reform the statutory writ of habeas corpus in an attempt to curb the seemingly endless series of petitions filed by convicted criminals bent on thwarting the demands of justice. Legislation of this nature, actually called for by the Chief Justice and praised in his recent annual report, is an important means of curbing activism.

To this end, I have chosen to introduce the Federal Judicial Improvement Act. It is a small, albeit meaningful, step in the right direction. Notably, this legislation will change the way federal courts review constitutional challenges to State and federal laws. The existing process allows a single federal judge to hear and grant applications regarding the constitutionality of State and federal laws as well as state ballot initiatives. In other words, a single federal judge can impede the will of a majority of the voters merely by issuing an order halting the implementation of a state referendum.

This proposed reform will accomplish the twin goals of fighting judicial activism and preserving the democratic process. This bill modestly proposes to respond to the problem of judicial activism by:

1. Requiring a three judge district court panel to hear appeals and grant interlocutory or permanent injunctions based on the constitutionality of the state law or referendum.
2. Placing time limitations on remedial authority in any civil action in which prospective relief or a consent judgment binds State or local officials.
3. Prohibiting a Federal court from having the authority to order State or local governments to increase taxes as part of a judicial remedy.
4. Preventing a Federal court from prohibiting State or local officials from reprosecuting a defendant. AND
5. Preventing a Federal court from ordering the release of violent offenders under unwarranted circumstances.

This reform bill is a long overdue effort to minimize the potential for judicial activism in the federal court system. Americans are understandably frustrated when they exercise their right to vote and the will of their elected representatives is thwarted by judges who enjoy life tenure. It's no wonder that millions of Americans don't think their vote matters when they enact a referendum only to have it enjoined by a single district court judge. By improving the way federal courts analyze constitutional challenges to laws and initiatives, Congress will protect the rights of parties to challenge unconstitutional laws while at the same time reduce the ability of activist judges to abuse their power and stifle the will of the people.

I want to take a few moments to describe how this legislation will curb the ability of federal judges to engage in judicial activism. The first reform would require a three judge panel to hear and issue interlocutory and permanent injunctions regarding challenged laws at the district court level. The current system allows a single federal judge to restrain the enforcement, operation and execution of challenged federal or state laws, including initiatives. There have been many instances where an activist judge has used this power to overturn a ballot initiative only to have his or her order overturned by a higher court years later.

For example, this change would have prevented U.S. District Court Judge Thelton Henderson from issuing an injunction barring enforcement of Proposition 209, a ballot initiative which prohibited affirmative action in California. Judge Henderson's order was subsequently overturned by the Ninth Circuit Court of Appeals, which ruled that the law was constitutional and that Judge Henderson thwarted the will of the people. A three judge panel would have prevented Henderson from acting on his own, and perhaps would have ruled correctly in the first place.

Now, I have no problem with a court declaring a law unconstitutional when it violates the written text of the Constitution. It is, however, inappropriate when a judge, like Judge Henderson, attempts to act like a super-legislator and imposes his own policy preference on the citizens of a State. Such an action weakens respect for the federal judiciary, creates cynicism in the voting public, and costs the government millions of dollars in legal fees. By requiring a three judge panel, the proposed law would eliminate the ability of one activist judge to unilaterally bar enforcement of a law or ballot initiative through an interlocutory or permanent injunction.

In addition, new time limits on injunctive relief would be imposed. A temporary restraining order would remain in force no more than 10 days, and an interlocutory injunction no more than 60 days. After the expiration of an interlocutory injunction, federal courts would lack the authority to grant any additional interlocutory relief but would still have the power to issue a permanent injunction. These limitations are designed to prevent the federal judiciary from indefinitely barring implementation of challenged laws by issuing endless injunctions, and facilitate the appeals process by motivating courts to speedily handle constitutional challenges.

We need only to look at the legal wrangling over Proposition 187 to see the need for these time constraints. The California initiative was overwhelmingly approved in 1994 with almost 60 percent of the vote and was designed to end all social services and other benefits to illegal aliens. The referendum was supported by voters who felt that they as taxpayers didn't have the ability to provide those who break immigration laws with free health, education and welfare. Opponents who lost at the ballot box went to federal court the next day and obtained an injunction prohibiting enforcement of 187, and to this day it has never been the law of the state of California.

U.S. District Judge Mariana Pfaelzer issued a preliminary injunction soon after the 1994 election and ruled way back in 1995 that part of 187 was unconstitutional. The injunction stayed in effect and she finally ruled on the rest of the initiative in March of this year, when she found that an additional portion of the initiative was unconstitutional. The proposed time limitation on injunctions would have been an incentive for the judge to rule promptly on the issues at hand, and precluded her from indefinitely delaying enforcement of the proposition without ruling. What this reform essentially does is encourage the federal judiciary to rule on the merits of a case, and not use injunctions to keep a challenged law from going into effect or being heard by an appeals court through the use of delaying tactics.

The bill also proposes to require that a notice of appeal must be filed not more than fourteen days after the date of an order granting an interlocutory injunction and the appeals court would lack jurisdiction over an untimely appeal of such an order. The court of appeals would apply a de novo standard of review before reconsidering the merits of granting relief, but not less than 100 days after the issuance of the original order granting interlocutory relief. If the interlocutory order is upheld on appeal, the order would remain in force no longer than 60 days after the date of the appellate decision or until replaced by a permanent injunction.

The bill also proposes limitations on the remedial authority of federal courts. In any civil action where prospective relief or a consent judgment binds state and local officials, relief would be terminated upon the motion of any party or intervener:

a) five years after the date the court granted or approved the prospective relief;

b) two years after the date the court has entered an order denying termination of prospective relief; or

c) in the case of an order issued on or before the date of enactment of this act, two years after the date of enactment.

Parties could agree to terminate or modify an injunction before relief is available if it otherwise would be legally permissible. Courts would promptly rule on motions to modify or terminate this relief and in the event that a motion is not ruled on within 60 days, the order or consent judgment binding State and local officials would automatically terminate.

However, prospective relief would not terminate if the federal court makes written findings based on the record that relief remains necessary to correct an ongoing violation of a federal right, extends no further than necessary to correct the violation and is the least intrusive means available to correct the violation of a federal right.

This measure would also prohibit a federal court from having the authority to order a unit of state or local government to increase taxes as part of a judicial remedy. When an unelected Federal judge has the power to order tax increases, this results in taxation without representation. Americans have fought against unfair taxation since the Revolutionary War, and this bill would prevent unfair judicial taxation and leave the power to tax to elected representatives of the people.

The bill would not limit the authority of a Federal court to order a remedy which may lead a unit of local or State government to decide to increase taxes. A Federal court would still have the power to issue a money judgment against a State because the court would not be attempting to restructure local government entities or mandating a particular method or structure of State or local financing. This bill also doesn't limit the remedial authority of State courts in any case, including cases raising issues of federal law. All the bill does is prevent Federal courts from having the power to order elected representatives to raise taxes. This is moderate reform which prevents judicial activism and unfair taxation while preserving the Federal courts power to order remedial measures.

Another important provision of the bill would prevent a federal court from prohibiting State or local officials from re-prosecuting a defendant. This legislation is designed to clarify that federal habeas courts lack the authority to bar retrial as a remedy.

This part of the legislation was cosponsored by Congressman PITTS and Senator SPECTER in response to a highly-publicized murder case in the Congressman's district. Sixteen year old Laurie Show was harassed, stalked and assaulted for six months by the defendant, who had a vendetta against Show for briefly dating the defendant's boyfriend. After luring Show's mother from their residence, the defendant and an accomplice forcefully entered the Show home, held the victim down, and slit her throat with a butcher knife, killing her. After the defendant was convicted in State court, she filed a habeas petition in which she alleged prosecutorial misconduct and averred her actual innocence. Federal district court judge Stewart Dalzell not only accepted this argument and released the defendant, but he also took the extraordinary step of barring state and local officials from reprosecuting the woman. Judge Dalzell stated that the defendant was the ''first and foremost victim of this affair.''

Congress has long supported the ability of a Federal court to fashion creative remedies to preserve constitutional protections, but the additional step of barring state or local officials from reprosecution is without precedent and an unacceptable intrusion on the rights of states. This bill, if enacted, will prevent this type of judicial activism from ever occurring again.

This bill also contains provisions for the termination of prospective relief when it is no longer warranted to cure a violation of a federal right. Once a violation that was the subject of a consent decree has been corrected, a consent decree must be terminated unless the court finds that an ongoing violation of a federal right exists, the specific relief is necessary to correct the violation of a Federal right, and no other relief will correct the violation of the Federal right. The party opposing the termination of relief has the burden of demonstrating why the relief should not be terminated, and the court is required to grant the motion to terminate if the opposing party fails to meet its burden. These provisions prevent consent decrees from remaining in effect once a proper remedy has been implemented, thereby preventing judges from imposing consent decrees that go beyond the requirements of law.

The proposed reform law also includes provisions designed to dissuade prisoners from filing frivolous and malicious motions by requiring that the complainant prisoner pay for the costs of the filings. These provisions will undoubtedly curb the number of frivolous motions filed by prisoners and thus, relieve the courts of the obligation to hear these vacuous motions designed to mock and frustrate the judicial system.

Finally, the bill proposes to prevent federal judges from entering or carrying out any prisoner release order that would result in the release from or nonadmission to a prison on the basis of prison conditions. This provision will effectively preclude activist judges from circumventing mandatory minimum sentencing laws by stripping the federal judges of jurisdiction to enter such orders. This will ensure that the tough sentencing laws approved by voters to keep murderers, rapists, and drug dealers behind bars for lengthy terms will not be ignored by activist judges who improperly use complaints of prison conditions filed by convicts as a vehicle to release violent offenders back on our streets.

For an example of this activism, I offer the rulings of a jurist whom I have mentioned before, Federal Judge Norma Shapiro, who sits on the Federal bench in Philadelphia. Judge Shapiro has a different view of what prison life should be: a view completely divergent from the view of the general public and, most importantly, the law.

Judge Shapiro used complaints filed by inmates to impose her activist views and wrestle control of the prison system by setting a cap on the number of prisoners that can be incarcerated in Pennsylvania. When faced with the opportunity to extend her judicial powers and seize control of the prison system, Judge Shapiro jumped at the chance and the results have been disastrous.

The cap imposed by Judge Shapiro forced the release of 500 prisoners a week. Because of this cap, in a time period of 18 months alone, 9,732 arrestees were released on Philadelphia. Of course, many were re-arrested on other charges, including 79 murders, 90 rapes, 701 burglaries, 959 robberies, 1,113 assaults, 2,215 drug offenses and 2,748 thefts. [Philadelphia Inquirer]. Releasing dangerous criminals on to the streets to reek havoc and violence is the ultimate slap in the faces of law enforcement and justice. How can we expect law enforcement to provide protection and safe streets if at every turn there is a Judge Shapiro waiting anxiously for the chance to release lawlessness on our communities? This reform bill will prevent Judge Shapiro and other like-minded judges from ever endangering families and children in our communities again by preventing these Judges from releasing prisoners based on prison conditions.

Prison life is not supposed to be pleasant or comfortable; rather, it is supposed to serve as a deterrent to future crime. I would be worried if no prisoners were filing complaints because they actually found prison life to be acceptable. But it seems that some activist judges are willing to believe any prisoner complaint equates or rises to the level of a constitutional violation. It seems that in some courtrooms, if a prisoner simply files a complaint alleging prison conditions aren't laudable or praiseworthy, chances are good that that prisoner, and many others, will be released from custody early, sometimes immediately, thanks to the misguided activism of the judge hearing the complaint. This is absolutely unacceptable and this proposed law will put a stop to the agendas of some activist judges who believe every argument that the ACLU and guilty, but bored, convicts offer up.

This overdue legislation is a measured effort to improve the way the federal judiciary works. It fights judicial activism and actually improves the way constitutional appeals are handled. This reform bill is a sensible, balanced attempt to promote judicial efficiency and to prevent egregious judicial activism. I encourage my colleagues to act swiftly on this needed reform.

Mr. President, I ask unanimous consent that a copy of this measure be printed in the RECORD.

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

S. 2163

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Judicial Improvement Act of 1998''.

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

SEC. 2. PROCEDURES FOR CERTAIN INJUNCTIONS.

(a) REQUIREMENT OF 3-JUDGE COURT.—

(1) IN GENERAL.—No interlocutory or permanent injunction restraining the enforcement, operation, or execution of a State law adopted by referendum or an Act of Congress shall be granted by a United States district court or judge thereof upon the ground that the State law conflicts with the United States Constitution, Federal law, or a treaty of the United States unless the application for the injunction is heard and determined by a court of 3 judges in accordance with section 2284 of title 28, United States Code.

(2) APPEALS.—Any appeal of a determination on such application shall be to the Circuit Court of Appeals.

(3) DESIGNATION OF JUDGES.—In any case to which this section applies, the additional judges who will serve on the 3-judge court shall be designated under section 2284(b)(1) of title 28, United States Code, as soon as practicable, and the court shall expedite the consideration of the application for an injunction.

(4) DENIAL OF REQUEST.—Nothing in this subsection shall prevent a district court judge from denying a request for interlocutory or permanent injunctive relief.

(b) TIME LIMITS ON INJUNCTIVE RELIEF.—

(1) TEMPORARY RESTRAINING ORDER.—Section 2284(b)(3) of title 28, United States Code, is amended in the second sentence by inserting before the period, the following: '', but in no event shall the order remain in force for longer than 10 days''.

(2) INTERLOCUTORY INJUNCTION.—Any interlocutory injunction restraining the enforcement or operation of a State law adopted by referendum or an Act of Congress shall remain in force for not longer than 60 days. The Federal courts shall lack the authority to grant any additional interlocutory relief after the expiration of an interlocutory injunction. Nothing in this paragraph shall limit the court's authority to issue a permanent injunction after an interlocutory injunction has expired. If the order granting the interlocutory injunction is appealed, the time limits of paragraph (4) apply.

(3) FILING OF APPEAL.—A notice of appeal from an order granting an interlocutory injunction restraining the enforcement or operation, of a State law adopted by referendum or an Act of Congress shall be filed not later than 14 days after the date of the order. The Courts of Appeals lack jurisdiction over an untimely appeal of such an order.

(4) CONSIDERATION OF APPEAL.—If an appeal is filed from an order granting an interlocutory injunction restraining the enforcement or operation of a State law adopted by referendum or an Act of Congress, the Court of Appeals shall reconsider the merits of granting interlocutory relief applying a de novo standard of review. The Court of Appeals shall dispose of the appeal as expeditiously as possible, but in any event within 100 days after the issuance of the original order granting interlocutory relief. If the interlocutory order is upheld on appeal, the interlocutory order shall remain in force no longer than 60 days after the date of the appellate decision or until replaced by a permanent injunction.

(c) DEFINITIONS.—In this section—

(1) the term ''State'' means each of the several States and the District of Columbia;

(2) the term ''State law'' means the constitution of a State, or any statute, ordinance, rule, regulation, or other measure of a State that has the force of law, and any amendment thereto; and

(3) the term ''referendum'' means the submission to popular vote of a measure passed upon or proposed by a legislative body or by popular initiative.

(d) EFFECTIVE DATE.—This section applies to any injunction that is issued on or after the date of the enactment of this Act.

SEC. 3. LIMITATIONS ON REMEDIAL AUTHORITY.

(a) TERMINATION OF PROSPECTIVE RELIEF.—

(1) IN GENERAL.—In any civil action in which prospective relief is issued which binds State or local officials or in any civil action in which the parties entered a consent judgment binding State or local officials, such relief shall be terminable upon the motion of any party or intervener—

(A) 5 years after the date the court granted or approved the prospective relief;

(B) 2 years after the date the court has entered an order denying termination of prospective relief under this paragraph; or

(C) in the case of an order issued on or before the date of enactment of this Act, 2 years after the date of enactment.

(2) LIMITATION.—Prospective relief shall not terminate if the court makes written findings based on the record that prospective relief—

(A) remains necessary to correct current and ongoing violation of a Federal right;

(B) extends no further than necessary to correct the violation of a Federal right; and

(C) is the least intrusive means available to correct the violation of a Federal right.

(3) TERMINATION AND MODIFICATION AUTHORITY OTHERWISE UNAFFECTED.—Nothing in this section shall prevent any party or intervener from seeking modification or termination before relief is available under paragraph (1), to the extent that modification or termination would otherwise be legally permissible, and nothing in this section shall prevent the parties from agreeing to terminate or modify an injunction before such relief is available under paragraph (1).

(4) CONFORMITY WITH OTHER LAWS.—Nothing in this section shall affect the rules governing prospective relief in any civil action with respect to prison conditions.

(5) PROCEDURE FOR MOTION TO TERMINATE.—

(A) IN GENERAL.—The court shall rule promptly on any motion to modify or terminate relief.

(B) AUTOMATIC TERMINATION.—In the event a court does not rule on a motion to terminate filed under paragraph (1) within 60 days, the order or consent judgment binding State or local officials will automatically terminate and be of no further legal force.

(b) SPECIAL MASTERS.—

(1) IN GENERAL.—

(A) APPOINTMENT.—In any civil action in a Federal court, the Federal court may appoint a special master who shall be disinterested and objective.

(B) REMEDIAL PHASE.—The court shall appoint a special master under this subsection only during the remedial phase of the action and only upon a finding that the remedial phase will be sufficiently complex to warrant the appointment.

(2) APPOINTMENT.—

(A) SUBMISSION OF LIST.—If the court determines that appointment of a special master is necessary, the court shall request that the defendant (or group of defendants) and the plaintiff (or group of plaintiffs) each submit a list of not more than 5 persons to serve as a special master.

(B) REMOVAL.—Each party shall have the opportunity to remove up to 3 persons from the opposing party's list.

(C) SELECTION.—The court shall select the special master from the remaining names on the lists after the operation of subparagraph (B).

(3) COMPENSATION.—The compensation to be paid to a special master shall be based on an hourly rate not greater than the hourly rate established under section 3006A of title 18, United States Code, for payment of court-appointed counsel, and costs reasonably incurred by the special master. Such compensation and costs shall be paid with funds appropriated to the Judiciary.

(4) REGULAR REVIEW OF APPOINTMENT.—The court shall review the appointment of the special master every 6 months to determine whether the services of the special master continued to be justified under the standards of paragraph (1).

(5) LIMITATIONS ON POWERS AND DUTIES.—A special master appointed under this subsection—

(A) shall not make any finding or communication ex parte; and

(B) may be removed by the judge at any time, but shall be relieved of the appointment upon termination of relief.

(c) JUDICIAL TAXATION PROHIBITED.—

(1) IN GENERAL.—No Federal court shall have the authority to order a unit of Federal, State, or local government to increase taxes as part of a judicial remedy.

(2) REMEDIAL AUTHORITY OTHERWISE UNAFFECTED.—Nothing in paragraph (1) shall be construed to limit the authority of a Federal court to order a remedy that may lead a unit of local or State government to decide to increase taxes.

(d) STATE COURT REMEDIES UNAFFECTED.—Nothing in this section shall limit the remedial authority of State courts in any case, including cases raising issues of Federal law.

SEC. 4. INTERLOCUTORY APPEALS OF COURT ORDERS RELATING TO CLASS ACTIONS.

(a) INTERLOCUTORY APPEALS.—Section 1292(b) of title 28, United States Code, is amended—

(1) by inserting ''(1)'' after ''(b)''; and

(2) by adding at the end the following:

''(2) The court of appeals which would have jurisdiction over a final order in an action may, in its discretion, permit an appeal from an order of a district court granting or denying class action certification made to it within 10 days after the entry of the order. An appeal under this paragraph shall not stay proceedings in the district court unless the district judge or the court of appeals or a judge thereof shall so order.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to any action commenced on or after the date of enactment of this Act.

SEC. 5. MULTIPARTY, MULTIFORUM JURISDICTION OF DISTRICT COURTS.

(a) BASIS OF JURISDICTION.—

(1) IN GENERAL.—Chapter 85 of title 28, United States Code, is amended by adding at the end the following:

''§ 1369. Multiparty, multiforum jurisdiction

''(a) The district courts shall have original jurisdiction of any civil action involving minimal diversity between adverse parties that arises from a single accident, where at least 25 natural persons have either died or incurred injury in the accident at a discrete location and, in the case of injury, the injury has resulted in damages which exceed $50,000 per person, exclusive of interest and costs, if—

''(1) a defendant resides in a State and a substantial part of the accident took place in another State or other location, regardless of whether that defendant is also a resident of the State where a substantial part of the accident took place;

''(2) any 2 defendants reside in different States, regardless of whether such defendants are also residents of the same State or States; or

''(3) substantial parts of the accident took place in different States.

''(b) For purposes of this section—

''(1) minimal diversity exists between adverse parties if any party is a citizen of a State and any adverse party is a citizen of another State, a citizen or subject of a foreign state, or a foreign state as defined in section 1603(a);

''(2) a corporation is deemed to be a citizen of any State, and a citizen or subject of any foreign state, in which it is incorporated or has its principal place of business, and is deemed to be a resident of any State in which it is incorporated or licensed to do business or is doing business;

''(3) the term 'injury' means—

''(A) physical harm to a natural person; and

''(B) physical damage to or destruction of tangible property, but only if physical harm described in subparagraph (A) exists;

''(4) the term 'accident' means a sudden accident, or a natural event culminating in an accident, that results in death or injury incurred at a discrete location by at least 25 natural persons; and

''(5) the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

''(c) In any action in a district court which is or could have been brought, in whole or in part, under this section, any person with a claim arising from the accident described in subsection (a) shall be permitted to intervene as a party plaintiff in the action, even if that person could not have brought an action in a district court as an original matter.

''(d) A district court in which an action under this section is pending shall promptly notify the judicial panel on multidistrict litigation of the pendency of the action.''.

(2) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 85 of title 28, United States Code, is amended by adding at the end the following:

''1369. Multiparty, multiforum jurisdiction.''.

(b) VENUE.—Section 1391 of title 28, United States Code, is amended by adding at the end the following:

''(g) A civil action in which jurisdiction of the district court is based upon section 1369 may be brought in any district in which any defendant resides or in which a substantial part of the accident giving rise to the action took place.''.

(c) MULTIDISTRICT LITIGATION.—Section 1407 of title 28, United States Code, is amended by adding at the end the following:

''(i)(1) In actions transferred under this section when jurisdiction is or could have been based, in whole or in part, on section 1369, the transferee district court may retain actions so transferred for the determination of liability and punitive damages notwithstanding any other provision of this section. An action retained for the determination of liability shall be remanded to the district court from which the action was transferred, or to the State court from which the action was removed, for the determination of damages, other than punitive damages, unless the court finds, for the convenience of parties and witnesses and in the interest of justice, that the action should be retained for the determination of damages.

''(2) Any remand under paragraph (1) shall not be effective until 60 days after the transferee court has issued an order determining liability and has certified its intention to remand some or all of the transferred actions for the determination of damages. An appeal with respect to the liability determination and the choice of law determination of the transferee court may be taken during that 60-day period to the court of appeals with appellate jurisdiction over the transferee court. In the event a party files such an appeal, the remand shall not be effective until the appeal has been finally disposed of. Once the remand has become effective, the liability determination and the choice of law determination shall not be subject to further review by appeal or otherwise.

''(3) An appeal with respect to determination of punitive damages by the transferee court may be taken, during the 60-day period beginning on the date the order making the determination is issued, to the court of appeals with jurisdiction over the transferee court.

''(4) Any decision under this subsection concerning remand for the determination of damages shall not be reviewable by appeal or otherwise.

''(5) Nothing in this subsection shall restrict the authority of the transferee court to transfer or dismiss an action on the ground of inconvenient forum.''.

(d) REMOVAL OF ACTIONS.—Section 1441 of title 28, United States Code, is amended—

(1) in subsection (e) by striking ''(e) The court to which such civil action is removed'' and inserting ''(f) The court to which a civil action is removed under this section''; and

(2) by inserting after subsection (d) the following:

''(e)(1)(A) Notwithstanding the provisions of subsection (b), a defendant in a civil action in a State court may remove the action to the district court of the United States for the district and division embracing the place where the action is pending if—

''(i) the action could have been brought in a United States district court under section 1369; or

''(ii) the defendant is a party to an action which is or could have been brought, in whole or in part, under section 1369 in a United States district court and arises from the same accident as the action in State court, even if the action to be removed could not have been brought in a district court as an original matter.

''(B) The removal of an action under this subsection shall be made in accordance with section 1446, except that a notice of removal may also be filed before trial of the action in State court within 30 days after the date on which the defendant first becomes a party to an action under section 1369 in a United States district court that arises from the same accident as the action in State court, or at a later time with leave of the district court.

''(2) Whenever an action is removed under this subsection and the district court to which it is removed or transferred under section 1407(i) has made a liability determination requiring further proceedings as to damages, the district court shall remand the action to the State court from which it had been removed for the determination of damages, unless the court finds that, for the convenience of parties and witnesses and in the interest of justice, the action should be retained for the determination of damages.

''(3) Any remand under paragraph (2) shall not be effective until 60 days after the district court has issued an order determining liability and has certified its intention to remand the removed action for the determination of damages. An appeal with respect to the liability determination and the choice of law determination of the district court may be taken during that 60-day period to the court of appeals with appellate jurisdiction over the district court. In the event a party files such an appeal, the remand shall not be effective until the final disposition of the appeal. Once the remand has become effective, the liability determination and the choice of law determination shall not be subject to further review by appeal or otherwise.

''(4) Any decision under this subsection concerning remand for the determination of damages shall not be reviewable by appeal or otherwise.

''(5) An action removed under this subsection shall be deemed to be an action under section 1369 and an action in which jurisdiction is based on section 1368 of this title for purposes of this section and sections 1407, 1660, 1697, and 1785.

''(6) Nothing in this subsection shall restrict the authority of the district court to transfer or dismiss an action on the ground of inconvenient forum.''.

(e) CHOICE OF LAW.—

(1) DETERMINATION BY THE COURT.—Chapter 111 of title 28, United States Code, is amended by adding at the end the following:

''§ 1660. Choice of law in multiparty, multiforum actions

''(a)(1) In an action which is or could have been brought, in whole or in part, under section 1369, the district court in which the action is brought or to which it is removed shall determine the source of the applicable substantive law, except that if an action is transferred to another district court, the transferee court shall determine the source of the applicable substantive law. In making this determination, a district court shall not be bound by the choice of law rules of any State, and the factors that the court may consider in choosing the applicable law include—

''(A) the place of the injury;

''(B) the place of the conduct causing the injury;

''(C) the principal places of business or domiciles of the parties;

''(D) the danger of creating unnecessary incentives for forum shopping; and

''(E) whether the choice of law would be reasonably foreseeable to the parties.

''(2) The factors set forth in paragraph (1)(A) through (E) shall be evaluated according to their relative importance with respect to the particular action. If good cause is shown in exceptional cases, including constitutional reasons, the court may allow the law of more than 1 State to be applied with respect to a party, claim, or other element of an action.

''(b) The district court making the determination under subsection (a) shall enter an order designating the single jurisdiction whose substantive law is to be applied in all other actions under section 1369 arising from the same accident as that giving rise to the action in which the determination is made. The substantive law of the designated jurisdiction shall be applied to the parties and claims in all such actions before the court, and to all other elements of each action, except where Federal law applies or the order specifically provides for the application of the law of another jurisdiction with respect to a party, claim, or other element of an action.

''(c) In an action remanded to another district court or a State court under section 1407(i)(1) or 1441(e)(2), the district court's choice of law under subsection (b) shall continue to apply.''.

(2) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 111 of title 28, United States Code, is amended by adding at the end the following:

''1660. Choice of law in multiparty, multiforum actions.''.

(f) SERVICE OF PROCESS.—

(1) OTHER THAN SUBPOENAS.—

(A) IN GENERAL.—Chapter 113 of title 28, United States Code, is amended by adding at the end the following:

"§ 1697. Service in multiparty, multiforum actions

''When the jurisdiction of the district court is based in whole or in part upon section 1369, process, other than subpoenas, may be served at any place within the United States, or anywhere outside the United States if otherwise permitted by law.''.

(B) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 113 of title 28, United States Code, is amended by adding at the end the following:

''1697. Service in multiparty, multiforum actions.''.

(2) SERVICE OF SUBPOENAS.—

(A) IN GENERAL.—Chapter 117 of title 28, United States Code, is amended by adding at the end the following:

"§ 1785. Subpoenas in multiparty, multiforum actions

''When the jurisdiction of the district court is based in whole or in part upon section 1369 of this title, a subpoena for attendance at a hearing or trial may, if authorized by the court upon motion for good cause shown, and upon such terms and conditions as the court may impose, be served at any place within the United States, or anywhere outside the United States if otherwise permitted by law.''.

(B) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 117 of title 28, United States Code, is amended by adding at the end the following:

''1785. Subpoenas in multiparty, multiforum actions.''.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to a civil action if the accident giving rise to the cause of action occurred on or after the 90th day after the date of the enactment of this Act.

SEC. 6. APPEALS OF MERIT SYSTEMS PROTECTION BOARD.

(a) APPEALS.—Section 7703 of title 5, United States Code, is amended—

(1) in subsection (b)(1), by striking ''30'' and inserting ''60''; and

(2) in the first sentence of subsection (d), by inserting after ''filing'' the following: '', within 60 days after the date the Director received notice of the final order or decision of the Board,''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on the date of enactment of this Act and apply to any administrative or judicial proceeding pending on that date or commenced on or after that date.

SEC. 7. EXTENSION OF JUDICIARY INFORMATION TECHNOLOGY FUND.

Section 612 of title 28, United States Code, is amended—

(1) by striking ''equipment'' each place it appears and inserting ''resources'';

(2) by striking subsection (f) and redesignating subsequent subsections accordingly;

(3) in subsection (g), as so redesignated, by striking paragraph (3); and

(4) in subsection (i), as so redesignated—

(A) by striking ''Judiciary'' each place it appears and inserting ''judiciary'';

(B) by striking ''subparagraph (c)(1)(B)'' and inserting ''subsection (c)(1)(B)''; and

(C) by striking ''under (c)(1)(B)'' and inserting ''under subsection (c)(1)(B)''.

SEC. 8. AUTHORIZATION FOR VOLUNTARY SERVICES.

Section 677 of title 28, United States Code, is amended by adding at the end the following:

''(c)(1) Notwithstanding section 1342 of title 31, the Administrative Assistant, with the approval of the Chief Justice, may accept voluntary personal services for the purpose of providing tours of the Supreme Court building.

''(2) No person may volunteer personal services under this subsection unless the person has first agreed, in writing, to waive any claim against the United States arising out of or in connection with such services, other than a claim under chapter 81 of title 5.

''(3) No person volunteering personal services under this subsection shall be considered an employee of the United States for any purpose other than for purposes of—

''(A) chapter 81 of title 5; or

''(B) chapter 171 of this title.

''(4) In the administration of this subsection, the Administrative Assistant shall ensure that the acceptance of personal services shall not result in the reduction of pay or displacement of any employee of the Supreme Court.''.

SEC. 9. OFFSETTING RECEIPTS.

For fiscal year 1999 and thereafter, any portion of miscellaneous fees collected as prescribed by the Judicial Conference of the United States pursuant to sections 1913, 1914(b), 1926(a), 1930(b), and 1932 of title 28, United States Code, exceeding the amount of such fees in effect on September 30, 1998, shall be deposited into the special fund of the Treasury established under section 1931 of title 28, United States Code.

SEC. 10. SUNSET OF CIVIL JUSTICE EXPENSE AND DELAY REDUCTION PLANS.

Section 103(b)(2)(A) of the Civil Justice Reform Act of 1990 (Public Law 101–650; 104 Stat. 5096; 28 U.S.C. 471 note), as amended by Public Law 105–53 (111 Stat. 1173), is amended by inserting ''471,'' after ''sections''.

SEC. 11. CREATION OF CERTIFYING OFFICERS IN THE JUDICIAL BRANCH.

(a) APPOINTMENT OF DISBURSING AND CERTIFYING OFFICERS.—Chapter 41 of title 28, United States Code, is amended by adding at the end the following:

"§ 613. Disbursing and certifying officers

''(a)(1) The Director may designate in writing officers and employees of the judicial branch of the Government, including the courts as defined in section 610 other than the Supreme Court, to be disbursing officers in such numbers and locations as the Director considers necessary.

''(2) Disbursing officers shall—

''(A) disburse moneys appropriated to the judicial branch and other funds only in strict accordance with payment requests certified by the Director or in accordance with subsection (b);

''(B) examine payment requests as necessary to ascertain whether such requests are in proper form, certified, and approved; and

''(C) be held accountable for their actions as provided by law, except that such a disbursing officer shall not be held accountable or responsible for any illegal, improper, or incorrect payment resulting from any false, inaccurate, or misleading certificate for which a certifying officer is responsible under subsection (b).

''(b)(1)(A) The Director may designate in writing officers and employees of the judicial branch of the Government, including the courts as defined in section 610 other than the Supreme Court, to certify payment requests payable from appropriations and funds.

''(B) Certifying officers shall be responsible and accountable for—

''(i) the existence and correctness of the facts recited in the certificate or other request for payment or its supporting papers;

''(ii) the legality of the proposed payment under the appropriation or fund involved; and

''(iii) the correctness of the computations of certified payment requests.

''(2) The liability of a certifying officer shall be enforced in the same manner and to the same extent as provided by law with respect to the enforcement of the liability of disbursing and other accountable officers. A certifying officer shall be required to make restitution to the United States for the amount of any illegal, improper, or incorrect payment resulting from any false, inaccurate, or misleading certificates made by the certifying officer, as well as for any payment prohibited by law or which did not represent a legal obligation under the appropriation or fund involved.

''(c) A certifying or disbursing officer—

''(1) has the right to apply for and obtain a decision by the Comptroller General on any question of law involved in a payment request presented for certification; and

''(2) is entitled to relief from liability arising under this section in accordance with title 31.

''(d) Nothing in this section affects the authority of the courts with respect to moneys deposited with the courts under chapter 129.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 41 of title 28, United States Code, is amended by adding at the end the following:

''613. Disbursing and certifying officers.''.

(c) DUTIES OF DIRECTOR.—Paragraph (8) of subsection (a) of section 604 of title 28, United States Code, is amended to read as follows:

''(8) Disburse appropriations and other funds for the maintenance and operation of the courts;''.

SEC. 12. LIMITATION ON COLLATERAL RELIEF.

(a) IN GENERAL.—No writ of habeas corpus or other post-conviction remedy under section 2241, 2244, 2254, or 2255 of title 28, United States Code, or any other provision of Federal law, shall lie to challenge the custody or sentence of a person on the ground that the custody or sentence of the person is the result in whole or in part of the voluntarily given confession of the person.

(b) DETERMINATIONS REGARDING POST-CONVICTION REMEDIES.—For purposes of subsection (a), in determining whether any post-conviction remedy lies under any provision of law described in subsection (a), as well as in determining whether any such remedy should be granted—

(1) the court shall apply the standards set forth in section 3501(b) of title 18, United States Code; and

(2) in applying the standards described in paragraph (1) in any case seeking a post-conviction remedy from a State court conviction, the court shall apply the standards set forth in section 2254(d) of title 28, United States Code.

(c) DEFINITION OF CONFESSION.—In this section, the term ''confession'' has the same meaning as in section 3501(e) of title 18, United States Code.

(d) NO EFFECT ON OTHER LAW.—Nothing in this section shall be construed to modify or otherwise affect any requirement under Federal law relating to the obtaining or granting of post-conviction relief.

SEC. 13. LAURIE SHOW VICTIM PROTECTION.

Section 2254 of title 28, United States Code, is amended by adding at the end the following:

''(j) No Federal court shall specifically bar the retrial in State court of a person filing the writ of habeas corpus.''.

SEC. 14. RULE OF CONSTRUCTION RELATING TO RETROACTIVE APPLICATION OF STATUTES.

(a) IN GENERAL.—Chapter 1 of title 1, United States Code, is amended by adding at the end the following:

"§ 8. Rules for determining the retroactive effect of legislation

''(a) Any Act of Congress enacted after the effective date of this section shall be prospective in application only unless a provision included in the Act expressly specifies otherwise.

''(b) In applying this section, a court shall determine the relevant retroactivity event in an Act of Congress (if such event is not specified in such Act) for purposes of determining if the Act—

''(1) is prospective in application only; or

''(2) affects conduct that occurred before the effective date of the Act.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 1 of title 1, United States Code, is amended by adding after the item relating to section 7 the following:

''8. Rules for determining retroactive effect of legislation.''.

SEC. 15. APPROPRIATE REMEDIES FOR PRISON CONDITIONS.

(a) TRANSFER AND REDESIGNATION.—Section 3626 of title 18, United States Code, is—

(1) transferred to the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997 et seq.);

(2) redesignated as section 13 of that Act; and

(3) inserted after section 12 of that Act (42 U.S.C. 1997j).

(b) AMENDMENTS.—Section 13 of the Civil Rights of Institutionalized Persons Act, as redesignated by subsection (a) of this section, is amended—

(1) in subsection (b)(3), by adding at the end the following: ''Noncompliance with an order for prospective relief by any party, including the party seeking termination of that order, shall not constitute grounds for refusal to terminate the prospective relief, if the party's noncompliance does not constitute a current and ongoing violation of a Federal right.'';

(2) by redesignating subsections (e) through (g) as subsections (f) through (h), respectively;

(3) by inserting after subsection (d) the following:

''(e) PROCEDURE FOR ENTERING PROSPECTIVE RELIEF.—

''(1) IN GENERAL.—In any civil action with respect to prison conditions, a court entering an order for prospective relief shall enter written findings specifying—

''(A) the Federal right the court finds to have been violated;

''(B) the facts establishing that violation;

''(C) the particular plaintiff or plaintiffs who suffered actual injury caused by that violation;

''(D) the actions of each defendant that warrant and require the entry of prospective relief against that defendant;

''(E) the reasons for which, in the absence of prospective relief, each defendant as to whom the relief is being entered will not take adequate measures to correct the violation of the Federal right;

''(F) the reasons for which no more narrowly drawn or less intrusive prospective relief would correct the current and ongoing violation of the Federal right; and

''(G) the estimated impact of the prospective relief on public safety and the operation of any affected criminal justice system.

''(2) CONFLICT WITH STATE LAW.—If the prospective relief ordered in any civil action with respect to prison conditions requires or permits a government official to exceed his or her authority under State or local law or otherwise violates State law, the court shall, in addition to the findings required under paragraph (1), enter findings regarding the reasons for which—

''(A) Federal law requires such relief to be ordered in violation of State or local law;

''(B) the specific relief is necessary to correct the violation of a Federal right; and

''(C) no other relief will correct the violation of the Federal right.'';

(4) in subsection (f), as redesignated—

(A) in paragraph (3), in the first sentence, by inserting before the period at the end of the sentence the following: '', including that the case requires the determination of complex or novel questions of law, or that the court plans to order or has ordered a hearing under paragraph (5)(E) or discovery under paragraph (5)(F)''; and

(B) by adding at the end the following:

''(5) TERMINATION OF PROSPECTIVE RELIEF.—

''(A) CONTENTS OF ANSWER TO MOTION TO TERMINATE.—

''(i) IN GENERAL.—In the answer to the motion to terminate prospective relief, the plaintiff may oppose termination in accordance with this subparagraph, on the ground that the prospective relief remains necessary to correct a current and ongoing violation of a Federal right.

''(ii) RELIEF ENTERED BEFORE ENACTMENT OF PRISON LITIGATION REFORM ACT.—If the prospective relief sought to be terminated was entered before the date of enactment of the Prison Litigation Reform Act, the answer opposing termination under clause (i) shall allege—

''(I) the specific Federal right alleged to be the object of a current violation;

''(II) specific facts that, if true, would establish that current violation;

''(III) the particular plaintiff or plaintiffs who are currently suffering actual injury caused by that violation;

''(IV) the actions of each named defendant that constitute that violation of the particular plaintiff's or plaintiffs' right;

''(V)(aa) the portion of the complaint or amended complaint filed prior to the original entry of the prospective relief sought to be retained that alleged the violation of that Federal right;

''(bb) the portion of the court order originally ordering the prospective relief that found the violation of that Federal right; or

''(cc) both the materials specified in items (aa) and (bb), if the violation of right was both alleged and established;

''(VI) the manner in which the current and ongoing violation can be remedied by maintaining the existing prospective relief; and

''(VII) the reasons for which, in the absence of prospective relief, each defendant as to whom the relief would be maintained would not take adequate measures to correct the violation of the Federal right.

''(iii) RELIEF ENTERED AFTER ENACTMENT OF PRISON LITIGATION REFORM ACT.—If the prospective relief was entered after the date of enactment of the Prison Litigation Reform Act, the answer opposing termination under clause (i) shall allege—

''(I) the specific Federal right alleged to be the object of a current violation;

''(II) specific facts that, if true, would establish that current violation;

''(III) the particular plaintiff or plaintiffs who are currently suffering actual injury caused by that violation;

''(IV) the current actions of each named defendant that constitute that violation of the particular plaintiff's or plaintiffs' right;

''(V) the findings required by subsection (e) made by the court at the time of the original entry of the prospective relief that established that the right had been violated and that the prospective relief was necessary to correct the violation;

''(VI) the manner in which the current and ongoing violation can be remedied by maintaining the existing prospective relief; and

''(VII) the reasons for which, in the absence of prospective relief, each defendant as to whom the relief would be maintained would not take adequate measures to correct the violation of the Federal right.

''(iv) The answer shall be accompanied by affidavits, references to the record, and any other materials on which the plaintiff relies to support the allegations required to be contained in the answer under clause (ii) or (iii).

''(B) CONTENTS OF RESPONSE TO ANSWER.—

''(i) IN GENERAL.—If the defendant disputes plaintiff's factual allegations, defendant shall file a response to the answer setting forth the factual allegations the defendant challenges.

''(ii) ADDITIONAL REQUIREMENTS.—In any case where the defendant seeks termination of the relief on the ground that it is not narrowly tailored, overly intrusive, or poses too great a burden on public safety or the operation of a criminal justice system, or that it requires the defendant to violate State or local law without meeting the requirements of subsection (a)(1)(B)—

''(I) the defendant shall set forth the factual basis for these claims in its response; and

''(II) the defendant shall also set forth alternative relief that would correct the violation of the Federal right and that is more narrowly tailored, less intrusive, less burdensome to public safety or the operation of the affected criminal justice system, or does not require a violation of State or local law.

''(iii) SUPPORTING DOCUMENTATION.—The defendant's response shall be accompanied by affidavits, references to the record, and any other materials on which the defendant relies to support its challenge to the plaintiff's factual allegations or the factual basis for its claims regarding the propriety or scope of the relief.

''(C) BURDEN OF PERSUASION.—The plaintiff shall have the burden of persuasion with respect to each point required to be contained in the answer. The defendant shall have the burden of persuasion with respect to whether the relief extends further than necessary to correct the violation of the Federal right, is not narrowly drawn nor the least intrusive means to correct the violation of the Federal right, excessively burdens public safety or the operation of a prison system, or requires the defendant to violate State or local law without meeting the requirements of subsection (a)(1)(B).

''(D) SUMMARY DETERMINATION.—The court shall grant the motion to terminate if the plaintiff's answer fails to satisfy the requirements of subparagraph (A) or if the materials accompanying the plaintiff's answer together with the materials accompanying the defendant's response fail to carry the plaintiff's burden of persuasion or fail to create a genuine issue of material fact regarding whether the relief should be maintained.

''(E) EVIDENTIARY HEARING.—If the court determines that there is a genuine issue of material fact that precludes it from making a summary determination concerning the motion on the basis of the materials filed by the parties, the court may conduct a limited evidentiary hearing to resolve any disputed material facts identified by the court.

''(F) DISCOVERY.—If the court determines that the plaintiff's answer meets the requirements of paragraph (5)(A), that there are genuine issues of material fact that preclude it from making a summary determination concerning the motion based on the material filed by the parties, and that discovery would assist in resolving these issues, the court may permit limited, narrowly tailored, and expeditious discovery relating to the disputed material facts identified by the court.

''(G) FINDINGS.—

''(i) IN GENERAL.—If the court denies the motion to terminate prospective relief, the court shall enter written findings specifying—

''(I) the Federal right the court finds to be currently violated;

''(II) the facts establishing that the violation is continuing to occur;

''(III) the particular plaintiff or plaintiffs who are currently suffering actual injury caused by that violation;

''(IV) the actions of each defendant that warrant and require the continuation of the prospective relief against that defendant;

''(V) the reasons for which, in the absence of continued prospective relief, each defendant as to whom the relief is continued will not take adequate measures to correct the violation of the Federal right;

''(VI) the reasons for which no more narrowly drawn on less intrusive prospective relief would correct the current and ongoing violation of the Federal right;

''(VII) the impact of the prospective relief on public safety and the operation of any affected criminal justice system; and

''(VIII) if the prospective relief requires the defendant to violate State or local law, the reasons for which—

''(aa) Federal law requires the continuation of relief that violates State or local law;

''(bb) the specific relief is necessary to correct the violation of a Federal right; and

''(cc) no other relief will correct the violation of the Federal right.

''(ii) REQUIREMENTS FOR MOTIONS ORDERED BEFORE ENACTMENT OF PRISON LITIGATION REFORM ACT.—In the case of a motion to terminate prospective relief entered before the date of enactment of the Prison Litigation Reform Act, in addition to the requirements of clause (i), the court's written findings shall also specify—

''(I)(aa) the portion of the complaint or amended complaint that previously alleged that violation of Federal right;

''(bb) the findings the court made at the time it originally entered the prospective relief concerning that violation of Federal right; or

''(cc) both the findings specified in items (aa) and (bb), if the violation was originally both alleged and established; and

''(II) the prospective relief previously ordered to remedy that violation.

''(iii) REQUIREMENTS FOR MOTIONS ORDERED AFTER ENACTMENT OF PRISON LITIGATION REFORM ACT.—In the case of a motion to terminate prospective relief originally ordered after the date of enactment of the Prison Litigation Reform Act, in addition to the requirements of clause (i), the court shall also enter written findings specifying—

''(I) the findings required by subsection (e) made by the court at the time the relief was originally entered establishing that violation of Federal right; and

''(II) the prospective relief previously ordered to remedy that violation.'';

(5) in subsection (g), as redesignated—

(A) by striking the subsection designation and heading and inserting the following:

''(g) SPECIAL MASTERS FOR CIVIL ACTIONS WITH RESPECT TO PRISON CONDITIONS.—'';

(B) in paragraph (1)(B), by striking ''under this subsection'';

(C) in paragraph (2)—

(i) in subparagraph (A), by striking ''institution''; and

(ii) by adding at the end the following:

''(D) APPLICABILITY.—

''(i) IN GENERAL.—This paragraph shall not apply to any special master appointed before the date of enactment of the Prison Litigation Reform Act, unless their original appointment expires on or after that date of enactment.

''(ii) SPECIAL MASTERS COVERED.—This paragraph applies to all special masters appointed or reappointed after the date of enactment of the Prison Litigation Reform Act, regardless of the cause of the expiration of any initial appointment.'';

(D) in paragraph (3), by striking ''under this subsection'';

(E) in paragraph (4)—

(i) by striking ''under this section'';

(ii) by inserting ''(A)'' after ''(4)'';

(iii) in subparagraph (A), as so designated, by adding at the end the following: ''In no event shall a court require a party to pay the compensation, expenses, or costs of the special master. Notwithstanding any other provision of law (including section 306 of the Act entitled 'An Act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1997,' contained in section 101(a) of title I of division A of the Act entitled 'An Act making omnibus consolidated appropriations for the fiscal year ending September 30, 1997' (110 Stat. 3009201)) and except as provided in subparagraph (B), the requirement under the preceding sentence shall apply to the compensation and payment of expenses or costs of a special master for any action that is commenced before, on, or after the date of enactment of the Prison Litigation Reform Act.''; and

(iv) by adding at the end the following:

''(B) The payment requirements under subparagraph (A) shall not apply to the payment of a special master who was appointed before the date of enactment of the Prison Litigation Reform Act (110 Stat. 1321165 et seq.) of compensation, expenses, or costs relating to activities of the special master under this subsection that were carried out during the period beginning on the date of enactment of the Prison Litigation Reform Act and ending on the date of enactment of this subparagraph.'';

(F) in paragraph (5), by striking from ''In any civil action'' and all that follows through ''subsection, the'' and inserting ''The''; and

(G) in paragraph (6)—

(i) by striking ''appointed under this subsection'';

(ii) by striking subparagraph (A) and inserting the following:

''(A) may be authorized by a court to conduct hearings on the record, and shall make any findings based on the record as a whole;'';

(iii) in subparagraph (B), by striking ''communications;'' and inserting ''engage in any communications ex parte; and''; and

(iv) by striking subparagraph (C) and redesignating subparagraph (D) as subparagraph (C); and

(6) in subsection (h), as redesignated—

(A) in paragraph (1), by striking ''settlements'' and inserting ''settlement agreements'';

(B) in paragraph (3)—

(i) by inserting ''Federal, State, local, or other'' before ''facility'';

(ii) by striking ''violations'' and inserting ''a violation'';

(iii) by striking ''terms and conditions'' and inserting ''terms or conditions''; and

(iv) by inserting ''or other post-conviction conditional or supervised release,'' after ''probation,'';

(C) in paragraph (5), by striking ''or local facility'' and inserting ''local, or other facility'';

(D) in paragraph (8) by striking ''inherent'';

(E) in paragraph (9), by striking the period at the end and inserting a semicolon;

(F) by adding at the end the following:

''(10) the term 'violation of a Federal right'—

''(A) means a violation of a Federal constitutional or Federal statutory right;

''(B) does not include a violation of a court order that is not independently a violation of a Federal statutory or Federal constitutional right; and

''(C) shall not be interpreted to expand the authority of any individual or class to enforce the legal rights that individual or class may have pursuant to existing law with regard to institutionalized persons, or to expand the authority of the United States to enforce those rights on behalf of any individual or class.''; and

(G) by redesignating paragraphs (8) and (9) as paragraphs (9) and (8), respectively, and inserting paragraph (9), as redesignated, after paragraph (8), as redesignated.

(c) TECHNICAL AMENDMENT.—The table of sections at the beginning of subchapter C of chapter 229 of title 18, United States Code, is amended by striking the item relating to section 3626.

SEC. 16. LIMITATION ON FEES.

Section 7 of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997e) is amended—

(1) in subsection (d)—

(A) by striking subparagraphs (A) and (B) and inserting the following:

''(A) the fee was directly and reasonably incurred in—

''(i) proving an actual violation of the plaintiff's Federal rights that resulted in an order for relief;

''(ii) successfully obtaining contempt sanctions for a violation of previously ordered prospective relief that meets the standards set forth in section 13, if the plaintiff made a good faith effort to resolve the matter without court action; or

''(iii) successfully obtaining court ordered enforcement of previously ordered prospective relief that meets the standards set forth in section 13, if the enforcement order was necessary to prevent an imminent risk of serious bodily injury to the plaintiff and the plaintiff made a good faith attempt to resolve the matter without court action; and

''(B) the amount of the fee is proportionately related to the court ordered relief for the violation.'';

(B) in paragraph (2), by striking the last sentence and inserting ''If a monetary judgment is the sole or principal relief awarded, the award of attorney's fees shall not exceed 100 percent of the judgment.'';

(C) in paragraph (3)—

(i) by striking ''greater than 150 percent'' and inserting ''greater than the lesser of—

''(A) 100 percent''; and

(ii) by striking ''counsel.'' and inserting ''counsel; or

''(B) a rate of $100 per hour.''; and

(D) in paragraph (4), by striking ''prisoner'' and inserting ''plaintiff'';

(2) in subsection (e), by striking ''Federal civil action'' and inserting ''civil action arising under Federal law'' and by striking ''prisoner confined in a jail, prison, or other correctional facility'' and inserting ''prisoner who is or has been confined in any prison'';

(3) in subsection (f)—

(A) in paragraph (1), by striking ''action brought with respect to prison conditions'' and inserting ''civil action with respect to prison conditions brought'' and by striking ''jail, prison, or other correctional facility'' and inserting ''prison''; and

(B) in paragraph (2), by striking ''facility'' and inserting ''prison''; and

(4) by striking subsections (g) and (h) and inserting the following:

''(g) WAIVER OF RESPONSE.—Any defendant may waive the right to respond to any complaint in any civil action arising under Federal law brought by a prisoner. Notwithstanding any other law or rule of procedure, such waiver shall not constitute an admission of the allegations contained in the complaint or waive any affirmative defense available to the defendant. No relief shall be granted to the plaintiff unless a response has been filed. The court may direct any defendant to file a response to the cognizable claims identified by the court. The court shall specify as to each named defendant the applicable cognizable claims.

''(h) DEFINITIONS.—In this section, the terms 'civil action with respect to prison conditions', 'prison', and 'prisoner' have the meanings given the terms in section 13(h).''.

SEC. 17. NOTICE OF MALICIOUS FILINGS.

(a) IN GENERAL.—Chapter 123 of title 28, United States Code, is amended—

(1) in section 1915A(c)—

(A) by striking ''(c) DEFINITION.—As used in this section'' and inserting the following:

''§ 1915C. Definition

''In sections 1915A and 1915B'';

(B) by inserting ''Federal, State, local, or other'' before ''facility'';

(C) by striking ''violations'' and inserting ''a violation'';

(D) by striking ''terms and conditions'' and inserting ''terms or conditions''; and

(E) by inserting ''or other post-conviction conditional or supervised release,'' after ''probation,''; and

(2) by inserting after section 1915A the following:

''§ 1915B. Notice to State authorities of finding of malicious filing by a prisoner

''(a) FINDING.—In any civil action brought in Federal court by a prisoner (other than a prisoner confined in a Federal correctional facility), the court may, on its own motion or the motion of any adverse party, make a finding whether—

''(1) the claim was filed for a malicious purpose;

''(2) the claim was filed to harass the party against which it was filed; or

''(3) the claimant testified falsely or otherwise knowingly presented false allegations, pleadings, evidence, or information to the court.

''(b) TRANSMISSION OF FINDING.—The court shall transmit to the State Department of Corrections or other appropriate authority any affirmative finding under subsection (a). If the court makes such a finding, the Department of Corrections or other appropriate authority may, pursuant to State or local law—

''(1) revoke such amount of good time credit or the institutional equivalent accrued to the prisoner as is deemed appropriate; or

''(2) consider such finding in determining whether the prisoner should be released from prison under any other State or local program governing the release of prisoners, including parole, probation, other post-conviction or supervised release, or diversionary program.''.

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of chapter 123 of title 28, United States Code, is amended by inserting after the item relating to section 1915A the following:

''1915B. Notice to State authorities of finding of malicious filing by prisoner.
''1915C. Definition.''.

SEC. 18. LIMITATION ON PRISONER RELEASE ORDERS.

(a) IN GENERAL.—

(1) AMENDMENT TO TITLE 28.—Chapter 99 of title 28, United States Code, is amended by adding at the end the following:

''§ 1632. Limitation on prisoner release orders

''(a) IN GENERAL.—Notwithstanding section 13 of the Civil Rights of Institutionalized Persons Act or any other provision of law, in a civil action with respect to prison conditions, no court of the United States or other court defined under section 610 shall have jurisdiction to enter or carry out any prisoner release order that would result in the release from or nonadmission to a prison, on the basis of prison conditions, of any person subject to incarceration, detention, or admission to a facility because of—

''(1) a conviction of a felony under the laws of the relevant jurisdiction; or

''(2) a violation of the terms or conditions of parole, probation, pretrial release, or a diversionary program, relating to the commission of a felony under the laws of the relevant jurisdiction.

''(b) DEFINITIONS.—In this section—

''(1) the terms 'civil action with respect to prison conditions', 'prisoner', 'prisoner release order', and 'prison' have the meanings given those terms in section 13(h) of the Civil Rights of Institutionalized Persons Act; and

''(2) the term 'prison conditions' means conditions of confinement or the effects of actions by government officials on the lives of persons confined in prison.''.

(2) CONFORMING AMENDMENT.—The table of sections for chapter 99 of title 28, United States Code, is amended by adding at the end the following:

''1632. Limitation on prisoner release orders.''.

(b) AMENDMENT TO TITLE 18.—Section 3624(b) of title 18, United States Code, is amended—

(1) in paragraph (1), by striking the fifth sentence and inserting the following: ''Credit that has not been earned may not later be granted, and credit that has been revoked pursuant to section 3624A may not later be reinstated.''; and

(2) in paragraph (2), by inserting before the period at the end the following: '', and may be revoked by the Bureau of Prisons for noncompliance with institutional disciplinary regulations at any time before vesting''.

SEC. 19. REPEAL OF SECTION 140.

Section 140 of the joint resolution entitled ''A Joint Resolution making further continuing appropriations for the fiscal year 1982, and for other purposes'', approved December 15, 1981 (Public Law 97–92; 95 Stat. 1200; 28 U.S.C. 461 note) is repealed.

SEC. 20. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment 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 provisions of such to any person or circumstance shall not be affected thereby.

Mr. ASHCROFT. Mr. President, I rise today to join Senator HATCH in introducing the Judicial Improvement Act of 1998. Many of the provisions of this bill stem from a series of hearings I held in the Subcommittee on the Constitution, Federalism and Property Rights last summer addressing the problem of judicial activism. The hearings focused on the problem of judicial activism and its impact. The Subcommittee heard testimony from a variety of individuals, from constitutional scholars to victims of activist judicial orders. The final hearing of the series focused on potential solutions to the problem of activism.

That final hearing canvassed potential solutions ranging from proposed constitutional amendments, to increased public education efforts about the problem of judicial activism, to proposed statutory solutions. The hearings convinced me that, at a minimum, we needed to provide some procedural mechanisms to make it more difficult for any single judge to issue an activist order and to make it easier for litigants to force the reconsideration of activist orders.

Since the close of the hearings, I have been working with others on the Judiciary Committee to fashion legislation that would accomplish these goals. Last fall, I circulated draft language concerning the three legislative proposals that remain my top priorities in this area—requiring a three-judge panel before a federal court can strike down a state initiative or an act of Congress as unconstitutional, expanding provisions of the Prison Litigation Reform Act to cover other local and state institutions, and codifying a flat prohibition on federal court orders directly increasing taxes. With the help of Chairman HATCH, Senator ABRAHAM and others on the Committee, we have added many additional provisions and drafted a comprehensive bill aimed at improving the federal judiciary. Although I would not have included every provision in the bill had I introduced my own bill, the bill reflects the collective work of the Committee and would substantially improve the workings of the federal judiciary.

Let me take a few moments to discuss the provisions that are critical to addressing the problem of judicial activism. First and foremost, the bill addresses the problem of having a single federal judge strike down a state referendum as unconstitutional. Nothing highlights the undemocratic power of a federal judge more strikingly than when a single unelected federal judge invalidates a law passed by the general public through the initiative process. Even the Ninth Circuit, the epicenter of judicial activism in America, has acknowledged the strain that a single judge's nullification of an initiative places on our political system. As the court recently noted in an opinion reversing such a single-judge nullification: ''A system which permits one judge to block with the stroke of a pen what 4,736,180 state residents voted to enact as law tests the integrity of our constitutional democracy.'' *The Coalition for Economic Equality* v. *Wilson*, 122 F.3d 692, 699 (9th Cir.), (cert. denied, 118 S. Ct. 397 (1997).

The three-judge panel ameliorates this problem by requiring that a three-judge panel be convened, and a majority of the panel agree, before a state initiative can be enjoined. The provision then addresses the problem of the popular will being preliminarily enjoined for long periods of time before a final appealable decision is issued by providing for an expedited review of the injunction.

The three-judge panel provision recognizes that there may be situations in

which state initiatives run afoul of the Constitution and courts may need to declare them unconstitutional. But the bill also recognized that when a federal court takes such an action, it can cause considerable frustration and friction. The bill attempts to minimize such friction by ensuring that a federal court complies with a number of safeguards before taking such a drastic action.

A second key provision in the bill extends some of the protections included in the Prison Litigation Reform Act to other state and local government institutions. During the hearings, I heard over and over about the frustration of state and local officials who are saddled with consent decrees entered into decades ago that allow unelected federal judges—rather than elected local officials—to run local institutions. The bill addresses this problem by requiring the periodic reconsideration of such consent decrees or structural injunctions to ensure that they remain necessary to remedy a constitutional violation. Once again, the bill recognizes that our federal Constitution and federal system of government may require federal courts to issue injunctions covering state and local institutions, but also acknowledges that such sweeping injunctions create friction with local officials. The best way to limit such friction is to provide a mechanism to ensure that the injunctions remain necessary to remedy a constitutional violation. This bill does that.

Another key provision of particular importance to my constituents back in Missouri is the flat prohibition on federal court orders directly raising or imposing taxes. The people of Kansas City have suffered through the activism of federal District Judge Russell Clark, including his order directly ordering local authorities to increase taxes. This provision directly attacks such judicial tyranny. Importantly, however, the bill leave the federal court's power to order remedies that may lead a local or state government to raise taxes. But the ultimate decision of whether to raise taxes, raise revenue through other means or cut spending remains that the local authorities.

A final point should be made about all three of these provisions: they apply only to federal courts. The procedures and remedial authority of state courts remain unaffected. During the Subcommittee hearings a number of people offered suggestions to make the federal courts more directly responsive to the people. In attempting to improve the federal courts, we cannot lose sight of the fact that under our federal system we have both federal courts and state courts of general jurisdiction which are fully capable of hearing federal claims. State courts, moreover, are much more responsible to the people—in the majority of States they are subject to direct elections or retention elections.

This bill recognizes the comparative advantages of these two court systems and tries to limit the availability of those remedies that are the most intrusive in the courts that are least responsible to the people. If people are really convinced that courts must levy taxes and run state and local institutions in perpetuity (and I, for one, am not convinced such measures are every necessary), then at least the courts that do so should be relatively responsive state courts, rather than unelected, life-tenured federal judges.

Before I close, let me mention a few other provisions of the bill that are of particular importance to me. First, the bill contains a provision that makes it clear that the same standards for judging the admissibility of confessions that Congress created for federal criminal trials should also apply when federal courts engage in collateral review of state and federal convictions. This provision reinforces that the touchstone for admissibility should be the voluntariness of the confession and that a technical violation should not free a convicted prisoner on collateral review.

Second, the bill includes a provision similar to one in legislation introduced by Senator SPECTER, which I have cosponsored, which prevents a federal court from barring local authorities for ordering a retrial of a convicted authority. The traditional remedy in a habeas proceeding is release from custody. Taking the further step of barring retrial goes beyond the traditional office of the writ and is an affront to state courts and prosecutors.

Finally, the bill appropriately limits the practice of releasing prisoners early as a judicial remedy. Perhaps, the most poignant testimony in the Subcommittee hearings concerned family whose son, Danny Boyle, was killed by an arrested felon, who but for a prison release order would have been behind bars. Danny was a promising young police officer whose life and career were cut short—a victim of judicial activism. I am committed to working to ensure that another family does not have to come before a future Subcommittee hearing with similar testimony about a son or daughter.

I want to thank Chairman HATCH and Senator ABRAHAM for working with me to get these provisions included in the bill. I look forward to working with them to ensure that this bill moves forward and that we take these modest steps to improve the federal judiciary.

Mr. THURMOND. Mr. President, I rise today as an original cosponsor of the Judicial Improvement Act. This legislation contains various important reforms of the judicial branch that will help keep the powers of the courts in check with the other branches of government and with the will of the people.

This comprehensive bill contains provisions that are important to many senators, and I am especially pleased that two bills that I have introduced and advocated for years are included in this reform package. One would prohibit judges from imposing tax increases, and the other would clarify the retroactive application of legislation.

This Act states that a Federal judge does not have the authority to order the Federal government or units of state or local governments to raise taxes as a legal remedy. In 1990, in Missouri v. Jenkins, the Supreme Court permitted a district court judge to order local authorities to impose a huge tax increase to pay for his plan to desegregate a school district.

One may wonder why a desegregation plan would be so expensive as to warrant a massive tax increase. The reason is this plan was not simply an attempt to bring schools up to basic standards. Rather, it was an elaborate social experiment in the name of education. Money was no object. Among other mandates, the plan called for 15 computers in every classroom, a 2,000 square-foot planetarium, a 25-acre farm, a model United Nations, an art gallery, movie editing and screening rooms, and swimming pools.

Money was no object because there was no control over the judge. There was no accountability. The only supervision was a higher court, and a slim majority of the Supreme Court gave the judge a free reign.

The dissent in that case clearly explained what should have been obvious: it violates the Constitutional separation of powers for a judge to order that taxes be increased. In the Constitution, Article I contains the legislative powers. Article I, Section 8 begins by stating, ''The Congress shall have the power to lay and collect taxes.'' Article III provides for judicial power, and makes no mention of the power to tax. Therefore, a Federal judge does not have the power to tax under the Constitution.

This is more than a matter of proper Constitutional interpretation. It is an essential check on power. The ability to tax is an awesome power. It is true that, as Justice John Marshall once wrote, ''the power to tax involves the power to destroy.'' This authority must be carefully checked, and the best source of control is the people. Thus, in the Constitution, the ability to tax was given to the legislative branch, which is directly accountable to the people through the ballot box.

By design, the Judicial Branch is different. It is not responsible to the people. The Framers intentionally did not provide for judges to be elected by the people and even gave judges life tenure. They wanted judges to be insulated from the political climate and have the freedom to interpret the law appropriately, rather than make decisions based on the will of the majority at any given moment. It is entirely reasonable and appropriate that judicial power does not include the power to tax. As Justice Kennedy stated in his thoughtful dissent in Missouri v. Jenkins, the Supreme Court's ''casual embrace of taxation imposed by the unelected life-tenured Federal Judiciary disregards fundamental precepts

for the democratic control of public institutions.''

The Framers of the Constitution fully intended to separate power in this manner and did not mean for judges to be involved in taxation. As Alexander Hamilton stated in the Federalist No. 78, ''The judiciary . . . has no influence over either the sword or the purse.'' In my view, judicial taxation is simply taxation without representation, no different from the complaints of the American colonists about taxation without representation during the days of the Stamp Act in 1765.

Mr. President, if a judge can order a tax increase for a school, why not a similar social experiment for a prison? It is hard to imagine any limits on a Federal judge's power as expressed in Missouri v. Jenkins. I believe it is imperative that the Congress act to control the power of the judicial branch in this regard.

Another provision of the bill that I have long advocated would clarify the retroactivity of legislation. Often the Congress will pass legislation but not state whether that legislation should be applied retroactively to conduct that occurred before the law was passed. An excellent example is the Civil Rights Act of 1991. It took years of litigation with decisions in over one hundred Federal courts throughout the country before the Supreme Court finally decided the question.

The provision simply states that legislation is not retroactive unless the bill expressly says it is. This simple rule will eliminate a great deal of uncertainty. As a result, it will reduce litigation costs and help our judicial system better focus to reserve its limited resources.

This clarification should not be controversial. The Judicial Conference of the Federal courts indicated in a report in 1995 that it did not oppose this legislative fix, and the Clinton Justice Department stated in a letter to me in 1996 that it did not object to this clarification. I hope both of these provisions are passed this year.

The Judicial Improvement Act contains many other needed reforms that I will not attempt to detail, such as a requirement for a three-judge panel to enjoin the enforcement of certain laws. I hope my colleagues will join me in supporting the judicial reforms contained in this important legislation.

I yield the floor.

By Mrs. HUTCHISON:

S. 2164. A bill to amend title 49, United States Code, to promote rail competition, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE STB AMENDMENTS OF 1998

● Mrs. HUTCHISON. Mr. President, today I am introducing the Surface Transportation Board Amendments of 1998. This legislation proposes to expand the Surface Transportation Board's existing authority to address circumstances affecting rail service transportation in today's environment.

First, I think most colleagues would agree that the STB has performed well since its inception in 1996. The industries it regulates have experienced a number of significant changes in the past few years. The STB has acted consistently with the authority Congress gave it, and clearly within the deregulatory intent with which it was created.

This year's reauthorization gives us the first chance since we created the Board to review its practices and performance. My bill is based upon the principle that Congress sets government policy and the Executive Branch, through regulators such as the STB, executes that policy. During hearings in my Surface Transportation and Merchant Marine Subcommittee, I have consistently sought to identify the limits of STB authority to act in certain circumstances, and to identify those areas beyond which STB action would require a policy decision by Congress.

It is very important that we pass a re-authorization bill this year. Doing that will require that we establish the middle ground between those who want to roll back the clock and begin to re-regulate the industry and those who think the board needs no additional authority to adequately address the many issues before it.

I believe my bill does just that. However, I stand ready to work with my colleagues to further refine my proposals to move this bill through the legislative process. I welcome input from any interested members.

My own personal view is that re-regulation is not called for. The Staggers Rail Act of 1980 has had very positive results for both industry and shippers. But we must ensure the board has sufficient tools to ensure that deregulation has its intended effect of greater competition and better value to the consumer. The experiences of the past few years, and this year in particular, give us much to consider.

Mr. President, our country has endured a critical rail service crisis for many, many months. My home State of Texas has felt this crisis as much as any other State, and more than most. Texas has sustained billions of dollars of economic losses as the goods bound to and from the State's ports, factories and refineries sit gridlocked on the rails. These service problems primarily have occurred in the West, but there has been a ripple effect throughout the entire rail system. Service problems continue today, and I know the railroads have been working night and day to alleviate service troubles.

Mr. President, I will explain my bill at greater length in a moment, but I want to stress that I have worked to craft a bill that maintains the basic deregulatory rules that the rail industry and shippers have played by since the 1980s. However, it is the shippers today who face a most challenging rail shipping environment.

Therefore, I am proposing we take action to ensure that the Board's procedures are more readily accessible to small shippers. I also am proposing to expand the Board's authority with regard to maintaining and promoting rail competition in appropriate circumstances. And, I believe strongly that we can do this without jeopardizing the integrity of deregulation.

The Committee on Commerce, Science, and Transportation has been working for many months on issues surrounding the rail service transportation. In that effort, the reauthorization of the Surface Transportation Board is a priority of our Committee.

To date we have held four rail service hearings during this Congress—three field hearings along with a Subcommittee hearing on the Board's reauthorization. In addition, at Senator MCCAIN's and my request, the STB held 2 days of hearings in April to address rail access and competition issues at which more than 60 witnesses testified.

In response to the information gathered during these many hearings both by our Committee and the Board, today I am proposing legislation to address a number of areas which I believe warrant serious attention and in some cases, reform. I expect some will have a strong reaction to my proposals, as some in the rail industry have tended to tar any legislative proposals affecting their industry as ''re-regulation.'' At the same time, I suspect some shipper groups will report that these proposals do not go nearly as far as they believe we should go. If so, that sounds like we're at least within striking distance of the middle ground.

I want to briefly explain the major provisions of this legislation:

First, the bill establishes that promoting competition within the rail industry is one of the criteria the STB should use in performing its responsibilities.

Second, the bill would extend the time period covering the Board's emergency service orders. The current 270-day emergency order authority would be extended to cover a total period of 18 months. In the event an emergency remains in effect beyond this time frame, the Board would be permitted to request and receive two 6-month extensions of an emergency service order. The Congress could disapprove the Board's requests and also take affirmative action to grant any further extensions as may be necessary.

Third, the bill includes several features to simplify the regulatory process involving small rate cases. During every hearing before our Committee, shippers stressed their frustrations that for a small shipper, it is simply too time consuming and costly to ever bring a case to the Board. This bill seeks to acknowledge those concerns and proposes to foreclose discovery in small rate cases, absent a demonstration of compelling need. Further, it would direct the Board to establish an arbitration mechanism for small shipper cases. It would not require mandatory arbitration, but would allow for arbitration at one party's request.

Fourth, my bill seeks to address concerns raised about the Board's market dominance standard. Some have advocated Congress statutorily eliminate product and geographic competition from the Board's market dominance analysis as it is a very time consuming process. Yet others contend these considerations remain necessary. My bill recognizes the Board's April 17th decision announcing it would initiate a proceeding to consider whether to maintain, change, or eliminate product and geographic competition from consideration in rate cases. I believe the Board's action is the proper route to follow.

Fifth, my bill seeks to address another area of concern raised by shippers: revenue adequacy. At the Board's April hearings, rail and shipper representatives suggested referring this matter of considerable debate to one or more disinterested economists, which the Board initiated April 17th. My bill directs the Board to carry out its proposal in this area and direct rail and shipper representatives to select a panel of 3 disinterested economists to examine the Board's current standards for measuring revenue adequacy and to consider whether alternative measurements of a railroad's financial health are warranted.

Sixth, my bill seeks to address the issue of bottleneck rates. There is considerable debate as to the correct approach in this area, with some strongly opposed to any change and others equally adamant about total reform. My proposal seeks to take a balanced approach, ensuring some needed boundaries remain. It would require a carrier to provide a shipper with a rate for a ''bottleneck'' line segment when requested to accommodate a transportation contract. The railroad would be required to provide the shipper with a rate over the ''bottleneck'' line segment as long as the interchange would be operationally feasible and the through route would not significantly impair the railroad's ability to serve its other shippers.

Finally, my bill would remove the 3-year renewal requirement regarding antitrust immunity applicable to household goods carriers. While the continued propriety of collective actions by other types of motor carriers has been the subject of debate, no similar concerns have been voiced about the collective activities of household goods carriers. The repeal of the mandatory review requirement would relieve the carriers of an unnecessary regulatory burden, although it would have no effect on the STB's existing authority to modify or revoke collective actions when the STB determines such action is necessary to protect the public interest.

Mr. President, I ask unanimous consent a copy of my bill be printed in the RECORD. I encourage my colleagues to look at this legislation and begin working with me now so that we may reauthorize the Surface Transportation Board this year and provide important policy guidance in regard to rail service matters.

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

S. 2164

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Surface Transportation Board Amendments of 1998''.

SEC. 2. PROMOTION OF COMPETITION WITHIN THE RAIL INDUSTRY.

Section 10101 of title 49, United States Code, is amended by—

(1) redesignating paragraphs (1) through (7) as paragraphs (2) through (8);

(2) inserting before paragraph (2), as redesignated, the following:

''(1) to encourage and promote effective competition within the rail industry;'';

(3) redesignating paragraphs (9) through (16) as paragraphs (10) through (17); and

(4) inserting before paragraph (10), as redesignated, the following:

''(9) to discourage artificial barriers to interchange and car supply which can impede competition between shortline, regional, and Class I carriers and block effective rail service to shippers.

SEC. 3. EXTENSION OF TIME LIMIT ON EMERGENCY SERVICE ORDERS.

Section 11123 of title 49, United States Code, is amended by—

(1) striking ''30'' in subsection (a) and inserting ''60'';

(2) striking ''30'' in subsection (c)(1) and inserting ''60'';

(3) striking the second sentence of subsection (c)(1) and inserting the following: ''An action taken by the Board under subsection (a) of this section may not remain in effect longer than 18 months (including the initial 60-day period), unless the Board requests an extension under paragraph (4).''; and

(4) adding at the end of subsection (c) the following:

''(4) The Board may request up to 2 extensions, of not more than 6 months each, of the 18-month period under subsection (a) by submitting to the Congress a request in writing for such an extension, together with an explanation of the reasons for the request. Such a requested extension goes into effect unless disapproved by the Congress by concurrent resolution. Any other extension requested by the Board will not go into effect unless the Congress approve it under the procedure established by section 4 of the Surface Transportation Amendments of 1998.''.

SEC. 4. APPROVAL PROCEDURE.

(a) IN GENERAL.—Within 90 days (not counting any day on which either House is not in session) after a request for a third or subsequent extension is submitted to the House of Representatives and the Senate by the Surface Transportation Board under section 11123(c)(4) of title 49, United States Code, an approval resolution shall be introduced in the House by the Majority Leader of the House, for himself and the Minority Leader of the House, or by Members of the House designated by the Majority Leader and Minority Leader of the House; and shall be introduced in the Senate by the Majority Leader of the Senate, for himself and the Minority Leader of the Senate, or by Members of the Senate designated by the Majority Leader and Minority Leader of the Senate. The approval resolution shall be held at the desk at the request of the Presiding Officers of the respective Houses.

(b) CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.—

(1) CONSIDERATION OF APPROVAL RESOLUTION.—After an approval resolution is introduced, it is in order to move that the House resolve into the Committee of the Whole House on the State of the Union for consideration of the resolution. All points of order against the resolution and against consideration of the resolution are waived. The motion is highly privileged. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. During consideration of the resolution in the Committee of the Whole, the first reading of the resolution shall be dispensed with. General debate shall proceed, shall be confined to the resolution, and shall not exceed one hour equally divided and controlled by a proponent and an opponent of the resolution. The resolution shall be considered as read for amendment under the five-minute rule. Only one motion to rise shall be in order, except if offered by the manager. No amendment to the resolution is in order. Consideration of the resolution shall not exceed one hour excluding time for recorded votes and quorum calls. At the conclusion of the consideration of the resolution, the Committee shall rise and report the resolution to the House. The previous question shall be considered as ordered on the resolution to final passage without intervening motion. A motion to reconsider the vote on passage of the resolution shall not be in order.

(2) APPEALS OF RULINGS.—Appeals from decision of the Chair regarding application of the rules of the House of Representatives to the procedure relating to an approval resolution shall be decided without debate.

(3) CONSIDERATION OF MORE THAN ONE APPROVAL RESOLUTION.—It shall not be in order to consider under this subsection more than one approval resolution under this section, except for consideration of a similar Senate resolution (unless the House has already rejected an approval resolution) or more than one motion to discharge described in paragraph (1) with respect to an approval resolution.

(c) CONSIDERATION IN THE SENATE.—

(1) REFERRAL AND REPORTING.—An approval resolution introduced in the Senate shall be shall be placed directly and immediately on the Calendar.

(2) IMPLEMENTING RESOLUTION FROM HOUSE.—When the Senate receives from the House of Representatives an approval resolution, the resolution shall not be referred to committee and shall be placed on the Calendar.

(3) CONSIDERATION OF SINGLE APPROVAL RESOLUTION.—After the Senate has proceeded to the consideration of an approval resolution under this subsection, then no other approval resolution originating in that same House shall be subject to the procedures set forth in this subsection.

(4) MOTION NONDEBATABLE.—A motion to proceed to consideration of an approval resolution under this subsection shall not be debatable. It shall not be in order to move to reconsider the vote by which the motion to proceed was adopted or rejected, although subsequent motions to proceed may be made under this paragraph.

(5) LIMIT ON CONSIDERATION.—

(A) After no more than 2 hours of consideration of an approval resolution, the Senate shall proceed, without intervening action or debate (except as permitted under paragraph (9)), to vote on the final disposition thereof to the exclusion of all motions, except a motion to reconsider or table.

(B) The time for debate on the approval resolution shall be equally divided between the Majority Leader and the Minority Leader or their designees.

(6) NO MOTION TO RECOMMIT.—A motion to recommit an approval resolution shall not be in order.

(7) DISPOSITION OF SENATE RESOLUTION.—If the Senate has read for the third time an approval resolution that originated in the Senate, then it shall be in order at any time thereafter to move to proceed to the consideration of an approval resolution for the same special message received from the House of Representatives and placed on the Calendar pursuant to paragraph (2), strike all after the enacting clause, substitute the text of the Senate approval resolution, agree to the Senate amendment, and vote on final disposition of the House approval resolution, all without any intervening action or debate.

(8) CONSIDERATION OF HOUSE MESSAGE.—Consideration in the Senate of all motions, amendments, or appeals necessary to dispose of a message from the House of Representatives on an approval resolution shall be limited to not more than 1 hour. Debate on each motion or amendment shall be limited to 30 minutes. Debate on any appeal or point of order that is submitted in connection with the disposition of the House message shall be limited to 15 minutes. Any time for debate shall be equally divided and controlled by the proponent and the majority manager, unless the majority manager is a proponent of the motion, amendment, appeal, or point of order, in which case the minority manager shall be in control of the time in opposition.

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

(1) APPROVAL RESOLUTION.—The term ''approval resolution'' means only a concurrent resolution of either House of Congress which is introduced as provided in subsection (a) with respect to the approval of a request from the Surface Transportation Board under section 11123(a)(4) of title 49, United States Code.

(e) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—This section is enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of approval resolutions described in subsection (c); and they supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

SEC. 5. PROCEDURAL RELIEF FOR SMALL RATE CASES.

(a) DISCOVERY LIMITED.—Section 10701(d) of title 49, United States Code, is amended by—

(1) inserting ''(A)'' in paragraph (3) before ''The Board''; and

(2) adding at the end thereof the following:

''(B) Unless the Board finds that there is a compelling need to permit discovery in a particular proceeding, discovery shall not be permitted in a proceeding handled under the guidelines established under subparagraph (A).''.

(b) ADMINISTRATIVE RELIEF.—Not later than 180 days after the date of enactment of this Act, the Surface Transportation Board shall—

(1) review the rules and procedures applicable to rate complaints and other complaints filed with the Board by small shippers;

(2) identify any such rules or procedures that are unduly burdensome to small shippers; and

(3) take such action, including rulemaking, as is appropriate to reduce or eliminate the aspects of the rules and procedures that the Board determines under paragraph (2) to be unduly burdensome to small shippers.

(c) LEGISLATIVE RELIEF.—The Board shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives if the Board determines that additional changes in the rules and procedures described in subsection (b) are appropriate and require commensurate changes in statutory law. In making that notification, the Board shall make recommendations concerning those changes.

SEC. 6. MARKET DOMINANCE STANDARD.

The Surface Transportation Board shall complete a rulemaking, as outlined in STB Ex Parte No. 575, to determine whether and to what extent it should consider product and geographic competition in making market dominance determinations.

SEC. 7. REVENUE ADEQUACY.

The Surface Transportation Board shall reexamine, as outlined in STB Ex Parte No. 575, its standards and procedures for determining adequate railroad revenue levels under section 10704(a)(2) of title 49, United States Code. In carrying out it reexamination, the Board is directed to seek recommendations of a panel of three disinterested economists on the proper standards to apply. The panel shall submit its report and recommendations simultaneously to the Surface Transportation Board and to the Senate Committee on Commerce, Science, and Transportation and the House Committee on Transportation and Infrastructure.

SEC. 8. BOTTLENECK RATES.

(a) THROUGH ROUTES.—Section 10703 of title 49, United States Code, is amended—

(1) inserting ''(a) IN GENERAL.—'' before ''Rail carriers''; and

(2) adding at the end thereof the following:

''(b) CONNECTING CARRIERS.—When a shipper and rail carrier enter into a contract under section 10709 for transportation that would require a through route with a connecting carrier and there is no reasonable alternative route that could be constructed without participation of that connecting carrier, the connecting carrier shall, upon request, establish a through route and a rate that can be used in conjunction with transportation provided pursuant to the contract, unless the connecting carrier shows that—

''(1) the interchange requested is not operationally feasible; or

''(2) the through route would significantly impair the connecting carrier's ability to serve its other traffic.

The connecting carrier shall establish a rate and through route within 21 days unless the Board has made a determination that the connecting carrier is likely to prevail in its claim under paragraph (1) or (2).''.

(b) BOARD'S AUTHORITY TO PRESCRIBE DIVISION OF JOINT RATES.—Section 10705(b) of title 49, United States Code, is amended by striking ''The Board shall'' and inserting ''Except as provided in section 10703(b), the Board shall''.

(c) COMPLAINTS.—Section 11701 of title 49, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

''(c) Where transportation over a portion of a through route is governed by a contract under section 10709, a rate complaint must be limited to the rates that apply to the portion of the through route not governed by such a contract.''.

SEC. 9. SIMPLIFIED DISPUTE RESOLUTION.

Within 180 days after the date of enactment of this Act, the Surface Transportation Board shall promulgate regulations adopting a simplified dispute resolution mechanism with the following features:

(1) IN GENERAL.—The simplified dispute resolution mechanism will utilize expedited arbitration with a minimum of discovery and may be used to decide disputes between parties involving any matter subject to the jurisdiction of the Board, other than rate reasonableness cases that would be decided under constrained market pricing principles.

(2) APPLICABLE STANDARDS.—Arbitrators will apply existing legal standards.

(3) MANDATORY IF REQUESTED.—Use of the simplified dispute resolution mechanism is required whenever at least one party to the dispute requests.

(4) 90-DAY TURNAROUND.—Arbitrators will issue their decisions within 90 days after being appointed.

(5) PAYMENT OF COSTS.—Each party will pay its own costs, and the costs of the arbitrator and other administrative costs of arbitration will be shared equally between and among the parties.

(6) DECISIONS PRIVATE; NOT PRECEDENTIAL.—Except as otherwise provided by the Board, decisions will remain private and will not constitute binding precedent.

(7) DECISIONS BINDING AND ENFORCEABLE.—Except as otherwise provided in paragraph (8), decisions will be binding and enforceable by the Board.

(8) RIGHT TO APPEAL.—Any party will have an unqualified right to appeal any decision to the Board, in which case the Board will decide the matter de nova. In making its decision, the Board may consider the decision of the arbitrator and any evidence and other material developed during the arbitration.

(9) MUTUAL MODIFICATION.—Any procedure or regulation adopted by the Board with respect to the simplified dispute resolution may be modified or eliminated by mutual agreement of all parties to the dispute.

SEC. 10. PROMOTION OF COMPETITIVE RAIL SERVICE OPTIONS.

Section 11324 of title 49, United States Code, is amended—

(1) by striking ''and'' in paragraph (4) of subsection (b);

(2) by striking ''system.'' in paragraph (5) of subsection (b) and inserting ''system; and'';

(3) by adding at the end of subsection (b) the following:

''(6) means and methods to encourage and expand competition between and among rail carriers in the affected region or the national rail system.''; and

(4) by inserting after the second sentence in subsection (c) the following: ''The Board may impose conditions to encourage and expand competition between and among rail carriers in the affected region or the national rail system, provided that such conditions do not cause substantial harm to the benefits of the transaction to the affected carriers or the public.''.

SEC. 11. HOUSEHOLD GOODS COLLECTIVE ACTIVITIES.

Section 13703(d) of title 49, United States Code, is amended by inserting ''(other than an agreement affecting only the transportation of household goods, as defined on December 31, 1995)'' after ''agreement'' in the first sentence.●

By Mr. GRASSLEY:

S. 2165. A bill to amend title 31 of the United States Code to improve methods for preventing financial crimes, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

MONEY LAUNDERING DETERRENCE ACT OF 1998

● Mr. GRASSLEY. Mr. President, recently, we have seen the culmination of one of the most successful undercover operations in history by the

United States Customs Service. This effort, known as ''Operation Casablanca,'' has infiltrated and dismantled a group of international bankers, mostly in Mexico, who have been laundering drug money. The threat of drug trafficking is serious enough. But to have their financial advisors leading their effort to facilitate the smuggling of illicit narcotics is much worse. Complicit bankers devising schemes can make it much easier to move and hide the ill-gotten gains of drug cartels.

As this latest law enforcement operation illustrates, we must be sure that we are taking the necessary steps to protect the citizens of our nation. We must prevent drug traffickers and organized crime groups from obtaining the profits of their illegal activities. Much has been done and said about the movement of illegal drugs into the United States. But the opposite side of the business does not always get the publicity, and is just as important. We need to go after the profits from drug sales and other illegal enterprises.

Last week, Representative LEACH, Chairman of the Committee on Banking and Financial Services introduced legislation to amend title 31, United States Code. The bill H.R. 4005, ''the Money Laundering Deterrence Act of 1998,'' would improve methods for preventing financial crimes. And as Operation Casablanca shows this legislation, is timely and needed. We need to tighten up our financial control capabilities to prevent criminal enterprises from abusing our financial and banking systems. The bill is supported by the American Banking Association (ABA), the Department of the Treasury, the Department of Justice and the Federal Reserve. Today, Chairman LEACH's bill has already been marked up in the House.

I call for my colleagues to help support this companion legislation. I hope this would be a continuation of efforts by Congress to go after the growing threat of money laundering not only to our nation, but worldwide.●

By Mr. HARKIN (for himself, Mr. LEAHY AND MR. JOHNSON):

S. 2166. A bill to amend the National School Lunch Act and the Child Nutrition Act of 1966 to provide children with increased access to food and nutrition assistance, to simplify program operations and improve program management, to extend certain authorities contained in such Acts through fiscal year 2002, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

CHILD NUTRITION AND WIC REAUTHORIZATION AMENDMENTS OF 1998

● Mr. HARKIN. Mr. President, I am introducing today, at the request of the Clinton Administration, the Child Nutrition and WIC Reauthorization Amendments of 1998. I am grateful to be joined in the introduction of this bill by Senator LEAHY, the Ranking Member of the Subcommittee on Research, Nutrition, and General Legislation, and by Senator JOHNSON. In my years serving on the Committee on Agriculture, Nutrition, and Forestry, and now as its Ranking Member, I have always placed a very high value on the child nutrition programs, including the Special Supplemental Nutrition Program for Women, Infants and Children (WIC). These programs have been critical in helping to meet the nutritional needs of millions of our nation's children.

This bill is the first child nutrition reauthorization bill sent to Congress by an Administration in two decades. It is a very commendable effort, with many positive features, that we will be relying upon substantially as we fashion a child nutrition bill in the coming weeks in the Senate Committee on Agriculture, Nutrition, and Forestry and ultimately in conference. In addition to reauthorizing those programs that are expiring, the bill makes a number of improvements throughout the child nutrition programs. It is designed to be cost-neutral over the next five years, to simplify and streamline program operations, to reduce impediments to participation by eligible individuals, to reach certain children needing additional nutritional assistance, to strengthen program integrity and to enhance the nutrition provided by the programs.

Earlier this year, I joined Chairman LUGAR, Senator MCCONNELL and Senator LEAHY in introducing a measure, S. 1581, that would simply reauthorize the child nutrition programs for the next five years. That bill was recognized as a starting point for a careful review of the child nutrition programs leading to the development of a sound, well-crafted and bipartisan reauthorization bill. I believe there is broad support for improving and modifying these programs to meet changing needs and demands within the overall spending limitations that we are committed to working within.

One of the more important features of the bill is new authority for nutrition assistance in after-school programs through the Child and Adult Care Food Program for at risk youths between the ages of 12 and 18. We know too well that the hours just after school are full of opportunities for teenagers to get into trouble, whether it involves crime, drug use or teen pregnancy. The availability of nutrition assistance can help to support organized after-school activities that are healthy and constructive alternatives to what might otherwise occur in those risky after-school hours.

There are also provisions in the bill designed to improve the nutrition provided by the programs, including an emphasis on establishing adequate time for kids to eat school lunches in an atmosphere conducive to good nutrition and an authorization of Nutrition Education and Training grants based on $0.50 a child each year with a minimum of $75,000 per state.

There are also provisions in the bill to improve access to the Summer Food Service Program by increasing the number of sites and the number of children that can be served by non-profit sponsors. Statistics continue to show that far fewer low income children are served in the Summer Food Service Program than during the school year in the National School Lunch Program, especially in rural areas. The provisions in this bill are designed to help address this gap.

The bill also reauthorizes the WIC Program. Under Secretary Shirley Watkins was absolutely correct when she said at a recent Agriculture Committee Hearing that, ''WIC works.'' No other Federal-state program has the proven cost-effectiveness of WIC, which has been shown in study after study. This bill is designed to build upon the success of the current WIC program with improvements in program management and integrity.

While I support a very high proportion of the provisions of this bill, I do not necessarily support every detail of it. I will also mention some of the areas in which I hope the final bill will take more substantial steps than are included in this bill. In my view, more should be done to increase participation in the School Breakfast Program, especially among low-income children, and in the Summer Food Service Program. I would also prefer further strengthening of after-school and child care nutrition assistance. And additional steps should be taken to improve integrity and accountability in the WIC program while continuing the progress toward full participation.

I look forward to working with my Congressional colleagues, the Administration and the entire child nutrition community, to design a final bill having broad bipartisan support.

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

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

S. 2166

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Child Nutrition and WIC Reauthorization Amendments of 1998''.

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

TITLE I—SCHOOL LUNCH AND RELATED PROGRAMS

SEC. 101. TECHNICAL AMENDMENTS TO COMMODITY PROVISIONS.

(a) IN GENERAL.—Section 6 of the National School Lunch Act (42 U.S.C. 1755) is amended—

(1) by striking subsections (c) and (d); and

(2) by redesignating subsections (e), (f), and (g) as subsections (c), (d), and (e), respectively.

(b) CONFORMING AMENDMENTS.—The National School Lunch Act is amended by striking ''section 6(e)'' each place it appears in sections 14(f), 16(a), and 17(h)(1)(B) (42 U.S.C. 1762a(f), 1765(a), 1766(h)(1)(B)) and inserting ''section 6(c)''.

SEC. 102. AVAILABILITY OF RECOVERED FUNDS FOR MANAGEMENT ACTIVITY.

Section 8 of the National School Lunch Act (42 U.S.C. 1757) is amended by adding at the end the following:

''(h) RETENTION AND USE OF RECOVERED PROGRAM FUNDS.—

''(1) RETENTION.—A State agency may retain up to 50 percent of any program funds recovered as a result of an audit or review conducted by the State agency of school food authorities, institutions, and service institutions participating in food assistance programs authorized under this Act or section 3 or 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1772, 1773).

''(2) USE.—Funds retained by a State agency under this subsection shall be used by the State agency for allowable program costs to improve the management and operation of programs described in paragraph (1) within the State, including the cost of providing funds to school food authorities, institutions, and service institutions participating in the programs.''.

SEC. 103. ELIMINATION OF ADMINISTRATION OF PROGRAMS BY REGIONAL OFFICES.

(a) MATCHING REQUIREMENT.—Section 7(b) of the National School Lunch Act (42 U.S.C. 1756(b)) is amended by striking the second sentence.

(b) DISBURSEMENT TO SCHOOLS BY THE SECRETARY.—Section 10 of the National School Lunch Act (42 U.S.C. 1759) is amended to read as follows:

''SEC. 10. DISBURSEMENT TO SCHOOLS BY THE SECRETARY.

''(a) AUTHORITY TO ADMINISTER PROGRAMS.—

''(1) IN GENERAL.—Except as provided in paragraph (3), until September 30, 2000, the Secretary shall withhold funds payable to a State agency under this Act and disburse the funds directly to school food authorities, institutions, and service institutions within the State for the purposes authorized by this Act to the extent that the Secretary has so withheld and disbursed the funds continuously since October 1, 1980.

''(2) USE OF FUNDS.—Any funds withheld and disbursed by the Secretary under paragraph (1) shall be used for the same purposes and be subject to the same conditions as apply to disbursing funds made available to States under this Act.

''(3) STATE ADMINISTRATION.—If the Secretary is administering (in whole or in part) any program authorized under this Act in a State, the State may, on request to the Secretary, assume administrative responsibility for the program at any time before October 1, 2000.

''(b) PROVISION OF TRAINING AND TECHNICAL ASSISTANCE.—The Secretary shall provide a State agency that assumes administrative responsibility for a program from the Secretary on or before October 1, 2000, with training and technical assistance to allow for an efficient and effective transfer of the responsibility.''.

(c) CONFORMING AMENDMENT.—Section 11(a)(1)(A) of the National School Lunch Act (42 U.S.C. 1759a(a)(1)(A)) is amended by striking ''Except as provided in section 10 of this Act, in'' and inserting ''In''.

SEC. 104. REQUIREMENT FOR HEALTH AND SAFETY INSPECTIONS.

Section 9 of the National School Lunch Act (42 U.S.C. 1758) is amended by adding at the end the following:

''(h) HEALTH AND SAFETY INSPECTIONS.—A school participating in the school lunch program authorized under this Act or the school breakfast program authorized under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) in which meals are prepared on site shall, at least twice during each school year, obtain an inspection that indicates that food service operations of the school meet State and local health and safety standards.''.

SEC. 105. ELIMINATION OF FOOD AND NUTRITION PROJECTS AND ESTABLISHMENT OF AN ADEQUATE MEAL SERVICE PERIOD.

Section 12 of the National School Lunch Act (42 U.S.C. 1760) is amended by striking subsection (m) and inserting the following:

''(m) LENGTH OF MEAL SERVICE PERIOD AND FOOD SERVICE ENVIRONMENT.—A school participating in the school lunch program authorized under this Act or the school breakfast program authorized under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) shall, to the maximum extent practicable, establish meal service periods that provide children with adequate time to fully consume their meals in an environment that is conducive to eating the meals.''.

SEC. 106. BUY AMERICAN.

Section 12 of the National School Lunch Act (42 U.S.C. 1760) (as amended by section 105) is amended by adding at the end the following:

''(n) BUY AMERICAN.—

''(1) IN GENERAL.—The Secretary shall require that a school purchase, to the maximum extent practicable, food products that are produced in the United States.

''(2) LIMITATIONS.—Paragraph (1) shall apply only to—

''(A) a school located in the contiguous United States; and

''(B) a purchase of a food product for the school lunch program authorized under this Act or the school breakfast program authorized under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).''.

SEC. 107. SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.

(a) ADJUSTMENTS TO REIMBURSEMENT RATES.—Section 12 of the National School Lunch Act (42 U.S.C. 1760) is amended by striking subsection (f) and inserting the following:

''(f) ADJUSTMENTS TO REIMBURSEMENT RATES.—In providing assistance for breakfasts, lunches, suppers, and supplements served in Alaska, Hawaii, Guam, American Samoa, Puerto Rico, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands, the Secretary may establish appropriate adjustments for each such State to the national average payment rates prescribed under sections 4, 11, 13 and 17 of this Act and section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) to reflect the differences between the costs of providing meals in those States and the costs of providing meals in all other States.''.

(b) ESTABLISHMENT OF SITE LIMITATION.—Section 13(a)(7)(B) of the National School Lunch Act (42 U.S.C. 1761(a)(7)(B)) is amended by striking clause (i) and inserting the following:

''(i) operate—

''(I) not more than 25 sites, with not more than 300 children being served at any 1 site; or

''(II) with a waiver granted by the State agency under standards developed by the Secretary, with not more than 500 children being served at any 1 site;''.

(c) ELIMINATION OF INDICATION OF INTEREST REQUIREMENT, REMOVAL OF MEAL CONTRACTING RESTRICTIONS, AND VENDOR REGISTRATION REQUIREMENTS.—Section 13 of the National School Lunch Act (42 U.S.C. 1761) is amended—

(1) in subsection (a)(7)(B)—

(A) by striking clauses (ii) and (iii); and

(B) by redesignating clauses (iv) through (vii) as clauses (ii) through (v) respectively; and

(2) in subsection (l)—

(A) in paragraph (1)—

(i) in the first sentence—

(I) by striking ''(other than private nonprofit organizations eligible under subsection (a)(7))''; and

(II) by striking ''only with food service management companies registered with the State in which they operate'' and inserting ''with food service management companies''; and

(ii) by striking the last sentence;

(B) in paragraph (2)—

(i) in the first sentence, by striking ''shall'' and inserting ''may''; and

(ii) by striking the second and third sentences;

(C) by striking paragraph (3); and

(D) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(d) REAUTHORIZATION OF SUMMER FOOD SERVICE PROGRAM.—Section 13(q) of the National School Lunch Act (42 U.S.C. 1761(q)) is amended by striking ''1998'' and inserting ''2002''.

SEC. 108. COMMODITY DISTRIBUTION PROGRAM.

Section 14(a) of the National School Lunch Act (42 U.S.C. 1762a(a)) is amended by striking ''1998'' and inserting ''2002''.

SEC. 109. CHILD AND ADULT CARE FOOD PROGRAM.

(a) REVISION TO LICENSING AND ALTERNATE APPROVAL FOR SCHOOLS AND OUTSIDE SCHOOL HOURS CHILD CARE CENTERS.—Section 17(a) of the National School Lunch Act (42 U.S.C. 1766(a)) is amended in the fifth sentence by striking paragraph (1) and inserting the following:

''(1) each institution (other than a school or family or group day care home sponsoring organization) and family or group day care home shall—

''(A)(i) have Federal, State, or local licensing or approval; or

''(ii) be complying with appropriate renewal procedures as prescribed by the Secretary and not be the subject of information possessed by the State indicating that the license of the institution or home will not be renewed;

''(B) in any case in which Federal, State, or local licensing or approval is not available—

''(i) receive funds under title XX of the Social Security Act (42 U.S.C. 1397 et seq.);

''(ii) meet any alternate approval standards established by a State or local government; or

''(iii) meet any alternate approval standards established by the Secretary, after consultation with the Secretary of Health and Human Services; or

''(C) in any case in which the institution provides care to school children outside school hours and Federal, State, or local licensing or approval is not required, meet State or local health and safety standards; and''.

(b) REINSTATEMENT OF CATEGORICAL ELIGIBILITY FOR EVEN START PROGRAM PARTICIPANTS.—Section 17(c)(6)(B) of the National School Lunch Act (42 U.S.C. 1766(c)(6)(B)) is amended by striking ''1997'' and inserting ''2002''.

(c) TAX EXEMPT STATUS AND REMOVAL OF NOTIFICATION REQUIREMENT FOR INCOMPLETE APPLICATIONS.—Section 17(d)(1) of the National School Lunch Act (42 U.S.C. 1766(d)(1)) is amended—

(1) by inserting after the third sentence the following: ''An institution moving toward compliance with the requirement for tax exempt status shall be allowed to participate in the child and adult care food program for a period of not more than 180 days, except that a State agency may grant a single extension of not to exceed an additional 90 days if the institution demonstrates, to the satisfaction of the State agency, that the inability of the institution to obtain tax exempt status within the 180-day period is due to circumstances beyond the control of the institution.''; and

(2) by striking the last sentence.

(d) DISTRIBUTION OF PROGRAM INFORMATION.—Section 17(k) of the National School Lunch Act (42 U.S.C. 1766(k)) is amended—

(1) by striking ''A State'' and inserting the following:

''(1) IN GENERAL.—A State''; and

(2) by adding at the end the following:

''(2) DISTRIBUTION OF PROGRAM INFORMATION.—

''(A) DEFINITION OF NEEDY AREA.—In this paragraph, the term 'needy area' means a geographic area served by a school enrolling elementary students in which at least 50 percent of the total number of children enrolled are certified as eligible to receive free or reduced price school meals under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

''(B) INFORMATION.—At least once every 2 years, each State agency shall provide notification of the availability of the program, the requirements for program participation, and the application procedures to be followed under the program to each nonparticipating institution or family or group day care home that—

''(i) is located in a needy area within the State; and

''(ii)(I) has received Federal, State, or local licensing or approval; or

''(II) receives funds under title XX of the Social Security Act (42 U.S.C. 1397 et seq.).''.

(e) ELIMINATION OF AUDIT FUNDS, ESTABLISHMENT OF MANAGEMENT SUPPORT FUNDING, PARTICIPATION BY AT-RISK CHILD CARE PROGRAMS, AND WIC OUTREACH.—Section 17 of the National School Lunch Act (42 U.S.C. 1766) is amended—

(1) by striking subsection (i);

(2) by redesignating subsections (j) through (p) as subsections (i) through (o), respectively; and

(3) by adding at the end the following:

''(p) MANAGEMENT FUNDING.—

''(1) TECHNICAL AND TRAINING ASSISTANCE.—In addition to the normal training and technical assistance provided to State agencies under this section, the Secretary shall provide training and technical assistance in order to assist the State agencies in improving their program management and oversight under this section.

''(2) FUNDING.—For fiscal year 1999 and each succeeding fiscal year, the Secretary shall reserve to carry out paragraph (1) ⅛ of 1 percent of the amount made available to carry out this section.

''(q) AT-RISK CHILD CARE.—

''(1) DEFINITION OF AT-RISK SCHOOL CHILD.—In this subsection, the term 'at-risk school child' means a child who—

''(A) is not less than 12 nor more than 18 years of age; and

''(B) lives in a geographical area served by a school enrolling elementary students in which at least 50 percent of the total number of children enrolled are certified as eligible to receive free or reduced price school meals under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

''(2) PARTICIPATION IN CHILD AND ADULT CARE FOOD PROGRAM.—Subject to the other provisions of this subsection, an institution that provides care to at-risk school children during after-school hours, weekends, or holidays during the regular school year may participate in the program authorized under this section.

''(3) ADMINISTRATION.—Except as otherwise provided in this subsection, the other provisions of this section apply to an institution described in paragraph (2).

''(4) SUPPLEMENT REIMBURSEMENT.—

''(A) LIMITATIONS.—An institution may claim reimbursement under this subsection only for—

''(i) a supplement served to at-risk school children during after-school hours, weekends, or holidays during the regular school year; and

''(ii) 1 supplement per child per day.

''(B) RATE.—A supplement shall be reimbursed under this subsection at the rate established for a free supplement under subsection (c)(3).

''(C) NO CHARGE.—A supplement claimed for reimbursement under this subsection shall be served without charge.

''(r) INFORMATION CONCERNING THE SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN.—

''(1) IN GENERAL.—The Secretary shall provide each State agency administering a child and adult care food program under this section with information concerning the special supplemental nutrition program for women, infants, and children authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

''(2) REQUIREMENTS FOR STATE AGENCIES.—A State agency shall ensure that each participating child care center (other than an institution providing care to school children outside school hours)—

''(A) receives materials that include—

''(i) a basic explanation of the importance and benefits of the special supplemental nutrition program for women, infants, and children;

''(ii) the maximum State income eligibility standards, according to family size, for the program; and

''(iii) information concerning how benefits under the program may be obtained;

''(B) is provided updates of the information described in subparagraph (A) at least annually; and

''(C) provides the information described in subparagraph (A) to parents of enrolled children at least annually.''.

(f) PERMANENT AUTHORIZATION OF DEMONSTRATION PROJECT.—Section 17(o) of the National School Lunch Act (42 U.S.C. 1766(o)) (as redesignated by subsection (e)) is amended by striking paragraphs (4) and (5).

SEC. 110. TRANSFER OF HOMELESS ASSISTANCE PROGRAMS TO THE CHILD AND ADULT CARE FOOD PROGRAM.

(a) SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.—Section 13(a)(3)(C) of the National School Lunch Act (42 U.S.C. 1761(a)(3)(C)) is amended—

(1) in clause (i), by inserting ''or'' after the semicolon;

(2) by striking clause (ii); and

(3) by redesignating clause (iii) as clause (ii).

(b) CHILD AND ADULT CARE FOOD PROGRAM.—Section 17 of the National School Lunch Act (as amended by section 109(e)) is amended—

(1) in the third sentence of subsection (a)—

(A) by striking ''and public'' and inserting ''public''; and

(B) by inserting before the period at the following: '', and emergency shelters described in subsection (s)''; and

(2) by adding at the end the following:

''(s) PARTICIPATION BY EMERGENCY SHELTERS.—

''(1) DEFINITION OF EMERGENCY SHELTER.—In this subsection, the term 'emergency shelter' means a public or private nonprofit emergency shelter (as defined in section 321 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11351)), or a site operated by the shelter, that provides food service to homeless children and their parents or guardians.

''(2) ADMINISTRATION.—Except as otherwise provided in this subsection, the other provisions of this section shall apply to an emergency shelter that is participating in the program authorized under this section.

''(3) INSTITUTION AND SITE LICENSING.—Subsection (a)(1) shall not apply to an emergency shelter.

''(4) HEALTH AND SAFETY STANDARDS.—To be eligible to participate in the program authorized under this section, an emergency shelter shall comply with applicable State and local health and safety standards.

''(5) MEAL REIMBURSEMENT.—

''(A) LIMITATIONS.—An emergency shelter may claim reimbursement under this subsection only for—

''(i) a meal served to children who are not more than 12 years of age residing at the emergency shelter; and

''(ii) not more than 3 meals, or 2 meals and 1 supplement, per child per day.

''(B) RATE.—A meal shall be reimbursed under this subsection at the rate established for a free meal under subsection (c).

''(C) NO CHARGE.—A meal claimed for reimbursement under this subsection shall be served without charge.''.

(c) HOMELESS CHILDREN NUTRITION PROGRAM.—Section 17B of the National School Lunch Act (42 U.S.C. 1766b) is repealed.

SEC. 111. ELIMINATION OF PILOT PROJECTS.

Section 18 of the National School Lunch Act (42 U.S.C. 1769) is amended by striking subsections (e) through (i).

SEC. 112. TRAINING AND TECHNICAL ASSISTANCE.

Section 21(e)(1) of the National School Lunch Act (42 U.S.C. 1769b–1(e)(1)) is amended by striking ''1998'' and inserting ''2002''.

SEC. 113. FOOD SERVICE MANAGEMENT INSTITUTE.

Section 21(e)(2)(A) of the National School Lunch Act (42 U.S.C. 1769b–1(e)(2)(A)) is amended by striking ''and $2,000,000 for fiscal year 1996'' and inserting ''$2,000,000 for each of fiscal years 1996 through 1998, and $3,000,000 for fiscal year 1999''.

SEC. 114. COMPLIANCE AND ACCOUNTABILITY.

Section 22(d) of the National School Lunch Act (42 U.S.C. 1769c(d)) is amended by striking ''1996'' and inserting ''2002''.

SEC. 115. INFORMATION CLEARINGHOUSE.

Section 26 of the National School Lunch Act (42 U.S.C. 1769g) is amended—

(1) in the first sentence of subsection (a), by striking ''shall'' and inserting ''may'';

(2) in subsection (b), by striking ''The'' and inserting ''Except as provided in subsection (d), the''; and

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

''(d) NONCOMPETITIVE CONTRACTS.—Notwithstanding any other provision of law, the Secretary may, on a noncompetitive basis, enter into a contract for the services of any organization with which the Secretary has previously entered into a contract under this section, if the organization has performed satisfactorily under the contract and meets the requirements of this section.

''(e) FUNDING.—The Secretary may provide to the organization selected under this section an amount not to exceed $150,000 for each of fiscal years 1999 through 2002.''.

SEC. 116. REFOCUSING OF EFFORT TO HELP ACCOMMODATE THE SPECIAL DIETARY NEEDS OF INDIVIDUALS WITH DISABILITIES.

Section 27 of the National School Lunch Act (42 U.S.C. 1769h) is amended to read as follows:

''SEC. 27. ACCOMMODATION OF SPECIAL DIETARY NEEDS OF INDIVIDUALS WITH DISABILITIES.

''(a) DEFINITIONS.—In this section:

''(1) COVERED PROGRAM.—The term 'covered program' means—

''(A) the school lunch program authorized under this Act;

''(B) the school breakfast program authorized under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773); and

''(C) any other program authorized under this Act or the Child Nutrition Act of 1966 (except section 17 of that Act) that the Secretary determines is appropriate.

''(2) ELIGIBLE ENTITY.—The term 'eligible entity' means a school food authority, institution, or service institution that participates in a covered program.

''(3) INDIVIDUALS WITH DISABILITIES.—The term 'individual with disabilities' has the meaning given the term in section 7 of the Rehabilitation Act of 1973 (29 U.S.C. 706) for purposes of title VII of that Act (29 U.S.C. 796 et seq.).

''(b) ACTIVITIES.—The Secretary may carry out activities to help accommodate the special dietary needs of individuals with disabilities who are participating in a covered program, including—

''(1) developing and disseminating to State agencies guidance and technical assistance materials;

''(2) conducting training of State agencies and eligible entities; and

''(3) issuing grants to State agencies and eligible entities.''.

TITLE II—SCHOOL BREAKFAST AND RELATED PROGRAMS

SEC. 201. ELIMINATION OF ADMINISTRATION OF PROGRAMS BY REGIONAL OFFICES.

Section 5 of the Child Nutrition Act of 1966 (42 U.S.C. 1774) is amended to read as follows:

''SEC. 5 DISBURSEMENT TO SCHOOLS BY THE SECRETARY.

''(a) AUTHORITY TO ADMINISTER PROGRAMS.—

''(1) IN GENERAL.—Except as provided in paragraph (3), until September 30, 2000, the Secretary shall withhold funds payable to a State agency under this Act and disburse the funds directly to school food authorities, institutions, and service institutions within the State for the purposes authorized by this Act to the extent that the Secretary has so withheld and disbursed the funds continuously since October 1, 1980.

''(2) USE OF FUNDS.—Any funds withheld and disbursed by the Secretary under paragraph (1) shall be used for the same purposes and be subject to the same conditions as apply to disbursing funds made available to States under this Act.

''(3) STATE ADMINISTRATION.—If the Secretary is administering (in whole or in part) any program authorized under this Act in a State, the State may, on request to the Secretary, assume administrative responsibility for the program at any time before October 1, 2000.

''(b) PROVISION OF TRAINING AND TECHNICAL ASSISTANCE.—The Secretary shall provide a State agency that assumes administrative responsibility for a program from the Secretary on or before October 1, 2000, with training and technical assistance to allow for an efficient and effective transfer of administrative responsibility.''.

SEC. 202. STATE ADMINISTRATIVE EXPENSES.

(a) HOMELESS SHELTERS.—Section 7(a)(5) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(a)(5)) is amended by striking subparagraph (B) and inserting the following:

''(B) REALLOCATION OF FUNDS.—

''(i) RETURN TO SECRETARY.—For each fiscal year, any amounts appropriated that are not obligated or expended during the fiscal year and are not carried over for the succeeding fiscal year under subparagraph (A) shall be returned to the Secretary.

''(ii) REALLOCATION BY SECRETARY.—The Secretary shall allocate, for purposes of administrative costs, any remaining amounts among States that demonstrate a need for the amounts.''.

(b) ELIMINATION OF TRANSFER LIMITATION.—Section 7(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(a)) is amended by striking paragraph (6) and inserting the following:

''(6) USE OF ADMINISTRATIVE FUNDS.—Funds available to a State under this subsection and under section 13(k)(1) of the National School Lunch Act (42 U.S.C. 1761(k)(1)) may be used by the State for the costs of administration of the programs authorized under the National School Lunch Act (42 U.S.C. 1751 et seq.) or this Act (except for the programs authorized under sections 17 and 21 of this Act) without regard to the basis on which the funds were earned and allocated.''.

(c) REAUTHORIZATION OF PROGRAM.—Section 7(g) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(g)) is amended by striking ''1998'' and inserting ''2002''.

SEC. 203. SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN.

(a) ADDITIONAL PROGRAM APPLICATION REQUIREMENTS.—Section 17(d)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)(3)) is amended by adding at the end the following:

''(C) PHYSICAL PRESENCE.—An applicant shall be physically present at each certification visit to receive program benefits.

''(D) INCOME DOCUMENTATION.—An applicant shall provide documentation of household income, or of participation in a program described in clause (ii) or (iii) of paragraph (2)(A), at certification to be determined to meet income eligibility requirements for the program.

''(E) VERIFICATION.—The Secretary shall issue regulations under this subsection prescribing when and how verification of income shall be required.''.

(b) DISTRIBUTION OF NUTRITION EDUCATION MATERIALS.—Section 17(e)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(e)(3)) is amended—

(1) by striking ''(3) The'' and inserting the following:

''(3) NUTRITION EDUCATION MATERIALS.—

''(A) IN GENERAL.—The''; and

(2) by adding at the end the following:

''(B) SHARING OF MATERIALS WITH CSFP.—The Secretary may provide, in bulk quantity, nutrition education materials (including materials promoting breastfeeding) developed with funds made available for the program authorized under this section to State agencies administering the commodity supplemental food program authorized under sections 4(a) and 5 of the Agriculture and Consumer Protection Act of 1973 (Public Law 93–86; 7 U.S.C. 612c note) at no cost to that program.''.

(c) REAUTHORIZATION OF PROGRAM.—Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) is amended in subsections (g)(1) and (h)(2)(A) by striking ''1998'' each place it appears and inserting ''2002''.

(d) INFANT FORMULA PROCUREMENT.—Section 17(h)(8)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(8)(A)) is amended by adding at the end the following:

''(iii) COMPETITIVE BIDDING SYSTEM.—A State agency using a competitive bidding system for infant formula shall award a contract to the bidder offering the lowest net price unless the State agency demonstrates to the satisfaction of the Secretary that the weighted average retail price for different brands of infant formula in the State does not vary by more than 5 percent.''.

(e) INFRASTRUCTURE AND BREASTFEEDING SUPPORT AND PROMOTION.—Section 17(h)(10)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(10)(A)) is amended by striking ''1998'' and inserting ''2002''.

(f) SPEND-FORWARD AUTHORITY.—Section 17(i)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(i)(3)) is amended—

(1) in subparagraph (A)—

(A) in clause (i), by striking ''and'' at the end;

(B) in clause (ii)—

(i) by inserting ''nutrition services and administration'' after ''amount of''; and

(ii) by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(iii) with the prior approval of the Secretary, not more than 4 percent of the amount of funds allocated to a State agency for nutrition services and administration for a fiscal year under this section may be expended by the State agency during the subsequent fiscal year for the costs of developing electronic benefit transfer.'';

(2) in subparagraph (B), by striking ''subparagraph (A)(ii)'' and inserting ''clauses (ii) and (iii) of subparagraph (A)'';

(3) by striking subparagraphs (D) through (G); and

(4) by redesignating subparagraph (H) as subparagraph (D).

(g) FARMERS MARKET NUTRITION PROGRAM.—

(1) MATCHING FUNDS REQUIREMENT.—Section 17(m)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(m)(3)) is amended by striking ''total'' each place it appears and inserting ''administrative''.

(2) RANKING CRITERIA FOR STATE PLANS.—Section 17(m)(6) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(m)(6)) is amended—

(A) by striking subparagraph (F); and

(B) by redesignating subparagraph (G) as subparagraph (F).

(3) FUNDING.—Section 17(m)(9)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(m)(9)(A)) is amended by striking ''1998'' and inserting ''2002''.

(h) DISQUALIFICATION OF CERTAIN VENDORS.—

(1) IN GENERAL.—Section 17 of the Child Nutrition Act of 1996 (42 U.S.C. 1786) is amended by adding at the end the following:

''(o) DISQUALIFICATION OF VENDORS CONVICTED OF TRAFFICKING OR ILLEGAL SALES.—

''(1) IN GENERAL.—Except as provided in paragraph (4), a State agency shall permanently disqualify from participation in the program authorized under this section a vendor convicted of—

''(A) trafficking in food instruments (including any voucher, draft, check, or access device (including an electronic benefit transfer card or personal identification number) issued in lieu of a food instrument under this section); or

''(B) selling firearms, ammunition, explosives, or controlled substances (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) in exchange for food instruments.

''(2) NOTICE OF DISQUALIFICATION.—The State agency shall—

''(A) provide the vendor with notification of the disqualification; and

''(B) make the disqualification effective on the date of receipt of the notice of disqualification.

''(3) PROHIBITION OF RECEIPT OF LOST REVENUES.—A vendor shall not be entitled to receive any compensation for revenues lost as a result of disqualification under this subsection.

''(4) HARDSHIP EXCEPTION IN LIEU OF DISQUALIFICATION.—

''(A) IN GENERAL.— A State agency may permit a vendor that, but for this paragraph, would be disqualified under paragraph (1), to continue to redeem food instruments or otherwise provide supplemental foods to participants if the State agency determines, in its sole discretion according to criteria established by the Secretary, that disqualification of the vendor would cause hardship to participants in the program authorized under this section.

''(B) CIVIL MONEY PENALTY.—If a State agency authorizes a vendor that, but for this paragraph, would be disqualified to redeem food instruments or provide supplemental foods under subparagraph (A), the State agency shall assess the vendor a civil money penalty in lieu of disqualification.

''(C) AMOUNT.—The State agency shall determine the amount of the civil penalty according to criteria established by the Secretary.''.

(2) REGULATIONS.—The amendment made by paragraph (1) shall take effect on the date on which the Secretary of Agriculture issues a final regulation that includes the criteria for—

(A) making hardship determinations; and

(B) determining the amount of a civil money penalty in lieu of disqualification.

SEC. 204. NUTRITION EDUCATION AND TRAINING.

Section 19(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1788(i)) is amended—

(1) by striking the subsection heading and all that follows through paragraph (3)(A) and inserting the following:

''(i) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—

''(A) FUNDING.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 1997 through 2002.''; and

(2) by redesignating paragraphs (4) and (5) as paragraphs (2) and (3), respectively.

TITLE III—COMMODITY DISTRIBUTION PROGRAMS

SEC. 301. COMMODITY DISTRIBUTION PROGRAM REFORMS.

(a) COMMODITY SPECIFICATIONS.—Section 3(a) of the Commodity Distribution Reform Act and WIC Amendments of 1987 (Public Law 100–237; 7 U.S.C. 612c note) is amended by striking paragraph (2) and inserting the following:

''(2) APPLICABILITY.—Paragraph (1) shall apply to—

''(A) the commodity supplemental food program authorized under sections 4(a) and 5 of the Agriculture and Consumer Protection Act of 1973 (Public Law 93–86; 7 U.S.C. 612c note);

''(B) the food distribution program on Indian reservations authorized under section 4(b) of the Food Stamp Act of 1977 (7 U.S.C. 2013(b)); and

''(C) the school lunch program authorized under the National School Lunch Act (42 U.S.C. 1751 et seq.).''.

(b) CUSTOMER ACCEPTABILITY INFORMATION.—Section 3(f) of the Commodity Distribution Reform Act and WIC Amendments of 1987 (Public Law 100–237; 7 U.S.C. 612c note) is amended by striking paragraph (2) and inserting the following:

''(2) CUSTOMER ACCEPTABILITY INFORMATION.—

''(A) IN GENERAL.—The Secretary shall ensure that information with respect to the types and forms of commodities that are most useful is collected from recipient agencies participating in programs described in subsection (a)(2).

''(B) FREQUENCY.—The information shall be collected at least once every 2 years.

''(C) ADDITIONAL SUBMISSIONS.—The Secretary—

''(i) may require submission of information described in subparagraph (A) from recipient agencies participating in other domestic food assistance programs administered by the Secretary; and

''(ii) shall provide the recipient agencies a means for voluntarily submitting customer acceptability information.''.

SEC. 302. FOOD DISTRIBUTION.

(a) IN GENERAL.—Sections 8 through 12 of the Commodity Distribution Reform Act and WIC Amendments of 1987 (Public Law 100–237; 7 U.S.C. 612c note) are amended to read as follows:

''SEC. 8. AUTHORITY TO TRANSFER COMMODITIES BETWEEN PROGRAMS.

''(a) TRANSFER.—Subject to subsection (b), the Secretary may transfer any commodities purchased for a domestic food assistance program administered by the Secretary to any other domestic food assistance program administered by the Secretary if the transfer is necessary to ensure that the commodities will be used while the commodities are still suitable for human consumption.

''(b) REIMBURSEMENT.—The Secretary shall, to the maximum extent practicable, provide reimbursement for the value of the commodities transferred under subsection (a) from accounts available for the purchase of commodities under the program receiving the commodities.

''(c) CREDITING.—Any reimbursement made under subsection (b) shall—

''(1) be credited to the accounts that incurred the costs when the transferred commodities were originally purchased; and

''(2) be available for the purchase of commodities with the same limitations as are provided for appropriated funds for the reimbursed accounts for the fiscal year in which the transfer takes place.

''SEC. 9. AUTHORITY TO RESOLVE CLAIMS.

''(a) IN GENERAL.—The Secretary may determine the amount of, settle, and adjust all or part of a claim arising under a domestic food assistance program administered by the Secretary.

''(b) WAIVERS.—The Secretary may waive a claim described in subsection (a) if the Secretary determines that a waiver would serve the purposes of the program.

''(c) AUTHORITY OF THE ATTORNEY GENERAL.—Nothing in this section diminishes the authority of the Attorney General under section 516 of title 28, United States Code, or any other provision of law, to supervise and conduct litigation on behalf of the United States.

''SEC. 10. PAYMENT OF COSTS ASSOCIATED WITH MANAGEMENT OF COMMODITIES THAT POSE A HEALTH OR SAFETY HAZARD.

''(a) IN GENERAL.—The Secretary may use funds available to carry out section 32 of the Act of August 24, 1935 (49 Stat. 774, chapter 641; 7 U.S.C. 612c), that are not otherwise committed, for the purpose of reimbursing States for State and local costs associated with commodities distributed under any domestic food assistance program administered by the Secretary if the Secretary determines that the commodities pose a health or safety hazard.

''(b) ALLOWABLE COSTS.—The costs—

''(1) may include costs for storage, transportation, processing, and destruction of the hazardous commodities; and

''(2) shall be subject to the approval of the Secretary.

''(c) REPLACEMENT COMMODITIES.—

''(1) IN GENERAL.—The Secretary may use funds described in subsection (a) for the purpose of purchasing additional commodities if the purchase will expedite replacement of the hazardous commodities.

''(2) RECOVERY.—Use of funds under paragraph (1) shall not restrict the Secretary from recovering funds or services from a supplier or other entity regarding the hazardous commodities.

''(d) CREDITING OF RECOVERED FUNDS.—Funds recovered from a supplier or other entity regarding the hazardous commodities shall—

''(1) be credited to the account available to carry out section 32 of the Act of August 24, 1935 (49 Stat. 774, chapter 641; 7 U.S.C. 612c), to the extent the funds represent expenditures from that account under subsections (a) and (c); and

''(2) remain available to carry out the purposes of section 32 of that Act until expended.

''SEC. 11. AUTHORITY TO ACCEPT COMMODITIES DONATED BY FEDERAL SOURCES.

''(a) IN GENERAL.—The Secretary may accept donations of commodities from any Federal agency, including commodities of another Federal agency determined to be excess personal property pursuant to section 202(d) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483(d)).

''(b) USE.—The Secretary may donate the commodities received under subsection (a) to States for distribution through any domestic food assistance program administered by the Secretary.

''(c) PAYMENT.—Notwithstanding section 202(d) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483(d)), the Secretary shall not be required to make any payment in connection with the commodities received under subsection (a).''.

(b) EFFECT ON PRIOR AMENDMENTS.—The amendment made by subsection (a) does not affect the amendments made by sections 8 through 12 of the Commodity Distribution Reform Act and WIC Amendments of 1987 (Public Law 100–237; 7 U.S.C. 612c note), as in effect on September 30, 1998.

TITLE IV—EFFECTIVE DATE

SEC. 401. EFFECTIVE DATE.

Except as provided in section 203(h)(2), this Act and the amendments made by this Act take effect on October 1, 1998.●

By Ms. COLLINS (for herself and Mr. GRASSLEY):

S. 2167. A bill to amend the Inspector General Act of 1978 (5 U.S.C. App.) to increase the efficiency and accountability of Offices of Inspector General within Federal departments, and for other purposes; to the Committee on Governmental Affairs.

INSPECTOR GENERAL ACT AMENDMENTS OF 1998

Ms. COLLINS. Mr. President, since coming to the Senate and assuming the Chairmanship of the Permanent Subcommittee on Investigations, one of my top priorities has been the seemingly never-ending fight to ferret out and eliminate waste, fraud and abuse in federal government programs. We've all heard the horror stories of $500 hammers and roads built to nowhere. The waste of scarce federal resources not only picks the pockets of the taxpayers but also places severe financial pressures on already overburdened programs, forcing cutbacks in the delivery of vital government services.

Over the past year, I have seen this waste first-hand as the Subcommittee put a spotlight on massive fraud in the Medicare program. To cite just one example, the Subcommittee's investigation revealed that the federal government had been sending Medicare checks to 14 health care companies whose address, if they had existed, was in the middle of the runway of the Miami International Airport. That fraud cost the taxpayers millions of dollars, diverting scarce resources from the elderly and legitimate health care providers.

This example and others like it were uncovered by my Subcommittee working hand-in-hand with the Inspector General's Office, whose mission is to identify the eliminate waste, fraud and abuse in federal programs. In many ways, the Inspectors General are the eyes and ears of the Permanent Subcommittee on Investigations, in particular, and the Congress, in general, as we strive to detect and prevent waste, fraud, abuse, and mismanagement in federal programs.

Mr. President, this year marks the 20th anniversary of the Inspector General Act, the law that the Congress passed to create these guardians of the public purse. As we recognize this anniversary, it is important for Congress to take a close look at the IG system.

During the past 20 years, the Inspector General community has grown from 12 in 1978 to 57 Inspectors General today. These offices receive more than $1 billion in annual funding and employ over 10,000 auditors, criminal investigators, and support personnel. The Office of Inspector General is charged with tremendous responsibilities and is given considerable authority to uncover waste and abuse within the government.

By and large, the IG community has done an outstanding job. They have made thousands of recommendations to Congress, ultimately saving taxpayers literally billions of dollars. Investigations by Inspectors General have also resulted in the recovery of billions of dollars from companies and individuals who defrauded the federal government. These investigations have been the basis for thousands of criminal prosecutions, debarments, exclusions and suspensions.

The Inspectors General have a demonstrated record of success over the past 20 years, but as with any government program, we must be vigilant to ensure that the program is well managed, accountable, and effective. With this goal in mind and drawing on my work with the Inspectors General over the past year and a half, I am introducing the ''Inspector General Act Amendments of 1998,'' a bill to improve the accountability and efficiency of the Inspectors General program. I am pleased to have my colleague from Iowa, Senator GRASSLEY, as a cosponsor.

The bill is designed to increase the accountability and independence of Inspectors General. It establishes a renewable nine-year term of office for each of the 26 Inspectors General who are appointed by the President and confirmed by the Senate. This provision will also encourage Inspectors General to serve for longer periods of time so that their experience and judgment can be used to fight waste, fraud and abuse.

This bill also takes steps to streamline the IG Offices themselves—making them more efficient and flexible—by consolidating existing offices and by reducing the volume of the inspectors general reporting requirements.

The number of OIGs has increased more than four-fold in twenty years, and many of these are small offices with just a handful of employees. These small OIGs can be made far more efficient and effective by transferring their functions to larger, department-wide IG offices. For example, my bill consolidates the current stand-alone office of the Peace Corps, with just 15 employees, into the State Department—eliminating unnecessary overhead and bureaucracy but continuing thorough audit and oversight of the Peace Corps. Under this proposal, seven existing small IG offices are consolidated into the IG offices of major departments.

Currently, Offices of Inspectors General are required by law to provide semi-annual reports to Congress. My bill would increase the value of the report process by reducing the requirement to a single annual report and streamlining the information required for each report. For example, the new reporting requirement would require the IGs to identify areas within their jurisdiction which are at highest risk for waste, fraud and abuse. In that way, the Congress can attack those weak areas before they get worse and before the problems become more difficult to solve.

The Inspectors General have made valuable contributions to the efficient operation of the federal government, but their record is not without blemish. For example, this successful record was recently tarnished by the activities of the Treasury Department's Office of Inspector General. After an extensive investigation, my Subcommittee found that this office violated federal laws in the award of two sole-source contracts, which wasted thousands of dollars. It was disturbing to find that this one Inspector General's Office was itself guilty of wasting resources—the very office charged with preventing fraud and abuse. At the conclusion of that investigation, the Subcommittee asked the question: who is watching the watchdogs?

Let me stress that, in my view, problems like the ones in the Treasury Inspector General's office are not widespread in the Inspector General community. However, an Inspector General is not like any other government manager. Inspectors General are the very officials in government responsible for combating waste, fraud and abuse in Federal programs. And as such, Inspectors General should be held to a higher standard. To do their job effectively, Inspectors General must be above reproach, must set an example for other government managers to follow, and must not create situations where there is even the appearance of impropriety. Credibility and effectiveness are lost when the office charged with combating waste and abuse engages in the kind of activity that the Inspector General is responsible for deterring.

To increase accountability, my bill requires independent external reviews of the Inspector General offices every three years. It gives each office the flexibility to choose the most efficient method of review, but it does require that the watchdogs themselves submit to oversight by a qualified third party. This provision will help ensure public confidence in the management and efficiency of the IG offices.

Finally, Mr. President, one provision that is not included in this bill, but that deserves careful consideration, is the grant of statutory law enforcement authority for the Inspector General of the Department of Health and Human Services. The Medicare fraud investigation conducted by my Subcommittee revealed the dangers faced by HHS–IG Special Agents when they work with the FBI and others to investigate some cases of health care fraud. These agents work side by side with other federal law enforcement professionals, and the Congress should carefully examine the best way to provide them with tools necessary for them to do their jobs effectively.

Mr. President, the bill I introduce today represents the first step in the process to improve the effectiveness, efficiency and accountability of the Inspector General program. These offices

provide valuable assistance to the Congress so that we can exercise our duty to oversee the operation of the federal government and to make sure that the taxpayer's money is well spent and not wasted. I urge my colleagues to join me in this effort to strengthen and improve the Inspectors General program into the next century.

By Mr. INOUYE:

S.J. Res. 53. A joint resolution to express the sense of the Congress that the President should award a Presidential Unit Citation to the final crew of the U.S.S. *Indianapolis*, which was sunk on July 30, 1945; to the Committee on Armed Services.

● Mr. INOUYE. Mr. President, today I am introducing a joint resolution which calls upon the President to award a Presidential Unit Citation to the final crew of the U.S.S. *Indianapolis* (CA–35) that recognizes the courage, fortitude and heroism displayed by the crew in the face of tremendous hardship and adversity after their ship was torpedoed and sunk on July 30, 1945.●

ADDITIONAL COSPONSORS

S. 38

At the request of Mr. FEINGOLD, the name of the Senator from Arizona [Mr. KYL] was added as a cosponsor of S. 38, a bill to reduce the number of executive branch political appointees.

S. 263

At the request of Mr. MCCONNELL, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 263, a bill to prohibit the import, export, sale, purchase, possession, transportation, acquisition, and receipt of bear viscera or products that contain or claim to contain bear viscera, and for other purposes.

S. 644

At the request of Mr. D'AMATO, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 644, a bill to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to establish standards for relationships between group health plans and health insurance issuers with enrollees, health professionals, and providers.

S. 852

At the request of Mr. LOTT, the names of the Senator from Nebraska [Mr. KERREY] and the Senator from Oklahoma [Mr. INHOFE] 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. 1252

At the request of Mr. GRAHAM, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1252, a bill to amend the Internal Revenue Code of 1986 to increase the amount of low-income housing credits which may be allocated in each State, and to index such amount for inflation.

S. 1413

At the request of Mr. LUGAR, the names of the Senator from North Dakota [Mr. CONRAD] and the Senator from Virginia [Mr. WARNER] were added as cosponsors of S. 1413, a bill to provide a framework for consideration by the legislative and executive branches of unilateral economic sanctions.

S. 1464

At the request of Mr. HATCH, the name of the Senator from New Jersey [Mr. TORRICELLI] was added as a cosponsor of S. 1464, a bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit, and for other purposes.

S. 1606

At the request of Mr. WELLSTONE, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 1606, a bill to fully implement the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment and to provide a comprehensive program of support for victims of torture.

S. 1647

At the request of Mr. BAUCUS, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 1647, a bill to reauthorize and make reforms to programs authorized by the Public Works and Economic Development Act of 1965.

S. 1924

At the request of Mr. MACK, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 1924, a bill to restore the standards used for determining whether technical workers are not employees as in effect before the Tax Reform Act of 1986.

S. 1981

At the request of Mr. HUTCHINSON, the name of the Senator from Oklahoma [Mr. INHOFE] was added as a cosponsor of S. 1981, a bill to preserve the balance of rights between employers, employees, and labor organizations which is fundamental to our system of collective bargaining while preserving the rights of workers to organize, or otherwise engage in concerted activities protected under the National Labor Relations Act.

S. 2030

At the request of Mr. BUMPERS, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 2030, a bill to amend the Federal Rules of Civil Procedure, relating to counsel for witnesses in grand jury proceedings, and for other purposes.

S. 2049

At the request of Mr. KERREY, the names of the Senator from Florida [Mr. GRAHAM] and the Senator from Florida [Mr. MACK] were added as cosponsors of S. 2049, a bill to provide for payments to children's hospitals that operate graduate medical education programs.

S. 2078

At the request of Mr. GRASSLEY, the name of the Senator from Minnesota [Mr. GRAMS] was added as a cosponsor of S. 2078, a bill to amend the Internal Revenue Code of 1986 to provide for Farm and Ranch Risk Management Accounts, and for other purposes.

S. 2110

At the request of Mr. BIDEN, the names of the Senator from Nevada [Mr. REID] and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of S. 2110, a bill to authorize the Federal programs to prevent violence against women, and for other purposes.

S. 2116

At the request of Mr. LUGAR, the name of the Senator from Wisconsin [Mr. FEINGOLD] was added as a cosponsor of S. 2116, a bill to clarify and enhance the authorities of the Chief Information Officer of the Department of Agriculture.

S. 2118

At the request of Mr. CHAFEE, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 2118, a bill to amend the Internal Revenue Code of 1986 to reduce the tax on vaccines to 25 cents per dose.

S. 2128

At the request of Mr. STEVENS, the names of the Senator from Minnesota [Mr. GRAMS] and the Senator from Nebraska [Mr. HAGEL] were added as cosponsors of S. 2128, a bill to clarify the authority of the Director of the Federal Bureau of Investigation regarding the collection of fees to process certain identification records and name checks, and for other purposes.

S. 2144

At the request of Mr. COVERDELL, the name of the Senator from Ohio [Mr. DEWINE] was added as a cosponsor of 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.

S. 2150

At the request of Mr. FRIST, the names of the Senator from Washington [Mrs. MURRAY], the Senator from New Mexico [Mr. BINGAMAN], and the Senator from Kentucky [Mr. MCCONNELL] were added as cosponsors of S. 2150, a bill to amend the Public Health Service Act to revise and extend the bone marrow donor program, and for other purposes.

S. 2151

At the request of Mr. NICKLES, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of 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.

SENATE CONCURRENT RESOLUTION 82

At the request of Mr. WELLSTONE, the names of the Senator from New York [Mr. MOYNIHAN] and the Senator from Wisconsin [Mr. FEINGOLD] were added as cosponsors of Senate Concurrent Resolution 82, a concurrent resolution