certain programs under the authority of the Substance Abuse and Mental Health Services Administration, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. MURKOWSKI (for himself and Mr. BINGAMAN) (by request):

S. 1047. A bill to provide for a more competitive electric power industry, and for other purposes; to the Committee on Energy and Natural Resources.

S. 1048. A bill to provide for a more competitive electric power industry, and for other purposes; to the Committee on Finance.

By Mr. MURKOWSKI:

S. 1049. A bill to improve the administration of oil and gas leases on Federal land, and for other purposes; to the Committee on Energy and Natural Resources.

S. 1050. A bill to amend the Internal Revenue Code of 1986 to provide incentives for gas and oil producers, and for other purposes; to the Committee on Finance.

By Mr. MURKOWSKI (for himself and Mr. BINGAMAN) (by request):

S. 1051. A bill to amend the Energy Policy and Conservation Act to manage the Strategic Petroleum Reserve more effectively, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MURKOWSKI (for himself, Mr. AKAKA, and Mr. BINGAMAN):

S. 1052. A bill to implement further the Act (Public Law 94–241) approving the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. FITZGERALD (for himself, Mr. GRASSLEY, Mr. ROBERTS, and Mr. ASHCROFT):

S. Res. 101. A resolution expressing the sense of the Senate on agricultural trade negotiations; to the Committee on Finance.

By Mr. LOTT:

S. Res. 102. A resolution appointing Patricia Mack Bryan as Senate Legal Counsel; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH:

S. 1028. A bill to simplify and expedite access to the Federal courts for injured parties whose rights and privileges, secured by the United States Constitution, have been deprived by final actions of Federal agencies, or other government officials or entities acting under color of State law, and for other purposes; to the Committee on the Judiciary.

CITIZENS ACCESS TO JUSTICE ACT OF 1999

Mr. HATCH. Mr. President, I am pleased today to introduce the ''Citizens Access to Justice Act of 1999,'' or CAJA. More precisely, I am reintroducing the same bill that was voted out of the Judiciary Committee last Congress, but was a victim of a filibuster by the left.

Why am I doing this? Some may say that it is fruitless. But even though Senator LANDRIEU, other supporters of the bill, and myself, were unsuccessful last Congress in passing this much needed bill, property owners of Utah, and, indeed, of all of our States, still feel the heavy hand of the government erode their right to hold and enjoy private property. To make matters worse, many of these property owners often are unable to safeguard their rights because they effectively are denied access to federal courts. Our bill was designed to rectify this problem. Let me explain.

In a society based upon the ''rule of law,'' the ability to protect property and other rights is of paramount importance. Indeed, it was Chief Justice John Marshall, who in the seminal 1803 case of Marbury v. Madison, observed that the ''government of the United States has been emphatically termed a government of laws, and not of men. It will cease to deserve this high appellation, if the laws furnish no remedy for the violation of a vested right.''

Despite this core belief of John Marshall and other Founders, the ability of property owners to vindicate their rights in court today is being frustrated by localities which sometimes create labyrinths of administrative hurdles that property owners must jump through before being able to bring a claim in Federal court to vindicate their federal constitutional rights. They are also hampered by the overlapping and confusing jurisdiction of the Court of Federal Claims and the federal district courts over Fifth Amendment property rights claims. CAJA seeks to remedy these situations.

The purpose of the bill is, therefore, at its root, primarily one of fostering fundamental fairness and simple justice for the many millions of Americans who possess or own property. Many citizens who attempt to protect their property rights guaranteed by the Fifth Amendment of the Constitution are barred from the doors of the federal courthouse.

In situations where other than Fifth Amendment property rights are sought to be enforced—such as First Amendment rights, for example—aggrieved parties generally file in a single federal forum to obtain the full range of remedies available to litigants to make them whole. In property rights cases, property owners may have to file in different courts for different types of remedies. This is expensive and wasteful.

Moreover, unlike situations where other constitutional rights are sought to be enforced, property owners seeking to enforce their Fifth Amendment rights must first exhaust all state remedies with the result that they may have to wait for over a decade before their rights are allowed to be vindicated in federal court—if they get there at all. CAJA addresses this problem of providing property owners fair access to federal courts to vindicate their federal constitutional rights.

Let me be more specific. The bill has two main provisions to accomplish this end. The first is to provide private property owners claiming a violation of the Fifth Amendment's Taking Clause some certainty as to when they may file the claim in federal court. This is accomplished by addressing the procedural hurdles of the ripeness and abstention doctrines which currently prevent them from having fair and equal access to federal court. The bill defines when a final agency decision has occurred for purposes of meeting the ripeness requirement and prohibits a federal judge from abstaining from or relinquishing jurisdiction when the case does not allege any violation of a state law, right, or privilege. Thus, the bill serves as a vehicle for overcoming federal judicial reluctance to review takings claims based on the ripeness and abstention doctrines.

The second provision clarifies the jurisdiction between the Court of Federal Claims in Washington, D.C., and the regional federal district courts over federal Fifth Amendment takings claims. The ''Tucker Act,'' which waives the sovereign immunity of the United States by granting the Court of Federal Claims jurisdiction to entertain monetary claims against the United States, actually complicates the ability of a property owner to vindicate the right to just compensation for a government action that has caused a taking. The law currently forces a property owner to elect between equitable relief in the federal district court and monetary relief in the Court of Federal Claims. Further difficulty arises when the law is used by the government to urge dismissal in the district court on the ground that the plaintiff should seek just compensation in the Court of Federal Claims, and is used to urge dismissal in the Court of Federal Claims on the ground that plaintiff should first seek equitable relief in the district court.

This division between law and equity is archaic and results in burdensome delays as property owners who seek both types of relief are ''shuffled'' from one court to the other to determine which court is the proper forum for review. The bill resolves this matter by simply giving both courts concurrent jurisdiction over takings claims, thus allowing both legal and equitable relief to be granted in a single forum.

I must emphasize that the bill does not create any substantive rights. The definition of property, as well as what constitutes a taking under the Just Compensation Clause of the Fifth Amendment, is left to the courts to define. The bill would not change existing case law's ad hoc, case-by-case definition of regulatory takings. Instead, it would provide a procedural fix to the litigation muddle that delays and increases the cost of litigating a Fifth Amendment taking case. All the bill does is to provide for fair procedures to allow property owners the means to safeguard their rights by having their day in court.

Mr. President, I am very well aware that this bill has been opposed by the

Department of Justice, many localities, some interstate governmental associations, and certain environmental groups. I believe that there concerns that the bill would hinder local prerogatives and significantly increase the amount of federal litigation are highly overstated. The bill is carefully drafted to ensure that aggrieved property owners must first seek solutions on the local or state level before filing a federal claim. It just sets a limit on how many procedures localities may interpose.

Moreover, I seriously doubt that there will be a rush of new litigation, as some have contended, flooding federal courts. That there will be no significant increase was the conclusion of the nonpartisan Congressional Budget Office in its study of last year's bill.

It is extremely difficult to prove a takings claim, and this bill does not in any way redefine what constitutes a taking. These claims are also expensive to bring. Paradoxically, localities' need to defend federal actions may be lessened by the bill because localities already must litigate property rights claims on federal ripeness grounds, which take years to resolve.

Let me restate this. By providing certainty on the ripeness issue, the bill may very well reduce litigation costs to localities. Substantive takings claims, unless they are likely to prevail on the merits, are simply too hard to prove and too expensive to bring in federal court. And the issue of ripeness will have been removed by the bill from the already crowded court dockets.

Mr. President, it is interesting to note that once many state officials, localities, and state and trade organizations really examine the measure, many become the bill's supporters. Those supporting the bill and increased vigilance in the property rights arena include the Governors of Tennessee, Wisconsin, New Mexico, and North Dakota.

They also include the American Legislative Exchange Council, which represents over 3000 state legislators, and trade groups such as America's Community Bankers, the National Mortgage Association of America, the National Association of Home Builders, the National Association of Realtors, and the National Federation of Independent Businesses, the organ of small business in the United States. They also include agricultural interests such as the American Farm Bureau, the American Forest and Paper Association, the National Cattlemen's Beef Association, and the National Grange.

Just as important, let me point out that 133 House sponsors of the last year's House passed bill were former state and local officeholders. I do not believe that they would have voted for the bill if the bill would conflict with local sovereignty.

Mr. President, we have bent over backwards trying to accommodate those expressing concerns about the bill which passed out of the Senate Judiciary Committee last year. We met with city mayors, representatives of local governmental organizations, attorneys generals, and religious groups, to name just a few.

We held group meetings and asked for suggestions and changes to the bill which would alleviate opposition and concerns. These changes are incorporated in the present bill. These changes by and large alleviate municipalities' concerns that the bill would become a vehicle for frivolous and novel suits. They remove any incentive the bill may have for property owners to file specious suits against localities. They foster negotiations to resolve problems. And, they recognize the right of the states and localities to abate nuisances without having to pay compensation.

But I am under no illusion. I understand that many localities still oppose the bill. The process that we so fruitfully began last year should be continued. It is my hope that groups supporting property rights and those localities and governmental entities that oppose the bill should meet as soon as practicable. Let each side discuss their problems and concerns. I believe—in the best tradition of American pragmatic know how—that a solution to this problem can be worked out.

The bill I introduce today is a model. But it is a model that can be improved. I assure all those concerned that we will consider all reasonable suggested changes to the bill. After all, it is not pride of authorship that is important. What is important, instead, is a viable solution to a vexing and unfair problem.

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

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

S. 1028

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 ''Citizens Access to Justice Act of 1999''.

SEC. 2. FINDINGS.

Congress finds that—

(1) property rights have been abrogated by the application of laws, regulations, and other actions by all levels of government that adversely affect the value and the ability to make reasonable use of private property;

(2) certain provisions of sections 1346 and 1402 and chapter 91 of title 28, United States Code (commonly known as the Tucker Act), that delineate the jurisdiction of courts hearing property rights claims, frustrate the ability of a property owner to obtain full relief for violation founded upon the fifth and fourteenth amendments of the United States Constitution;

(3) current law—

(A) has no sound basis for splitting jurisdiction between two courts in cases where constitutionally protected property rights are at stake;

(B) adds to the complexity and cost of takings and litigation, adversely affecting taxpayers and property owners;

(C) forces a property owner, who seeks just compensation from the Federal Government, to elect between equitable relief in the district court and monetary relief (the value of the property taken) in the United States Court of Federal Claims;

(D) is used to urge dismissal in the district court in complaints against the Federal Government, on the ground that the plaintiff should seek just compensation in the Court of Federal Claims;

(E) is used to urge dismissal in the Court of Federal Claims in complaints against the Federal Government, on the ground that the plaintiff should seek equitable relief in district court; and

(F) forces a property owner to first pay to litigate an action in a State court, before a Federal judge can decide whether local government has denied property rights safeguarded by the United States Constitution;

(4) property owners cannot fully vindicate property rights in one lawsuit and their claims may be time barred in a subsequent action;

(5) property owners should be able to fully recover for a taking of their private property in one court;

(6) certain provisions of section 1346 and 1402 and chapter 91 of title 28, United States Code (commonly known as the Tucker Act) should be amended, giving both the district courts of the United States and the Court of Federal Claims jurisdiction to hear all claims relating to property rights in complaints against the Federal Government;

(7) section 1500 of title 28, United States Code, which denies the Court of Federal Claims jurisdiction to entertain a suit which is pending in another court and made by the same plaintiff, should be repealed;

(8) Federal and local authorities, through complex, costly, repetitive and unconstitutional permitting, variance, and licensing procedures, have denied property owners their fifth and fourteenth amendment rights under the United States Constitution to the use, enjoyment, and disposition of, and exclusion of others from, their property, and to safeguard those rights, there is a need to determine what constitutes a final decision of an agency in order to allow claimants the ability to protect their property rights in a court of law;

(9) a Federal judge should decide the merits of cases where a property owner seeks redress solely for infringements of rights safeguarded by the United States Constitution, and where no claim of a violation of State law is alleged; and

(10) certain provisions of sections 1343, 1346, and 1491 of title 28, United States Code, should be amended to clarify when a claim for redress of constitutionally protected property rights is sufficiently ripe so a Federal judge may decide the merits of the allegations.

SEC. 3. PURPOSES.

The purposes of this Act are to—

(1) establish a clear, uniform, and efficient judicial process whereby aggrieved property owners can obtain vindication of property rights guaranteed by the fifth and fourteenth amendments to the United States Constitution and this Act;

(2) amend the Tucker Act, including the repeal of section 1500 of title 28, United States Code;

(3) rectify the unduly onerous and expensive requirement that an owner of real property, seeking redress under section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983) for the infringement of property rights protected by the fifth and fourteenth amendments of the United States Constitution, is required to first litigate Federal constitutional issues in a State court before obtaining access to the Federal courts;

(4) provide for uniformity in the application of the ripeness doctrine in cases where constitutional rights to use and enjoy real property are allegedly infringed, by providing that a final agency decision may be adjudicated by a Federal court on the merits after—

(A) the pertinent government body denies a meaningful application to develop the land in question; and

(B)(i) the property owner seeks available waivers and administrative appeals from such denial; and

(ii) such waiver or appeal is not approved; and

(5) confirm the proper role of a State or territory to prevent land uses that are a nuisance under applicable law.

SEC. 4. DEFINITIONS.

In this Act, the term—

(1) ''agency action'' means any action, inaction, or decision taken by a Federal agency or other government agency that at the time of such action, inaction, or decision adversely affects private property rights;

(2) ''district court''—

(A) means a district court of the United States with appropriate jurisdiction; and

(B) includes the United States District Court of Guam, the United States District Court of the Virgin Islands, or the District Court for the Northern Mariana Islands;

(3) ''Federal agency'' means a department, agency, independent agency, or instrumentality of the United States, including any military department, Government corporation, Government-controlled corporation, or other establishment in the executive branch of the United States Government;

(4) ''owner'' means the owner or possessor of property or rights in property at the time the taking occurs, including when—

(A) the statute, regulation, rule, order, guideline, policy, or action is passed or promulgated; or

(B) the permit, license, authorization, or governmental permission is denied or suspended;

(5) ''private property'' or ''property'' means all interests constituting property, as defined by Federal or State law, protected under the fifth and fourteenth amendments to the United States Constitution; and

(6) ''taking of private property'', ''taking'', or ''take'' means any action whereby restricting the ownership, alienability, possession, or use of private property is an object of that action and is taken so as to require compensation under the fifth amendment to the United States Constitution, including by physical invasion, regulation, exaction, condition, or other means.

SEC. 5. PRIVATE PROPERTY ACTIONS.

(a) IN GENERAL.—An owner may file a civil action under this section to challenge the validity of any Federal agency action as a violation of the fifth amendment to the United States Constitution in a district court or the United States Court of Federal Claims.

(b) CONCURRENT JURISDICTION.—Notwithstanding any other provision of law and notwithstanding the issues involved, the relief sought, or the amount in controversy, the district court and the United States Court of Federal Claims shall each have concurrent jurisdiction over both claims for monetary relief and claims seeking invalidation of any Act of Congress or any regulation of a Federal agency affecting private property rights.

(c) ELECTION.—The plaintiff may elect to file an action under this section in a district court or the United States Court of Federal Claims.

(d) WAIVER OF SOVEREIGN IMMUNITY.—This section constitutes express waiver of the sovereign immunity of the United States with respect to an action filed under this section.

(e) APPEALS.—The United States Court of Appeals for the Federal Circuit shall have exclusive jurisdiction of any action filed under this section, regardless of whether the jurisdiction of such action is based in whole or part under this section.

(f) STATUTE OF LIMITATIONS.—The statute of limitations for any action filed under this section shall be 6 years after the date of the taking of private property.

(g) ATTORNEYS' FEES AND COSTS.—In issuing any final order in any action filed under this section, the court may award costs of litigation (including reasonable attorneys' fees) to any prevailing plaintiff.

SEC. 6. JURISDICTION OF UNITED STATES COURT OF FEDERAL CLAIMS AND UNITED STATES DISTRICT COURTS.

(a) UNITED STATES COURT OF FEDERAL CLAIMS.—

(1) JURISDICTION.—Section 1491(a) of title 28, United States Code, is amended—

(A) in paragraph (1) by amending the first sentence to read as follows: ''The United States Court of Federal Claims shall have jurisdiction to render judgment upon any claim against the United States for monetary relief founded either upon the Constitution or any Act of Congress or any regulation of an executive department or upon any express or implied contract with the United States, in cases not sounding in tort, or for invalidation of any Act of Congress or any regulation of an executive department under section 5 of the Citizens Access to Justice Act of 1999.'';

(B) in paragraph (2) by inserting before the first sentence the following: ''In any case within its jurisdiction, the Court of Federal Claims shall have the power to grant injunctive and declaratory relief when appropriate.''; and

(C) by adding at the end the following new paragraphs:

''(3) In cases otherwise within its jurisdiction, the Court of Federal Claims shall also have supplemental jurisdiction, concurrent with the courts designated under section 1346(b), to render judgment upon any related tort claim authorized under section 2674.

''(4) In proceedings within the jurisdiction of the Court of Federal Claims which constitute judicial review of agency action (rather than de novo proceedings), the provisions of section 706 of title 5 shall apply.

''(5)(A) Any claim brought under this subsection to redress the deprivation of a right or privilege to use and enjoy real property as secured by the Constitution, shall be ripe for adjudication upon a final decision rendered by the United States, that causes actual and concrete injury to the party seeking redress.

''(B) For purposes of this paragraph, a final decision exists if—

''(i) the United States makes a definitive decision regarding the extent of permissible uses on real property that has been allegedly infringed or taken; and

''(ii) one meaningful application as defined by applicable law to use the property has been submitted but has not been approved within a reasonable time, and the party seeking redress has applied for one appeal and one waiver which has not been approved within a reasonable time, where the applicable law of the United States provides a mechanism for appeal to or waiver by an administrative agency.

''(C)(i) The party seeking redress shall not be required to submit any application or apply for any appeal or waiver required under this section, if the district court determines that such action would be futile.

''(ii) In this subparagraph, the term 'futile' means the inability of an owner of real property to seek or obtain approvals to use such real property, and the hardship endured by such inability, as defined under applicable land use, zoning, and planning law.

''(D) Nothing in this paragraph alters the substantive law of takings of property, including the burden of proof borne by the plaintiff.''.

(2) PENDENCY OF CLAIMS IN OTHER COURTS.—

(A) IN GENERAL.—Section 1500 of title 28, United States Code is repealed.

(B) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 91 of title 28, United States Code, is amended by striking out the item relating to section 1500.

(b) DISTRICT COURT JURISDICTION.—

(1) CITIZEN ACCESS TO JUSTICE ACTION.—Section 1346(a) of title 28, United States Code, is amended by adding after paragraph (2) the following:

''(3) Any civil action filed under section 5 of the Citizens Access to Justice Act of 1999.''.

(2) UNITED STATES AS DEFENDANT.—Section 1346 of title 28, United States Code, is amended by adding at the end the following:

''(h)(1) Any claim brought under subsection (a) to redress the deprivation of a right or privilege to use and enjoy real property as secured by the Constitution shall be ripe for adjudication upon a final decision rendered by the United States, that causes actual and concrete injury to the party seeking redress.

''(2)(A) For purposes of this subsection, a final decision exists if—

''(i) the United States makes a definitive decision regarding the extent of permissible uses on the property that has been allegedly infringed or taken; and

''(ii) one meaningful application as defined by applicable law to use the property has been submitted but has not been approved within a reasonable time, and the party seeking redress has applied for one appeal and one waiver which has not been approved within a reasonable time, where the applicable law of the United States provides a mechanism for appeal to or waiver by an administrative agency.

''(B)(i) The party seeking redress shall not be required to submit any application or apply for any appeal or waiver required under this section, if the district court determines that such action would be futile.

''(ii) In this subparagraph, the term 'futile' means the inability of an owner of real property to seek or obtain approvals to use such real property, and the hardship endured by such inability, as defined under applicable land use, zoning, and planning law.

''(3) Nothing in this subsection alters the substantive law of takings of property, including the burden of proof borne by the plaintiff.''.

(c) DISTRICT COURT CIVIL RIGHTS JURISDICTION; ABSTENTION.—Section 1343 of title 28, United States Code, is amending by adding at the end the following:

''(c) Whenever a district court exercises jurisdiction under subsection (a), the court shall not abstain from or relinquish jurisdiction to a State court in an action if—

''(1) no claim of a violation of a State law or privilege is alleged; and

''(2) a parallel proceeding in State court arising out of the same core of operative facts as the district court proceeding is not pending.

''(d) A district court that exercises jurisdiction under subsection (a) in an action in which the operative facts concern the uses of real property may abstain where the party seeking redress—

''(1) has not submitted a meaningful application, as defined by applicable law, to use such real property; and

''(2) challenges whether an action of the applicable locality exceeds the authority

conferred upon the locality under the applicable zoning or planning enabling statute of the State or territory.

''(e)(1) Where the district court has jurisdiction over an action under subsection (a) in which the operative facts concern the uses of real property and which cannot be decided without resolution of an unsettled question of State law, the district court may certify the question of State law to the highest appellate court of that State. After the State appellate court resolves the question certified to it, the district court shall proceed with resolving the merits.

''(2) In making a decision whether to certify a question of State law under this subsection, the district court may consider whether the question of State law—

''(A) will significantly affect the merits of the injured party's Federal claim; and

''(B) is patently unclear.

''(f)(1) Any claim or action brought under section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983) to redress the deprivation of a right or privilege to use and enjoy real property as secured by the Constitution shall be ripe for adjudication by the district courts upon a final decision rendered by any person acting under color of any statute, ordinance, regulation, custom, or usage, of any State or territory of the United States, that causes actual and concrete injury to the party seeking redress.

''(2)(A) For purposes of this subsection, a final decision exists if—

''(i) any person acting under color of any statute, ordinance, regulation, custom, or usage, of any State or territory of the United States, makes a definitive decision regarding the extent of permissible uses on the property that has been allegedly infringed or taken;

''(ii)(I) one meaningful application, as defined by applicable law to use the property has been submitted but has not been approved within a reasonable time, and the party seeking redress has applied for one appeal or waiver which has not been approved within a reasonable time, where the applicable statute, ordinance, custom, or usage provides a mechanism for appeal to or waiver by an administrative agency; or

''(II) one meaningful application, as defined by applicable law, to use the property has been submitted but has not been approved within a reasonable time, and the disapproval at a minimum specifies in writing the range of use, density, or intensity of development of the property that would be approved, with any conditions therefor, and the party seeking redress has resubmitted another meaningful application taking into account the terms of the disapproval, except that—

''(aa) if no such reapplication is submitted, then a final decision shall not have been reached for purposes of this subsection, except as provided in subparagraph (B); and

''(bb) if the reapplication is not approved within a reasonable time, or if the reapplication is not required under subparagraph (B), then a final decision exists for purposes of this subsection if the party seeking redress has applied for one appeal or waiver with respect to the disapproval, which has not been approved within a reasonable time, where the applicable statute, ordinance, custom, or usage provides a mechanism of appeal or waiver by an administrative agency; and

''(iii) in a case involving the uses of real property, where the applicable statute or ordinance provides for review of the case by elected officials, the party seeking redress has applied for but is denied such review.

''(B)(i) The party seeking redress shall not be required to submit any application or reapplication, or apply for any appeal or waiver as required under this subsection, upon determination by the district court that such action would be futile.

''(ii) In this subparagraph, the term 'futile' means the inability of an owner of real property to seek or obtain approvals to use such real property, and the hardship endured by such inability, as defined under applicable land use, zoning, and planning law.

''(3) For purposes of this subsection, a final decision shall not require the party seeking redress to exhaust judicial remedies provided by any State or territory of the United States.

''(g) Nothing in subsection (c), (d), (e), or (f) alters the substantive law of takings of property, including the burden of proof borne by the plaintiff.''.

SEC. 7. ATTORNEYS FEES FOR LOCALITIES.

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

(1) by striking ''In any action'' and inserting ''(1) Subject to paragraphs (2) and (3), in any action''; and

(2) by adding at the end the following:

''(2) In an action arising under section 1979 of the Revised Statutes (42 U.S.C. 1983), where the taking of real property is alleged, a district court, in its discretion, may hold the party seeking redress liable for a reasonable attorney's fee and costs where the takings claim is not substantially justified, unless special circumstances make an award of such fees unjust. Whether or not the position of the party seeking redress was substantially justified shall be determined on the basis of any administrative and judicial record, as a whole, which is made in the district court adjudication for which fees and other expenses are sought.

''(3) In an action arising under section 1979 of the Revised Statutes (42 U.S.C. 1983) where the taking of real property is alleged, the district court shall decide any motion to dismiss such claim on an expedited basis. Where such a motion is granted and the takings claim is dismissed with prejudice, the nonmoving party may be liable for a reasonable attorney's fee and costs at the discretion of the district court, unless special circumstances make an award of such fees unjust.''.

SEC. 8. DUTY OF NOTICE TO DEFENDANTS.

Section 1979 of the Revised Statutes (42 U.S.C. 1983) is amended—

(1) by inserting ''(a)'' before ''Every person''; and

(2) by adding at the end the following:

''(b) A party seeking redress under this section for a taking of real property without the payment of compensation shall not commence an action in district court before 60 days after the date on which written notice has been given to any potential defendant.''.

SEC. 9. DUTY OF NOTICE TO OWNERS.

Whenever a Federal agency takes an agency action limiting the use of private property that may be affected by this Act (including the amendments made by this Act), the agency shall give notice to the owners of that property explaining their rights under this Act and the procedures for obtaining any compensation that may be due to them under this Act.

SEC. 10. RULES OF CONSTRUCTION.

Nothing in this Act shall be construed to interfere with the authority of any State to create additional property rights.

SEC. 11. EFFECTIVE DATE.

This Act shall take effect on the date of enactment of this Act and shall apply to any agency action that occurs on or after such date.

By Mr. COCHRAN (for himself and Mr. KENNEDY)

S. 1029. A bill to amend title III of the Elementary and Secondary Education Act of 1965 to provide for digital education partnerships; to the Committee on Health, Education, Labor and Pensions.

DIGITAL EDUCATION ACT OF 1999

Mr. COCHRAN. Mr. President, today I am proud to introduce the Digital Education Act, a bill to amend title III of the Elementary and Secondary Education Act. I am pleased that the distinguished Senator from Massachusetts, Mr. KENNEDY, joins me in introducing this legislation to address some critical technology issues and the role of public broadcasting in education.

This bill expands Ready to Learn, a program of combined successful efforts in early childhood education. It expands MATHLINE, a proven model of teacher professional development, and it supports production of new digital educational material. The Digital Education Act includes innovative applications of progressive technology to promote the best practices in teaching and bring up to date information to classrooms throughout the country.

The Federal Government, State departments of education, local community businesses, and public television stations have made major investments in educational technology in recent years. These investments have focused on network infrastructure and computer hardware. It is time to invest in instructional resources that will make these new networks relevant and ensure that students and teachers are prepared to benefit fully from the new technology.

The Ready To Learn Television program, first authorized in 1994, has made a unique contribution to ensure that American children start school ''ready to learn.'' The program has funded an unprecedented blending of services, including quality children's educational television programming broadcast by the Public Broadcasting Service, and a variety of outreach services for parents, teachers and other care givers.

Ready to Learn outreach programs have had tremendous success. Local public television stations that subscribe to Ready to Learn provide training and other services to parents and care givers of preschoolchildren. Ready to Learn has grown from 10 public television stations to 130, reaching approximately 94 percent of the country. Each month Ready to Learn distributes over 35,000 books to children and over 900,000 copies of a custom parent/care giver magazine, specifically designed to integrate programming with reading. Ready to Learn is providing the opportunities for children and parents to build that foundation for success. Over 330,000 parents and child care professionals have been trained in using television to encourage reading. Using Ready to Learn techniques, these adults have nurtured the reading of 4,331,829 children.

The Mississippi Educational Network in my home State, targets outreach services to high poverty populations who are particularly disadvantaged.

The services include basic lessons in parenting, developmental benchmarks, health and nutrition, nurturing literacy in the home, and using the television programs children watch most to reinforce the lessons.

The families in these communities often have no reading material in their house. The first book given to a child by Mississippi Ready to Learn is quite likely to be the first book the child has ever owned. And, while Ready to Learn is designed for prekindergarten children, these families may have older children who may be equally in need. The local design of Ready to Learn allows the Mississippi director, Cassandra Washington, to tailor her workshops and even have a few older child books on hand for these families. Ms. Washington has been very resourceful in her outreach, finding non-traditional places for education, such as the Women Infants and Children Distribution Centers throughout Mississippi where families in need come regularly.

The International Reading Association stated recently, ''By the time children are exposed to beginning reading instruction in kindergarten and first grade, they should have a foundation that assures them early success. Recent studies indicate just how critical those positive early experiences are to cognitive development and lifelong reading.''

Congressionally authorized and Federally funded research at the National Institutes of Health found that when parents read to their young children, it literally stimulates the brain development of the children. A recent University of Alabama study found that Ready to Learn families: watch 40 percent less television, watch more education-oriented programming, read more often with their children, read longer at each sitting, read for more educational and informational purposes, and took their children to libraries and bookstores more often than others.

Using the best research tested information available, Ready To Learn has driven the development of two major, commercial-free broadcast series for young children. The first, ''Dragon Tales,'' will begin airing this fall and will be integrated with carefully designed home and school resources to develop reading skills in young children.

The Digital Education Act will build on the early successes of Ready to Learn. It will authorize funding to increase station grants, produce new outreach and training activities, and generate more services for parents and care givers, so that more children start school truly ready to learn.

The Digital Education Act provides for the demonstration of early childhood education digital applications with public television stations that are technologically ready. Currently, there are digital broadcast public television stations in Mississippi, Massachusetts, Missouri, Oregon, Pennsylvania, Virginia, Wisconsin, and Washington. These stations can transmit several programming services simultaneously. New applications include a dedicated channel for early childhood education and transmission of Internet accessible supplementary information text and video.

Today, children's programs produced by PBS and individual public broadcasting stations are among the television shows most watched by children and most used in classrooms. Many teachers and parents credit these programs for stimulating curiosity, educating, and encouraging continued learning through reading and other resources. The increased funding authorized in this bill will continue the investment of Ready to Learn resources in producing commercial-free children's programming of the highest educational quality.

Thirty years ago, Federal funding seeded the creation of Sesame Street. This carved out a meaningful place for educational children's programming as analog public television developed. The Digital Education Act stakes a new claim in the technological frontier for children and educational broadcasting and will ensure that this reinvention of television includes a major education component for children from the beginning.

The second element of the Digital Education Act concerns teacher professional development. In 1994, Congress authorized the ''Telecommunications Demonstration Project for Mathematics,'' which has supported a project called MATHLINE. Through MATHLINE, PBS has pioneered a new model of teacher professional development, utilizing a blend of technologies, including online communications and video, to provide quality resources and services to teachers of mathematics.

Through public and private funding, PBS MATHLINE developed The Elementary School Math Project for teachers, grades K–5; The Middle School Math Project for teachers, grades 5–8; The High School Math Project: Focus on Algebra for teachers, grades 7–12; and The Algebraic Thinking Math Project for teachers, grades 3–8.

Over 5,000 math teachers in 40 States and the District of Columbia have participated in MATHLINE. These innovative teaching techniques have taught more than 1.3 million students.

Three separate external evaluators have certified that MATHLINE is making a positive impact on the way teachers teach. For example, an evaluation of the Middle School Math Project by Rockman, et al. found, ''The impact of PBS MATHLINE is clear. It has influenced how teachers see themselves and helped them create a powerful and enriching mathematics environment in their classrooms * * * The gap between belief and performance is narrowing * * * The combination of viewing, communicating, and doing seems to have resulted in substantive changes in teaching.''

The International Reading Association stated in February, ''The most effective professional development programs are those planned by teachers themselves, based on their assessments of their needs as educators and their students' needs as learners.'' MATHLINE does just that. It is real teachers, teaching real students, and passing success on to more teachers. The MATHLINE demonstration has worked.

Our legislation would authorize the New Century Program for Distributed Teacher Professional Development. Under this new program, the successful MATHLINE model will expand to other core curriculum areas, such as literature, science and social studies. It will also connect the digitized public broadcasting infrastructure with digital education networks at schools, colleges and universities throughout the nation. Nearly every teacher in the United States will have access to the New Century Program.

The third element of our legislation would authorize the Digital Education Content Collaborative. As a nation, we have made tremendous progress in the last decade bringing our schools from the 19th Century to 21st Century technologically. However, there is still one major element that needs to be in place to make it all work. That is world-class educational content that rivals video games for students' attention, is tied to state standards, which teachers seamlessly integrate into daily learning activities.

Programs distributed by public broadcast stations are used by more classroom teachers than any other because of their high quality and relevance to the curriculum. A survey commissioned by the Corporation for Public Broadcasting in 1997, found that 92 percent of teachers use videos to improve their lessons and public broadcasting programs were the highest rated. However, single channel analog distribution limited station services to a few hours per day of linear video broadcasts.

Digital broadcasting will dramatically increase and improve the types of services local public broadcasting stations can offer schools. One of the most exciting is the ability to broadcast multiple video channels and data information simultaneously. A vast library of instructional video materials could be distributed on full time, continuous channels and it could be available on demand, when teachers and students need it. Digitally produced programs will allow local stations broadcast flexibility and new interactive content that matches state standards and fits local curriculums.

As Members of the United States Senate, working to reauthorize the programs our elementary and secondary schools depend upon, we are also looking for successful models that lead to true educational reform and improvement.

The Digital Education Act takes the best of educational technology programing; improves those proven to work; and places renewed confidence in education's most trusted and successful content development partners.

Mr. President, I am proud to be associated with the public broadcasting community, and I am proud of their commitment to our earliest learners. I hope more Senators will join us in supporting this important education legislation.

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

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

S. 1029

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 ''Digital Education Act of 1999''.

SEC. 2. REVISION OF PART C OF TITLE III.

Part C of title III of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6921 et seq.) is amended to read as follows:

''PART C—READY-TO-LEARN DIGITAL TELEVISION

''SEC. 3301. FINDINGS.

''Congress makes the following findings:

''(1) In 1994, Congress and the Department collaborated to make a long-term, meaningful and public investment in the principle that high-quality preschool television programming will help children be ready to learn by the time the children entered first grade.

''(2) The Ready to Learn Television Program through the Public Broadcasting Service (PBS) and local public television stations has proven to be an extremely cost-effective national response to improving early childhood development and helping parents, caregivers, and professional child care providers learn how to use television as a means to help children learn, develop, and play creatively.

''(3) Independent research shows that parents who participate in Ready to Learn workshops are more critical consumers of television and their children are more active viewers. A University of Alabama study showed that parents who had attended a Ready to Learn workshop read more books and stories to their children and read more minutes each time than nonattendees. The parents did more hands-on activities related to reading with their children. The parents engaged in more word activities and for more minutes each time. The parents read less for entertainment and more for education. The parents took their children to libraries and bookstores more than nonattendees. For parents, participating in a Ready to Learn workshop increases their awareness of and interest in educational dimensions of television programming and is instrumental in having their children gain exposure to more educational programming. Moreover, 6 months after participating in Ready to Learn workshops, parents who attended generally had set rules for television viewing by their children. These rules related to the amount of time the children were allowed to watch television daily, the hours the children were allowed to watch television, and the tasks or chores the children must have accomplished before the children were allowed to watch television.

''(4) The Ready to Learn (RTL) Television Program is supporting and creating commercial-free broadcast programs for young children that are of the highest possible educational quality. Program funding has also been used to create hundreds of valuable interstitial program elements that appear between national and local public television programs to provide developmentally appropriate messages to children and caregiving advice to parents.

''(5) Through the Nation's 350 local public television stations, these programs and programming elements reach tens of millions of children, their parents, and caregivers without regard to their economic circumstances, location, or access to cable. In this way, public television is a partner with Federal policy to make television an instrument, not an enemy, of preschool children's education and early development.

''(6) The Ready to Learn Television Program extends beyond the television screen. Funds from the Ready to Learn Television Program have funded thousands of local workshops organized and run by local public television stations, almost always in association with local child care training agencies or early childhood development professionals, to help child care professionals and parents learn more about how to use television effectively as a developmental tool. These workshops have trained more than 320,000 parents and professionals who, in turn, serve and support over 4,000,000 children across the Nation.

''(7)(A) The Ready to Learn Television Program has published and distributed millions of copies of a quarterly magazine entitled 'PBS Families' that contains—

''(i) developmentally appropriate games and activities based on Ready to Learn Television programming;

''(ii) parenting advice;

''(iii) news about regional and national activities related to early childhood development; and

''(iv) information about upcoming Ready to Learn Television activities and programs.

''(B) The magazine described in subparagraph (A) is published 4 times a year and distributed free of charge by local public television stations in English and in Spanish (PBS para la familia).

''(8) Because reading and literacy are central to the ready to learn principle Ready to Learn Television stations also have received and distributed millions of free age-appropriate books in their communities as part of the Ready to Learn Television Program. Each station receives a minimum of 200 books each month for free local distribution. Some stations are now distributing more than 1,000 books per month. Nationwide, more than 300,000 books are distributed each year in low-income and disadvantaged neighborhoods free of charge.

''(9) In 1998, the Public Broadcasting Service, in association with local colleges and local public television stations, as well as the Annenberg Corporation for Public Broadcasting Project housed at the Corporation for Public Broadcasting, began a pilot program to test the formal awarding of a Certificate in Early Childhood Development through distance learning. The pilot is based on the local distribution of a 13-part video courseware series developed by Annenberg Corporation for Public Broadcasting and WTVS Detroit entitled 'The Whole Child'. Louisiana Public Broadcasting, Kentucky Educational Television, Maine Public Broadcasting, and WLJT Martin, Tennessee, working with local and State regulatory agencies in the childcare field, have participated in the pilot program with a high level of success. The certificate program is ready for nationwide application using the Public Broadcasting Service's Adult Learning Service.

''(10) Demand for Ready To Learn Television Program outreach and training has increased dramatically, with the base of participating Public Broadcasting Service member stations growing from a pilot of 10 stations to nearly 130 stations in 5 years.

''(11) Federal policy played a crucial role in the evolution of analog television by funding the television program entitled 'Sesame Street' in the 1960's. Federal policy should continue to play an equally crucial role for children in the digital television age.

''SEC. 3302. READY-TO-LEARN.

''(a) IN GENERAL.—The Secretary is authorized to award grants to or enter into contracts or cooperative agreements with eligible entities described in section 3303(b) to develop, produce, and distribute educational and instructional video programming for preschool and elementary school children and their parents in order to facilitate the achievement of the National Education Goals.

''(b) AVAILABILITY.—In making such grants, contracts, or cooperative agreements, the Secretary shall ensure that eligible entities make programming widely available, with support materials as appropriate, to young children, their parents, childcare workers, and Head Start providers to increase the effective use of such programming.

''SEC. 3303. EDUCATIONAL PROGRAMMING.

''(a) AWARDS.—The Secretary shall award grants, contracts, or cooperative agreements under section 3302 to eligible entities to—

''(1) facilitate the development directly, or through contracts with producers of children and family educational television programming, of—

''(A) educational programming for preschool and elementary school children; and

''(B) accompanying support materials and services that promote the effective use of such programming;

''(2) facilitate the development of programming and digital content especially designed for nationwide distribution over public television stations' digital broadcasting channels and the Internet, containing Ready to Learn-based children's programming and resources for parents and caregivers; and

''(3) enable eligible entities to contract with entities (such as public telecommunications entities and those funded under the Star Schools Act) so that programs developed under this section are disseminated and distributed—

(A) to the widest possible audience appropriate to be served by the programming; and

(B) by the most appropriate distribution technologies.

''(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant, contract, or cooperative agreement under subsection (a), an entity shall be—

''(1) a public telecommunications entity that is able to demonstrate a capacity for the development and national distribution of educational and instructional television programming of high quality for preschool and elementary school children; and

''(2) able to demonstrate a capacity to contract with the producers of children's television programming for the purpose of developing educational television programming of high quality for preschool and elementary school children.

''(c) CULTURAL EXPERIENCES.—Programming developed under this section shall reflect the recognition of diverse cultural experiences and the needs and experiences of both boys and girls in engaging and preparing young children for schooling.

''SEC. 3304. DUTIES OF SECRETARY.

''The Secretary is authorized—

''(1) to award grants, contracts, or cooperative agreements to eligible entities described

in section 3303(b), local public television stations, or such public television stations that are part of a consortium with 1 or more State educational agencies, local educational agencies, local schools, institutions of higher education, or community-based organizations of demonstrated effectiveness, for the purpose of—

''(A) addressing the learning needs of young children in limited English proficient households, and developing appropriate educational and instructional television programming to foster the school readiness of such children;

''(B) developing programming and support materials to increase family literacy skills among parents to assist parents in teaching their children and utilizing educational television programming to promote school readiness; and

''(C) identifying, supporting, and enhancing the effective use and outreach of innovative programs that promote school readiness; and

''(D) developing and disseminating training materials, including—

''(i) interactive programs and programs adaptable to distance learning technologies that are designed to enhance knowledge of children's social and cognitive skill development and positive adult-child interactions; and

''(ii) support materials to promote the effective use of materials developed under subparagraph (B) among parents, Head Start providers, in-home and center-based daycare providers, early childhood development personnel, elementary school teachers, public libraries, and after- school program personnel caring for preschool and elementary school children;

''(2) to establish within the Department a clearinghouse to compile and provide information, referrals, and model program materials and programming obtained or developed under this part to parents, child care providers, and other appropriate individuals or entities to assist such individuals and entities in accessing programs and projects under this part; and

''(3) to coordinate activities assisted under this part with the Secretary of Health and Human Services in order to—

''(A) maximize the utilization of quality educational programming by preschool and elementary school children, and make such programming widely available to federally funded programs serving such populations; and

''(B) provide information to recipients of funds under Federal programs that have major training components for early childhood development, including programs under the Head Start Act and Even Start, and State training activities funded under the Child Care Development Block Grant Act of 1990, regarding the availability and utilization of materials developed under paragraph (1)(D) to enhance parent and child care provider skills in early childhood development and education.

''SEC. 3305. APPLICATIONS.

''Each entity desiring a grant, contract, or cooperative agreement under section 3302 or 3304 shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

''SEC. 3306. REPORTS AND EVALUATION.

''(a) ANNUAL REPORT TO SECRETARY.—An eligible entity receiving funds under section 3302 shall prepare and submit to the Secretary an annual report which contains such information as the Secretary may require. At a minimum, the report shall describe the program activities undertaken with funds received under section 3302, including—

''(1) the programming that has been developed directly or indirectly by the eligible entity, and the target population of the programs developed;

''(2) the support materials that have been developed to accompany the programming, and the method by which such materials are distributed to consumers and users of the programming;

''(3) the means by which programming developed under this section has been distributed, including the distance learning technologies that have been utilized to make programming available and the geographic distribution achieved through such technologies; and

''(4) the initiatives undertaken by the eligible entity to develop public-private partnerships to secure non-Federal support for the development, distribution and broadcast of educational and instructional programming.

''(b) REPORT TO CONGRESS.—The Secretary shall prepare and submit to the relevant committees of Congress a biannual report which includes—

''(1) a summary of activities assisted under section 3303(a); and

''(2) a description of the training materials made available under section 3304(1)(D), the manner in which outreach has been conducted to inform parents and childcare providers of the availability of such materials, and the manner in which such materials have been distributed in accordance with such section.

''SEC. 3307. ADMINISTRATIVE COSTS.

''With respect to the implementation of section 3303, eligible entities receiving a grant, contract, or cooperative agreement from the Secretary may use not more than 5 percent of the amounts received under such section for the normal and customary expenses of administering the grant, contract, or cooperative agreement.

''SEC. 3308. DEFINITION.

''For the purposes of this part, the term 'distance learning' means the transmission of educational or instructional programming to geographically dispersed individuals and groups via telecommunications.

''SEC. 3309. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—There are authorized to be appropriated to carry out this part, $50,000,000 for fiscal year 2000, and such sums as may be necessary for each of the 4 succeeding fiscal years.

''(b) FUNDING RULE.—Not less than 60 percent of the amounts appropriated under subsection (a) for each fiscal year shall be used to carry out section 3303.''.

SEC. 3. REVISION OF PART D OF TITLE III.

Part D of title III of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6951 et seq.) is amended to read as follows:

''PART D—THE NEW CENTURY PROGRAM FOR DISTRIBUTED TEACHER PROFESSIONAL DEVELOPMENT

''SEC. 3401. FINDINGS.

''Congress makes the following findings:

''(1) Since 1995, the Telecommunications Demonstration Project for Mathematics (as established under this part pursuant to the Improving America's Schools Act of 1994) (in this section referred to as 'MATHLINE') has allowed the Public Broadcasting Service to pioneer and refine a new model of teacher professional development for kindergarten through grade 12 teachers. MATHLINE uses video modeling of standards-based lessons, combined with professionally facilitated online learning communities of teachers, to help mathematics teachers from elementary school through secondary school adopt and implement standards-based practices in their classrooms. This approach allows teachers to update their skills on their own schedules through video, while providing online interaction with peers and master teachers to reinforce that learning. This integrated, self-paced approach breaks down the isolation of classroom teaching while making standards-based best practices available to all participants.

''(2) MATHLINE was developed specifically to disseminate the first national voluntary standards for teaching and learning as developed by the National Council of Teachers of Mathematics (NCTM). During 3 years of actual deployment, more than 5,800 teachers have participated for at least a full year in the demonstration. These teachers, in turn, have taught more than 1,500,000 students cumulatively.

''(3)(A) In the first 3 years of the MATHLINE project, the Public Broadcasting Service used the largest portion of the funds provided under this part—

''(i) to produce video-based models of classroom teaching;

''(ii) to produce and disseminate extensive accompanying print materials;

''(iii) to organize and host professionally moderated, year-long, online learning communities; and

''(iv) to train the Public Broadcasting Service stations to deploy MATHLINE in their local communities. In fiscal year 1998, the Public Broadcasting Service added an extensive Internet-based set of learning tools for teachers' use with the video modules and printed materials, and the Public Broadcasting Service expanded the online resources available to teachers through Internet-based discussion groups and a national listserv.

''(B) To extend Federal funds, the Public Broadcasting Service has experimented with various fee models for teacher participation, with varying results. Using fiscal year 1998 Federal funds and private money, participation in MATHLINE will increase by 10,000 MATHLINE scholarships to preservice and inservice teachers. The Public Broadcasting Service and its participating member stations will distribute scholarships in each congressional district in the United States, with teachers serving disadvantaged populations given priority for the scholarships.

''(4) Independent evaluations indicate that teaching improves and students benefit as a result of the MATHLINE program.

''(5) The MATHLINE program is ready to be expanded to reach many more teachers in more subject areas. The New Century Program for Distributed Teacher Professional Development will link the digitized public broadcasting infrastructure with education networks by working with the program's digital membership, and Federal and State agencies, to expand the successful MATHLINE model. Tens of thousands of teachers will have access to the New Century Program for Distributed Teacher Professional Development, to advance their teaching skills and their ability to integrate technology into teaching and learning. The New Century Program for Distributed Teacher Professional Development also will leverage the Public Broadcasting Service's historic relationships with higher education to improve preservice teacher training.

''SEC. 3402. PROJECT AUTHORIZED.

''The Secretary is authorized to make grants to a nonprofit telecommunications entity, or partnership of such entities, for the purpose of carrying out a national telecommunications-based program to improve teaching in core curriculum areas. The program authorized by this part shall be designed to assist elementary school and secondary school teachers in preparing all students for achieving State content standards.

''SEC. 3403. APPLICATION REQUIRED.

''(a) IN GENERAL.—Each nonprofit telecommunications entity, or partnership of such entities, desiring a grant under this part shall submit an application to the Secretary. Each such application shall—

''(1) demonstrate that the applicant will use the public broadcasting infrastructure and school digital networks, where available, to deliver video and data in an integrated service to train teachers in the use of standards-based curricula materials and learning technologies;

''(2) assure that the project for which assistance is sought will be conducted in cooperation with appropriate State educational agencies, local educational agencies, national, State or local nonprofit public telecommunications entities, and national education professional associations that have developed content standards in the subject areas;

''(3) assure that a significant portion of the benefits available for elementary schools and secondary schools from the project for which assistance is sought will be available to schools of local educational agencies which have a high percentage of children counted for the purpose of part A of title I; and

''(4) contain such additional assurances as the Secretary may reasonably require.

''(b) APPROVAL OF APPLICATIONS; NUMBER OF SITES.—In approving applications under this section, the Secretary shall assure that the program authorized by this part is conducted at elementary school and secondary school sites in at least 15 States.

''SEC. 3404. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this part, $20,000,000 for the fiscal year 2000, and such sums as may be necessary for each of the 4 succeeding fiscal years.''.

SEC. 4. ADDITION OF PART F TO TITLE III.

Title III of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6801 et seq.) is amended by adding at the end the following:

''PART F—DIGITAL EDUCATION CONTENT COLLABORATIVE

''SEC. 3701. FINDINGS.

''Congress makes the following findings:

''(1) Over the past several years, both the Federal and State governments have made significant investments in computer technology and telecommunications in the Nation's schools. Tremendous progress has been made in wiring classrooms, equipping the classrooms with multimedia computers, and connecting the classrooms to the Internet.

''(2) There is a great need for aggregating high quality, curriculum-based digital content for teachers and students to easily access and use in order to meet the State standards for student performance.

''(3) Under Federal Communications Commission policy, public television stations and State networks are mandated to convert from analog broadcasting to digital broadcasting by 2003.

''(4) Most local public television stations and State networks provide high quality video programs, and teacher professional development, as a part of their mission to serve local schools. Programs distributed by public broadcast stations are used by more classroom teachers than any other because of their high quality and relevance to the curriculum. However analog distribution has limited kindergarten through grade 12 services to a few hours per day of linear video broadcasts on a single channel.

''(5) The new capacity of digital broadcasting, can dramatically increase and improve the types of services public broadcasting stations can offer kindergarten through grade 12 schools.

''(6) Digital broadcasting can contribute to the improvement of schools and student performance as follows:

''(A) Broadcast of multiple video channels and data information simultaneously.

''(B) Data can be transmitted along with the video content enabling students to interact, access additional information, communicate with featured experts, and contribute their own knowledge to the subject.

''(C) Both the video and data can be stored on servers and made available on demand to teachers and students.

''(7) Teachers depend on public television stations as a primary source of high quality video material. The material has not always been as accessible or adaptable to the curriculum as teachers would prefer. Moreover, direct student interaction with the material was difficult.

''(8) Public television stations and State networks will soon have the capability of creating and distributing interactive digital content that can be directly matched to State standards and available to teachers and students on demand to fit their local curriculum.

''(9) Interactive digital education content will be an important component of Federal support for States in setting high standards and increasing student performance.

''SEC. 3702. DIGITAL EDUCATION CONTENT COLLABORATIVE.

''(a) IN GENERAL.—The Secretary is authorized to award grants to or enter into contracts or cooperative agreements with eligible entities described in section 3703(b) to develop, produce, and distribute educational and instructional video programming that is designed for use by kindergarten through grade 12 schools and based on State standards.

''(b) AVAILABILITY.—In making the grants, contracts, or cooperative agreements, the Secretary shall ensure that eligible entities enter into multiyear content development collaborative arrangements with State educational agencies, local educational agencies, institutions of higher education, businesses, or other agencies and organizations.

''SEC. 3703. EDUCATIONAL PROGRAMMING.

''(a) AWARDS.—The Secretary shall award grants, contracts, or cooperative agreements under this part to eligible entities to—

''(1) facilitate the development of educational programming that shall—

''(A) include student assessment tools to give feedback on student performance;

''(B) include built-in teacher utilization and support components to ensure that teachers understand and can easily use the content of the programming with group instruction or for individual student use;

''(C) be created for, or adaptable to, State content standards; and

''(D) be capable of distribution through digital broadcasting and school digital networks.

''(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant, contract, or cooperative agreement under subsection (a), an entity shall be a local public telecommunications entity as defined by section 397(12) of the Communications Act of 1934 that is able to demonstrate a capacity for the development and distribution of educational and instructional television programming of high quality.

''(c) COMPETITIVE BASIS.—Grants under this part shall be awarded on a competitive basis as determined by the Secretary.

''(d) DURATION.—Each grant under this part shall be awarded for a period of 3 years in order to allow time for the creation of a substantial body of significant content.

''SEC. 3704. APPLICATIONS.

''Each eligible entity desiring a grant under this part shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

''SEC. 3705. MATCHING REQUIREMENT.

''An eligible entity receiving a grant under this part shall contribute to the activities assisted under this part non-Federal matching funds equal to not less than 100 percent of the amount of the grant. Matching funds may include funds provided for the transition to digital broadcasting, as well as in-kind contributions.

''SEC. 3706. ADMINISTRATIVE COSTS.

''With respect to the implementation of this part, entities receiving a grant under this part from the Secretary may use not more than 5 percent of the amounts received under the grant for the normal and customary expenses of administering the grant.

''SEC. 3707. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this part, $25,000,000 for fiscal year 2000, and such sums as may be necessary for each of the 4 succeeding fiscal years.''.

Mr. KENNEDY. Mr. President, it is a privilege to join Senator COCHRAN in sponsoring the ''Digital Education Act of 1999.'' I commend him for his leadership in improving technology for children and families, so that more children come to school ready to learn.

In the early 1990's, Dr. Ernest Boyer, the distinguished former leader of the Carnegie Foundation, gave compelling testimony to the Senate Labor Committee about the appallingly high number of children who enter school without the skills to prepare them for learning. Their lack of preparation presented enormous obstacles to their ability to learn effectively in school, and seriously impaired their long-term achievement.

In response, Congress enacted the Ready-to-Learn program in 1992, and two years later its promise was so great that we extended it for five years. Because of the Department of Education and the Corporation for Public Broadcasting, the Ready-to-Learn initiative became an innovative and effective program. By linking the power of television to the world of books, many more children have been enabled to become good readers much more quickly.

Many children who enter school without the necessary basic skills are soon placed in a remedial program, which is costly for school systems. It is even more costly, however, for the students who face a bleaker future.

Today, by the time they enter school, the average child will have watched 4,000 hours of television. That is roughly the equivalent of four years of school.

For far too many youngsters, this is wasted time—time consuming ''empty calories'' for the brain. Instead, that time could be spent reading, writing, and learning. Through Ready-to-Learn television programming, children can obtain substantial education benefits that turn T.V. time into learning time.

As a result of Ready-to-Learn television, millions of children and families have access to high-quality television produced by public television

stations across the country. Tens of thousands of parents and child-care providers have learned how to be better role models, to reinforce learning, and to be more active participants in children's learning from programs funded through Ready-to-Learn.

For many low-income families, the workshops, books, and television shows funded through this program are a vital factor in preparing children to read. These programs help parents and child-care providers teach children the basics, preparing them to enter school ready to learn and ready to succeed.

Ready-to-Learn provides 6.5 hours of non-violent educational programming a day. These hours include some of the best programs available to children, including Arthur, Barney & Friends, Mister Rogers' Neighborhood, The Puzzle Place, Reading Rainbow, and Sesame Street.

One of the most successful aspects of Ready-to-Learn is that it helps parents work more effectively with their children. Parents who participate in Ready-to-Learn workshops are more thoughtful consumers of television, and their children are more active viewers. These parents have more hands-on activities with their children, and they read more often with their children. They read less often for entertainment, and more often for education. They take their children more often to libraries and bookstores.

The workshops provided by the Ready-to-Learn program are considered the best of their kind. It also brings needed literacy services to parents and children at food distribution centers, homeless shelters, employment centers, and supermarkets.

Many of the innovations under Ready-to-Learn have come from local stations. WGBH in Boston is one of the nation's leaders in public broadcasting. It created the Reading Rainbow, and Where in the World is Carmen San Diego, which are leaders in educational programming across the country.

Last year, WGBH hosted 34 Ready-to-Learn workshops in Massachusetts. 1,100 parents and 265 child-care providers and teachers attended. These parents and providers in turn worked with 3,400 children, who are now better prepared to succeed in their schools.

WGBY of Springfield is the mainstay of literacy services for Western Massachusetts. This station trained 250 home day-care providers, who serve 2,500 children. A video lending library makes PBS materials available to teachers to use in their classroom.

Workshop participants receive training on using children's programs as the starting point for educational activities. Participants receive free books. For some, these are the only books they have ever owned. They receive the PBS Families magazine, in English or Spanish, and they also receive the broadcasting schedules. Each of these resources builds on the learning that begins with viewing the PBS programs.

Through partnerships with the Massachusetts Office of Child Care Services and community-based organizations such as Head Start, Even Start, and the Reach Out & Read Program at Boston Medical Center, Ready-to-Learn trainers are reaching many low-income families with media and literacy information.

In Worcester, the Clark Street Developmental Learning School offers a family literacy program that uses Reading Rainbow or Arthur in every session with families. In addition, the school has now expanded its efforts to create an adult literacy center in the school. Many of the parents involved in the Ready-to-Learn project now attend the adult education program there.

Similar successes are happening across the nation. Since 1994, the sponsors of Ready-to-Learn workshops have given away 1.5 million books. Their program has grown from 10 television stations in 1994 to 130 television stations today. They have conducted over 8,500 workshops reaching 186,000 parents and 146,000 child care providers, who have in turn affected the lives of over four million children.

The ''Digital Education Act of 1999'' we are introducing today will continue this high-quality children's television programming. Equally important, it will take this valuable service into the next century through digital television, a powerful resource for delivering additional information through television programs.

The Digital Education Act will also increase the authorization of funds for Ready-to-Learn programs from $30 million to $50 million a year, enabling these programs to reach even more families and children with these needed services.

The Digital Education Act also authorizes $20 million for high-quality teacher professional development. Building on the success of the MATHLINE program, the bill will expand the program to include materials for helping teachers to teach to high state standards in core subject areas.

Participating stations make the teachers workshops available through districts, schools, and even on the teachers' own television sets. In this way, at their own pace, and in their own time, teachers can review the materials, observe other teachers at work, and reflect on their own practices. They can consider ways to improve their teaching, and make adjustments to their own practices. Teachers will also receive essential help in integrating technology into their teaching.

Teachers themselves are very supportive of the contribution that television can make to their classrooms. 88% of teachers surveyed in 1997 by the Corporation for Public Broadcasting said that quality television used in the classroom helped them be more creative, 92% said that it helped them be more effective in the classroom.

Finally, the Act will create a new ''Digital Education Content Collaborative,'' with an authorization of $25 million. Its goal is to stimulate quality content and curriculum through video and digital programs that will enable students to meet high state standards. Local public telecommunications agencies will create the programs, so that teachers can teach more effectively to the state standards and assess how well children are learning.

Again, I commend Senator COCHRAN for his leadership, and I urge my colleagues to join us in support of this important legislation, so that many more children can come to school ready to learn.

By Mr. BROWNBACK (for himself, Mr. HELMS, Mr. BURNS, Mr. ROBERTS, Mr. FITZGERALD, and Mr. LUGAR):

S. 1032. A bill to permit ships built in foreign countries to engage in coastwise trade in the transport of certain products; to the Committee on Commerce, Science, and Transportation.

FREEDOM TO TRANSPORT ACT OF 1999

• Mr. BROWNBACK. Mr. President, today I am reintroducing legislation that will expand capacity and increase competition within the domestic transportation system. This legislation, which will allow foreign built ships to transport bulk commodities, forest products, and livestock between U.S. ports, will help to expand the overall capacity by allowing ship operators to expand their fleets through obtaining affordable ships.

Currently, Section 27 of the Merchant Marine Act of 1920, commonly referred to as the Jones Act, requires that merchandise being transported on water between U.S. ports travel on U.S. built, U.S. flagged, and U.S. citizen owned vessels that are documented by the Coast Guard for such carriage. The bill I am introducing today, The Freedom to Transport Act of 1999, does not seek to repeal the Jones Act. Rather, it provides very targeted modification—to allow foreign built ships to carry bulk cargo in domestic trade. These ships would have to register in the United States and comply with all U.S. laws, including Jones Act ownership and crewing requirements.

The current law makes it infeasible for domestic coastwise shipments of agricultural commodities to occur on bulk shipping vessels. This is largely because the cost of purchasing a ship in the United States is as much as three times higher than it can be obtained on the world market. As a result, there has been little capital infusion into the domestic Jones Act fleet for many years. As a consequence, the cost of transport on bulk Jones Act vessels, if they are available at all, is prohibitively high.

Agriculture is a pillar to the Kansas economy, and an efficient transportation is critical to American agriculture. Laws that raise the cost of conducting business and impede efficient means for transporting product have a negative impact on farmers around the country, including Kansas. Moreover, the cost of transporting

goods is always a proportionately high cost of the delivered product for bulk commodities, but especially now as grain prices are at the lowest levels seen in years. Having means to the most cost-effective and efficient means for transporting product is now, more than ever, critical to American farmers.

If ocean transportation between U.S. ports were more efficient, more product might be delivered to its destination by ocean rather than by rail. For example, the poultry and pork producers in the grain deficit southeastern United States could bring in grain by ocean through the Great Lakes rather than by across the country by railroad. Since little of this type of trade currently occurs, this could have the effect of increasing the overall capacity of the domestic transportation infrastructure. That would make more railcars available for transport in places like Kansas, particularly during the harvest season when there is often a shortage of available cars. Furthermore, more efficient coastwise transportation would bring down prices for trade to Hawaii, Puerto Rico, and Alaska, which oftentimes find it less expensive to purchase products from other countries than to pay the inflated costs of shipping from the mainland U.S.

I am aware that the maritime industry has supported the Jones Act as a protection of domestic industry for many years, and resists any change to the current law. However, despite the ''protective'' nature of the Jones Act, it has protected very little. In the last 50 years the merchant marine has lost 40,000 jobs and over 60 shipyards have closed since 1987. In my view this legislation would not only benefit the customers of transportation services, but would also inject new life into an industry that has missed out on the unprecedented growth that the rest of the economy has enjoyed in the last generation. I want to work with the maritime industry to address their concerns and look forward to their eventual support of this legislation, which I envision will help them as much as it will help agricultural shippers.

I would like to point out that the legislation as introduced enjoys broad support not only in the agriculture industry, but also among many industries that ship bulk commodities—including oil, coal, clay, and steel. Additionally, those engaged in commerce with the non-contiguous U.S. are supportive, including the Puerto Rico Manufacturers Association, the Hawaii Shippers Council, and the Alaska Jones Act Reform Coalition. Finally, the National Taxpayers Union and Americans for Tax Reform support this as a measure that would save consumers over $14 billion annually.

A healthy maritime industry increases competitiveness, lowers costs, and improves service for customers of transportation. It creates jobs in the U.S. not only for the people who crew the ships, but for those who repair them, who own them, and who are employed by industries who buy transportation services. It is a win-win-win-win proposal.

I hope my colleagues will join me in reducing stifling government regulation and support this important bill.●

By Mrs. FEINSTEIN:

S. 1033. A bill to amend title IV of the Social Security Act to coordinate the penalty for the failure of a State to operate a State child support disbursement unit with the alternative penalty procedure for failures to meet data processing requirements; to the Committee on Finance.

CHILD SUPPORT PENALTY FAIRNESS ACT

Mrs. FEINSTEIN. Mr. President, today I am introducing the Child Support Penalty Fairness Act. This important legislation will remedy a flaw in federal child support laws that could cost California $4 billion annually.

On April 30, the Department of Health and Human Services announced its intent to reject the State of California's plan for child and spousal support because California does not have a centralized ''State Disbursement Unit'' that distributes child support collections to families. The mandatory penalty for this failure is loss of all federal child support administrative funding, which amounts to $300 million a year.

In addition, because the 1996 welfare reform law requires states to have an approved child support plan in order to receive the Temporary Assistance to Needy Families block grant, California could lose its entire TANF block grant of $3.7 billion a year.

In other words, California faces a $4 billion annual penalty for its failure to operate a State Disbursement Unit.

This so-called ''nuclear penalty'' is completely unjust and out of proportion. It will devastate the State of California's ability to serve low-income children and families—both families on welfare, and families who need child support so that they can stay off welfare. The penalty also will cripple the State's budget, seriously harming the largest economy in this nation.

I am not questioning the value of a State Disbursement Unit, or California's need to develop one. On the contrary, I am urging Governor Davis and the State legislature to come up with a plan to develop a State Disbursement Unit as quickly as possible. But I do not believe that poor families should be severely punished because the State has not gotten its act together.

Moreover, California's failure to develop a State Disbursement Unit is a direct result of its failure to develop a statewide computer system that tracks child support cases—and California is already paying a penalty for the computer failure.

The computer system penalty, which Congress established just last year, is fair and proportionate. More importantly, it rises over time, giving California a powerful incentive to get a computer system up and running. If California does not have a computer system in place by 2002, it will lose over $109 million annually in federal funds.

It is simply unfair to levy a $4 billion penalty against California for not having a State Disbursement Unit, when the State's failure to establish the unit is a direct result of a computer failure for which the State is already being penalized.

The Child Support Penalty Fairness Act would provide that States could not be penalized for failure to develop centralized disbursement units, if they are already paying a penalty for computer-related problems.

Under this bill, California would still have to pay a significant penalty for its computer-related troubles. Moreover, if California gets a statewide computer system in place, but still fails to operate a centralized disbursement unit, the State would be subject to additional severe penalties. This provides powerful incentive for the State to develop both a computer system, and a central disbursement unit, quickly.

I believe that this bill is proportionate and fair. It will prompt the State of California to develop a State Disbursement Unit in a timely fashion, without placing aid to low income children and families at risk. It is simply the right thing to do. I hope that my colleagues will take up and pass the Child Support Penalty Fairness Act as quickly as possible.

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

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

S. 1033

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 ''Child Support Penalty Fairness Act''.

SEC. 2. ALTERNATIVE PENALTY PROCEDURE FOR FAILURE TO OPERATE STATE DISBURSEMENT UNIT.

(a) IN GENERAL.—Section 455(a)(4) of the Social Security Act (42 U.S.C. 655(a)(4)) is amended by adding at the end the following:

''(E) The Secretary may not disapprove a State plan under section 454 against a State with respect to a failure to comply with section 454(27) for a fiscal year as long as the State is receiving a penalty under this paragraph with respect to a failure to comply with either section 454(24)(A) or 454(24)(B) for the fiscal year.''

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 101 of the Child Support Performance and Incentive Act of 1998.

By Mr. AKAKA (for himself, Ms. SNOWE, Mrs. MURRAY, and Ms. COLLINS):

S. 1034. A bill to amend title XVIII of the Social Security Act to increase the amount of payment under the Medicare program for pap smear laboratory tests; to the Committee on Finance.

INVESTMENT IN WOMEN'S HEALTH ACT OF 1999

Mr. AKAKA. Mr. President, today marks the 116th birthday of Dr. George Papanicolaou, who developed one of the most effective cancer screening tests in medical history—the Pap smear. Cervical cancer was one of the leading causes of cancer deaths in women in the United States 50 years ago and it is still a major killer of women worldwide. I rise today to introduce the Investment in Women's Health Care Act, a bipartisan bill to increase the reimbursement for Pap smear laboratory tests under the Medicare program. I am pleased to be joined by my colleagues—Senators SNOWE, MURRAY and COLLINS.

The inadequacy of current lab test reimbursement was brought to my attention by pathologists who alerted me to the significant cost-payment differential for Pap smear testing in Hawaii. According to the American Pathology Foundation, Hawaii is one of the 23 States where the cost of performing the test greatly exceeds the Medicare payment. In Hawaii, the cost ranges between $13.04 and $15.80. Yet the Medicare reimbursement rate is only $7.15.

The large disparity between the reimbursement level and the actual cost of performing the test may force labs in Hawaii and around the Nation to discontinue Pap smear testing. The below-cost reimbursement may compel some labs to process tests faster and in higher volume to improve cost efficiency. This situation increases the risk of inaccurate results and can severely handicap patient outcomes.

This bill would increase the a reimbursement rate for Pap smear labwork from its current $7.15 to $14.60—the national average cost of the test. This rate is important because it establishes a benchmark for many private insurers.

Last year, we were successful in having language included in the omnibus appropriations conference report recognizing the large disparity between the costs incurred to provide the screening tests and the amount paid by Medicare. The conferees noted that data from laboratories nationwide indicates that the cost of providing the test averages $13.00 to $17.00, with the costs in some areas being higher. Accordingly, conferees urged the Health Care Financing Administration to increase Medicare reimbursement for Pap smear screening. Although HCFA has indicated a willingness to increase this payment, I am concerned that the adjustment the agency is considering may be significantly less than the costs incurred by most laboratories in providing this service. Therefore, my colleagues and I are compelled to reintroduce legislation that would implement what we believe to be an appropriate increase.

Mr. President, no other cancer screening procedure is as effective for early detection of cancer as the Pap smear. Over the last 50 years, the incidence of cervical cancer deaths has declined by 70 percent due in large part to the use of this cancer detection measure. Evidence shows that the likelihood of survival when cervical cancer is detected in its earliest stage is almost 100 percent, if treatment and follow-up is timely. If the Pap smear is to continue as an effective cancer screening tool, it must remain widely available and reasonably priced for all women. Adequate payment is necessary to ensure women's continued access to quality Pap smears.

I urge my colleagues to support this important bipartisan legislation. Mr. President, I also ask consent the text of my bill be included in the RECORD.

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

S. 1034

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 ''Investment in Women's Health Act of 1999''.

SEC. 2. INCREASE IN PAYMENT AMOUNT FOR PAP SMEAR LABORATORY TESTS.

(a) IN GENERAL.—Section 1833(h) of the Social Security Act (42 U.S.C. 13951(h)) is amended by adding at the end the following:

''(7) In no case shall payment under the fee schedule established under paragraph (1) for the laboratory test component of a diagnostic or screening pap smear be less than $14.60.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to laboratory tests furnished on or after January 1, 2000.

Ms. SNOWE. Mr. President, I rise today to join my colleague from Hawaii, Senator AKAKA, in introducing the Investment in Women's Health Act.

Today we celebrate the 116th birthday of Dr. George Papanicolaou, the physician who developed the Pap smear. In the 50 years since Dr. Papanicolaou first began using this test, the cervical cancer mortality rate has declined by an astonishing 70 percent. There is no question that this test is the most effective cancer screening tool yet developed. The Pap smear can detect abnormalities before they develop into cancer. Having an annual Pap smear is one of the most important things a woman can do to help prevent cervical cancer.

Congress has recognized the incomparable contribution of the Pap smear in preventing cervical cancer and nine years ago directed Medicare to begin covering preventive Pap smears. Medicare beneficiaries are eligible for one test every three years, although a more frequent interval is allowed for women at high risk of developing cervical cancer. And through the Balanced Budget Act of 1997, Congress expanded the Pap smear benefit to also include a screening pelvic exam once every 3 years.

But the Medicare reimbursement rate is artificially low and does not accurately reflect the true cost of providing this vital test. The current Medicare rate of reimbursement is $7.15, though the mean national cost of the test is twice that amount: $14.60 per test. The bill we introduce today, The Investment in Women's Health Act, will raise the Medicare reimbursement rate for Pap smears to at least $14.60 per test.

Women understand the usefulness and life-saving benefit of the Pap smear. The U.S. Centers for Disease Control and Prevention reported last year that 95 percent of women age 18 years old and over have received a Pap smear at some point in their lives. And 85 percent of women age 18 years and older across the country have received a Pap smear within the last 3 years.

Unfortunately, the artificially low reimbursement rate threatens both our country's local clinical laboratories and the health of women across the country. Pathologists are increasingly concerned that low Medicare reimbursement for Pap smears will force them to stop providing the service and to ship the slides to large out-of-state laboratories. Shipping the slides to non-local, large-scale laboratories—''Pap mills''—reduces quality control, brings up continuity of care issues, and puts women at risk of higher rates of ''false positives'' or ''false negatives.''

Providing Pap smears locally facilitates the likelihood of follow-up by a pathologist, comparison of a patient's Pap smear to cervical biopsy, and facilitates better communication and consultation between the patient's pathologist and attending physician or clinician. When Pap smears are shipped out of the local community these vital comparisons are much more difficult to complete and are more prone to inconsistencies and error.

Inadequate reimbursement for Pap smears provided through Medicare threatens not only a woman's health but the financial stability of the laboratory as well. If a lab is forced to continue to subsidize Medicare Pap smears they will eventually either stop providing the Medicare service or go out of business—and neither option is acceptable. Finally, local laboratories have a proven track record of providing better service for the patients. A Pap smear is less likely to get lost in a local lab than among the tens of thousands of other tests in a ''Pap mill'' and cytotechnicians have better supervision by a pathologist in smaller laboratories than in large volume operations.

The Pap test has contributed immeasurably to the fight against cervical cancer. We cannot risk erasing our advancements in this fight because of low Medicare reimbursement. I urge my colleagues to join us.

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

S. 1035. A bill to establish a program to provide grants to expand the availability of public health dentistry programs in medically underserved areas, health professional shortage areas, and other Federally-defined areas that lack

primary dental services; to the Committee on Health, Education, Labor, and Pensions.

DENTAL HEALTH ACCESS EXPANSION ACT

Mr. FEINGOLD. Mr. President, I rise today to introduce legislation to address a troubling—but little recognized—public health problem in this country, and that's access to dental health.

Unlike many public health problems, there are clinically proven techniques to prevent or delay the progression of dental health problems. These proven techniques are not only more cost-effective, but also are relatively simple if done early. I'm specifically referring to the use of fluoride and dental sealants. The combination of fluoride and sealants is so effective against tooth decay that it has been likened to a ''magic potion.'' In fact, an article in Public Health Reports called the ''one-two combination of fluoride and sealants . . . similar to that of vaccinations.''

With such an effective prevention method in place, one might assume that dental disease is becoming increasingly rare in this country. But that's not the case, Mr. President, because, in order to receive these preventive treatments—this ''magic potion'' against dental disease—you need to see a dentist, and there simply are not enough dentists to provide these basic services to everyone who needs them. As of September 30 of last year, the United States had 1,116 dental health professions shortage areas, or Dental HPSA's according to the Health Resources and Services Administration. The chart I have here shows the counties in Wisconsin that have areas designated as shortage areas, but every single state in our Nation has a portion designated as a dental shortage area.

There are proven methods for preventing dental disease, yet 1,116 communities across our country—particularly underserved rural and inner-city communties—do not have enough dentists to provide simple preventive services. Barriers to dental care are particularly acute among lower income families, Medicaid enrollees, and the uninsured. Studies indicate that the prevalence of dental disease increases as income decreases. In many areas, there simply are not enough dentists to provide basic treatment to all who need them, and although there is a federal method for designating such areas as dental health professional shortage areas (DHPSA's) to become eligible for additional funding, the designation process can be so tedious that State dental directors simply lack the resources to complete the necessary documentation.

To illustrate this problem of undercounting shortage areas, as of September 30 of last year, only eight counties in Wisconsin had portions designated as DHPSA's according to the Health Resources and Services Administration (HRSA), but statewide only 23 percent of Medicaid enrollees had received dental care. As you can see from this chart, in 13 Wisconsin counties, fewer than 10 percent of Medicaid enrollees received dental care. According to Wisconsin's state dental director, Dr. Warren LeMay, 80 percent of tooth decay is found in the poorest 25 percent of children. Given the effectiveness of dental health care in preventing dental disease—particularly the combination of check-ups, fluoride, and sealants—the access problems are simply unacceptable.

And the impact of so many people going without dental care is devastating. Those of us who have ever had a toothache remember how excruciating that pain can be, making it difficult if not impossible to work, go to school or otherwise go about our business. For those Americans who lack access to dental services, however, the toothache is more than a bad memory—it is the here and now.

Mr. President, imagine you had a child, a daughter, in need of dental services. But you lack insurance, and cannot afford to pay out-of-pocket to see a dentist. Or you may have Medicaid, but the nearest dentist is more than 2 hours away, and you don't own a car. Since your child hasn't received the preventive care treatments, she has a lot of untreated tooth decay—decay that leads to infection, fevers, stomach aches, and, worst of all, debilitating pain, making it almost impossible for her to concentrate in school. She may also develop speech difficulties, since she may lack the teeth necessary to form certain words and sounds. When you try to get her emergency dental services, you find that the few dentists in the area have waiting lists of two months or more.

Mr. President, one mother, from Rhinelander, WI—which is in Oneida County in the northern part of my state—called me to tell me about her 8-year-old daughter in just that situation. He daughter was in excruciating pain because of a severe toothache, but the one dental provider in the area had a waiting list of several weeks, so that mother had no choice but to take her child to the nearest hospital emergency room, where the child was given painkillers to use until she could be seen by a dentist. Whereas routine primary dental care could have prevented this decay altogether, this mother had to take her young child to the hospital emergency room for prescription painkillers in order to make the wait before seeing the dentist bearable.

Mr. President, the unfortunate reality is that I hear such stories from my constituents on a regular basis, and I have heard enough to know that it's time to stop this needless suffering from dental disease by increasing access to dental care.

The legislation I am introducing today, the Dental Health Access Expansion Act, will establish take three important steps to promote access to dental health services:

First, the bill creates a federal grant program to be administered by the Health Resources and Services Administration through which community health centers and local health departments in designated dental health professionals shortage areas can apply for funding to assist in the hiring of primary care dentists. Strengthening locally run dental access programs ensures a safety net for these vitally important services.

The bill also creates a grant program to give bonus payments to dentists in shortage areas who devote at least 25 percent of their practice to Medicaid patients. More than 90 percent of America's dentists are in private practice, and incentive payments for dentists to increase their Medicaid practice helps to bring needy patients into the dental care mainstream.

Finally, the bill requires that HRSA work with the Association of State and Territorial Dental Directors and other organizations interested in expanding dental health access to simplify the process for designating dental shortage areas. Right now the system is so complicated that states simply don't have the resources to fill out the paperwork needed to get the designation.

Mr. President, the Dental Health Access Expansion Act is meant to complement existing initiatives—such as Health Professions Training Program expansions of general dentistry residencies, and the National Health Service Corps scholarship program—to increase access to primary care dental services in underserved communities. I have supported these and other programs in the past, and will continue to do so. My legislation is also meant to complement the excellent oral health initiatives proposed by my colleague, Senator BINGAMAN of New Mexico. I am thankful for the good work he has done in increasing awareness about this issue, and look forward to working with him to increase access to dental health services.

Through the legislation I am proposing, we can increase the number of dentists providing care to underserved communities, and in doing so strengthen our nation's existing network of Community Health Centers and local health departments.

Advances in dentistry have given us the tools to eradicate most dental diseases—what we need now is to provide people with access to dental care so that they can receive the simple preventive treatments they need, and that's what my legislation can help us achieve.

By Mr. KOHL (for himself, Mr. DODD, and Mr. ROCKEFELLER):

S. 1036. A bill to amend parts A and D of title IV of the Social Security Act to give States the option to pass through directly to a family receiving assistance under the temporary assistance to needy families program all child support collected by the State and the option to disregard any child support that the family receives in determining a family's eligibility for, or

amount of, assistance under that program; to the Committee on Finance.

CHILDREN FIRST CHILD SUPPORT REFORM ACT OF 1999

Mr. KOHL. Mr. President, I rise today to introduce legislation, along with my colleagues Senator DODD of Connecticut and Senator ROCKEFELLER of West Virginia, to provide more resources to America's children and families by encouraging more parents to live up to their child support obligations. My legislation, the Children First Child Support Reform Act, would enhance the options and incentives available to states to allow more child support to be paid directly to the families to whom it is owed and not be counted against public assistance benefits. My legislation will help assure more noncustodial parents that the child support they pay will actually contribute to the wellbeing of their child, rather than the government, and also help reduce administrative burdens on the state.

As my colleagues know, since its inception in 1975, our Federal-State Child Support Enforcement Program has been tasked with collecting child support for families receiving public assistance and other families that request help in enforcing child support. Toward this end, the program works to establish paternity and legally binding support orders, while collecting and disbursing funds on behalf of families so that children receive the support they need to grow up in healthy, nurturing surroundings.

But on one crucial point, the current program does not truly work on behalf of families and, perhaps more importantly, actually works against families.

Under current law, if a family is not on public assistance, support collected by the Child Support Enforcement Program is generally sent directly to the family. However, and this is the crux of the problem, support collected on behalf of families receiving public assistance is kept by the State and Federal Governments as reimbursement for welfare expenditures. Thus, for families on public assistance, the child support program ends up benefiting the financial interests of the government, rather than their children.

The research shows that many noncustodial parents are discouraged from paying child support because they realize and resent the fact that their payments go to the government rather than benefiting their children directly. In addition, some custodial parents are skeptical about working with the child support agency to secure payments since the funds are generally not forwarded to them. Obviously, these builtin program obstacles to reliable, timely child support payments serve to undermine the program's intended goals of promoting self-sufficiency and personal responsibility.

Mr. President, we know that an estimated 800,000 families would not need public assistance if they could count on the child support owed to them. In addition, we know that 23 million children are owed more than $43 billion in outstanding support. Clearly, the vital importance of child support in keeping families off of assistance remains as true today as when the program began. In a world with TANF time limits, it has never been more important. And with these figures in mind, it is not unthinkable that some policymakers may have or might still consider this program as a means of recovering welfare expenditures.

But I am convinced that that thinking must change, if not be cast off entirely, because, simply put, times have changed. The welfare reform law of 1996, which I supported, paved the way for time limits and work requirements that provide clear and compelling incentives for families to enter the workforce and find a way to stay there. Open ended, unconditional public support is no longer a reality, and our goal and responsibility as policymakers, now more than ever before, is to give families the tools and resources they need to prepare for and ultimately survive the day when they are without public assistance.

We fundamentally changed welfare, now we fundamentally reexamine the central role of child support in helping families as they struggle to become and remain self-sufficient. To this end, we've made some, but not nearly enough, progress. Under the welfare reform law, states will eventually be required to distribute state-collected child support arrears owed to the family before paying off arrears owed to the state and Federal governments for welfare expenditures. In addition, states were provided with some ability to continue or expand the $50 passthrough that had been required under previous law. But only one state—my homestate of Wisconsin—has opted to let families retain all support paid. As you know, Wisconsin has been a leader and national model in the area of welfare reform. Under Wisconsin's welfare program, child support counts as income in determining financial eligibility for welfare assistance, but once eligibility is established, the child support income is disregarded in calculating program benefits. In other words, families are allowed to keep their own money. Non-custodial parents can be assured that their contribution counts and that their child support payments go to their children. And both parents are presented with a realistic picture of what that support means in the life of their child.

I worked with Wisconsin to secure the waivers necessary to pursue this innovative policy and want to provide the other states with additional flexibility and options so that they can follow Wisconsin's example.

In addition to helping families, the expanded passthrough and disregard approach also has significant benefits on the administrative side. The current distribution requirements place significant accounting and paperwork burdens on the states. They are also costly. Data from the Federal Office of Child Support demonstrates that nearly 20 percent of program expenditures are spent simply processing payments. States are required to maintain a complicated set of accounts to determine whether support collected should be paid to the family or kept by the government. These complex accounting rules depend on whether the family ever received public assistance, the date a family begins and ends assistance, whether the non-custodial parent is current on payments or owes arrears, the method of collection and other factors.

We know that we have already asked much of the states in the realm of automation, systems integration and welfare law child support enforcement adjustments. We hope and believe these improvements will lead to better collection rates. Now we have a chance to simplify and improve distribution of support. What could be simpler than a distribution system in which child support collected would automatically be delivered to the children to whom it is owed? A distribution system in which child support agencies would distribute current support and arrears to both welfare and non-welfare families in exactly the same way?

Mr. President, child support financing must be addressed in the near future. First, our current distribution scheme is out of step with the philosophy of current welfare policy. We must move the child support program from cost-recovery to service delivery for all families. Second, the current financing scheme is no longer workable. TANF caseloads are decreasing dramatically, even as overall child support caseloads are increasing. Therefore, while the system needs additional resources, the portion of the caseload that produces those resources is decreasing. We must put the child support program on a sound financial footing that confirms a strong Federal and state commitment to the program and gives states additional flexibility to put more resources into the hands of children and let families keep more of their own money.

Let me strongly affirm that by advocating an expanded passthrough and disregard approach, I am absolutely not advocating a disinvestment in our child support system by either the Federal government or the states. Our commitment to this program must remain strong and steadfast. I am working to expand the passthrough for the reasons that I've explained, but I am also committed to paying for it in a responsible way. Not knowing what the proposal will cost today necessarily requires that we keep ourselves open to adjustments as the debate proceeds.

That said, it is time for us to envision a child support program that truly serves families and works to advance, not undermine, the TANF policy goals of self-sufficiency and personal responsibility with which it is inextricably

combined. Because assistance is now time-limited, we must give families the tools to survive in a world without public help, a world where they must rely on their own resources. In that equation, we all know that child support is fundamental. Letting as many as 5 years go by with child support payments either not being or accuring to the state rather than the family does nothing to advance those goals.

Mr. President, it's time to put our children first and envision a child support program that truly serves families. We can do that by passing this legislation to improve the public system, let families keep more of their own money, and make child support truly meaningful in the everyday lives of children on public assistance.

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. 1036

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 ''Children First Child Support Reform Act of 1999''.

SEC. 2. DISTRIBUTION AND TREATMENT OF CHILD SUPPORT COLLECTED BY THE STATE.

(a) STATE OPTION TO PASS ALL CHILD SUPPORT COLLECTED DIRECTLY TO THE FAMILY.—

(1) IN GENERAL.—Section 457 of the Social Security Act (42 U.S.C. 657) is amended—

(A) in subsection (a), by striking ''(e) and (f)'' and inserting ''(e), (f), and (g)''; and

(B) by adding at the end the following:

''(g) STATE OPTION TO PASS THROUGH ALL SUPPORT COLLECTED TO THE FAMILY.—

''(1) IN GENERAL.—At State option, subject to paragraph (2), and subsections (a)(4), (b), (e), (d), and (f), this section shall not apply to any amount collected on behalf of a family as support by the State and any amount so collected shall be distributed to the family.

''(2) INCOME PROTECTION REQUIREMENT.—A State may not elect the option described in paragraph (1) unless the State also elects (through an amendment to the State plan submitted under section 402(a)) to disregard any amount so collected and distributed for purposes of determining the amount of assistance that the State will provide to the family under the State program funded under part A pursuant to section 408(a)(12)(B).

''(3) OPTION TO PASS THROUGH AMOUNTS COLLECTED PURSUANT TO A CONTINUED ASSIGNMENT.—At State option, any amount collected pursuant to an assignment continued under subsection (b) may be distributed to the family in accordance with paragraph (1).

''(4) RELEASE OF OBLIGATION TO PAY FEDERAL SHARE.—If a State that elects the option described in paragraph (1) also elects to disregard under section 408(a)(12)(B) at least 50 percent (determined, at the option of the State, in the aggregate or on a case-by-case basis) of the total amount annually collected and distributed to all families in accordance with paragraph (1) for purposes of determining the amount of assistance for such families under the State program funded under part A, the State is released from—

''(A) calculating the Federal share of the amounts so distributed and disregarded; and

''(B) paying such share to the Federal Government.''.

(2) AUTHORITY TO CLAIM PASSED THROUGH AMOUNT FOR PURPOSES OF TANF MAINTENANCE OF EFFORT REQUIREMENTS.—Section 409(a)(7)(B)(i)(I)(aa) of the Social Security Act (42 U.S.C. 609(a)(7)(B)(i)(I)(aa)) is amended by inserting '', and, in the case of a State that elects under section 457(g) to distribute any amount so collected directly to the family, any amount so distributed (regardless of whether the State also disregards that amount under section 408(a)(12) in determining the eligibility of the family for, or the amount of, such assistance)'' before the period.

(b) STATE OPTION TO DISREGARD CHILD SUPPORT COLLECTED FOR PURPOSES OF DETERMINING ELIGIBILITY FOR, OR AMOUNT OF, TANF ASSISTANCE.—Section 408(a) of the Social Security Act (42 U.S.C. 608(a)) is amended by adding at the end the following:

''(12) STATE OPTION TO DISREGARD CHILD SUPPORT IN DETERMINING ELIGIBILITY FOR, OR AMOUNT OF, ASSISTANCE.—

''(A) OPTION TO DISREGARD CHILD SUPPORT FOR PURPOSES OF DETERMINING ELIGIBILITY.—A State to which a grant is made under section 403 may disregard any part of any amount received by a family as a result of a child support obligation in determining the family's income for purposes of determining the family's eligibility for assistance under the State program funded under this part.

''(B) OPTION TO DISREGARD CHILD SUPPORT IN DETERMINING AMOUNT OF ASSISTANCE.—A State to which a grant is made under section 403 may disregard any part of any amount received by a family as a result of a child support obligation in determining the amount of assistance that the State will provide to the family under the State program funded under this part.''.

(c) MAINTENANCE OF EFFORT REQUIREMENT.—Section 454 of the Social Security Act (42 U.S.C. 654) is amended—

(1) in paragraph (32), by striking ''and'' at the end;

(2) in paragraph (33), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(34) provide that, if the State elects to distribute support directly to a family in accordance with section 457(g), the State share of expenditures under this part for a fiscal year shall not be less than an amount equal to the highest amount of such share expended for fiscal year 1995, 1996, 1997, or 1998 (determined without regard to any amount expended that was eligible for payment under section 455(a)(3)).''.

(d) CONFORMING AMENDMENT.—Section 457(f) of the Social Security Act (42 U.S.C. 657(f)) is amended by striking ''Notwithstanding'' and inserting ''AMOUNTS COLLECTED ON BEHALF OF CHILDREN IN FOSTER CARE.—Notwithstanding''.

(e) EFFECTIVE DATE.—The amendments made by this section take effect on October 1, 1999.

By Mrs. BOXER:

S. 1037. A bill to amend the Toxic Substances Control Act to provide for a gradual reduction in the use of methyl tertiary butyl ether, and for other purposes; to the Committee on Environment and Public Works.

Mrs. BOXER. Mr. President, today I am pleased to introduce legislation to nationally phase-out the use of the fuel oxygenate methyl tertiary butyl ether (MTBE). My bill provides for a priority phase-out schedule designed to immediately prohibit MTBE use in areas where it is leaking into ground and surface waters, to prevent the spread of MTBE to areas where its use is currently limited or nonexistent, and to set us on a course to removing MTBE in all other areas of the nation.

MTBE has been used in the blending of gasoline since the 1970s, but its use increased dramatically following the passage of the Clean Air Act Amendments of 1990. In regions of the country with particularly poor air quality, including Southern California and Sacramento, the Act required the use of reformulated gasoline.

Under the Act, reformulated gasoline must contain 2% oxygenate by weight.

Today, about 70% of the gasoline sold in California contains 2% oxygen by weight due to this requirement. While other oxygenates like ethanol may be used to meet this 2% requirement, the ready availability of MTBE and its chemical properties made it the oxygenate of choice among most oil companies.

While the oxygenate of choice, however, MTBE is also classified as a possible human carcinogen. Moreover, when MTBE enters groundwater, it moves through the water very fast and very far. Once there, MTBE resists degrading in the environment. We know very little about how long it takes to break down to the point that it becomes harmless. We do know that at even very low levels, MTBE causes water to take on the taste and odor of turpentine—rendering it undrinkable.

That is, it makes water smell and taste so bad that people won't drink it.

I first became aware of the significance of the threat MTBE posed to drinking water following the discovery that MTBE had contaminated drinking water wells in Santa Monica. Ultimately, Santa Monica was forced to close drinking water wells that supplied approximately half of its drinking water due to that contamination. Clean up of Santa Monica's drinking water supply continues today under the oversight of the Environmental Protection Agency (EPA) at significant cost.

Following that discovery, I held a California field hearing of the Senate Committee on Environment and Public Works, of which I am a member, on the issue of MTBE contamination. Based upon the testimony I received at that hearing, I became convinced that MTBE posed a significant threat to drinking water not only in California, but nationwide. Shortly after the hearing, I wrote what would be one of many letters to the Administrator of EPA urging her to take action to remove this threat to the nation's drinking water supply.

While EPA has taken many laudable actions to speed the remediation of MTBE contaminated drinking water, it has been slow to respond to my calls for a nationwide MTBE phase-out. EPA maintains that it lacks the legal authority to phase-out the use of this harmful gasoline additive.

In the face of this federal inaction, and since the discovery of MTBE contamination in Santa Monica and my

hearing in California, revelations of MTBE contamination in California and the nation have proliferated. In June 1998, the Lawrence Livermore National Laboratory estimated that MTBE is leaking from over 10,000 underground storage tanks in California alone. Potential clean up costs associated with MTBE contamination in my state range between $1 to $2 billion. Reports of MTBE contamination in the northeastern United States are also now becoming more common, and several state legislatures have introduced legislation to phase-out or ban MTBE use.

This flurry of activity in the northeastern states follows upon the first state action to prohibit the use of MTBE. Specifically, on March 26, 1999, California Governor Gray Davis provided that MTBE use in California will be prohibited after December 31, 2002.

While the action in California and several other states to begin to address the MTBE problem is certainly to be commended, I believe it demonstrates a failure of federal policymakers to design a national solution to what is clearly a national problem.

The legislation I introduce today would provide that solution.

First, my bill empowers the Environmental Protection Agency (EPA) to immediately prohibit MTBE use in areas where the additive is leaking into ground or surface waters. In my view, we must swiftly stop the use of MTBE in areas where we know we've got leaking underground storage tanks. That's just common sense.

Second, my bill prohibits the use of MTBE after January 1, 2000 in areas around the nation where the use of oxygenates like MTBE is not required by law. It has been recently revealed that oil companies have been adding significant quantities of MTBE to gasoline in the San Francisco area even though oxygenates like MTBE are not required to be used in that area. Notwithstanding California's MTBE phaseout, such MTBE use may legally continue throughout California until the state phase-out deadline of December 31, 2002.

As we face an estimated $1 to $2 billion in MTBE clean up costs in California alone, I believe we must swiftly take steps to prevent the spread of MTBE contamination to areas where its use is currently limited and is in no sense required under the law.

Third, the bill prohibits MTBE use nationwide after January 1, 2003, and provides for specific binding percentage reductions of MTBE use in the interim. Finally, the bill requires EPA to conduct an environmental and health effects study of ethanol use as a fuel additive.

I am hopeful that my House and Senate colleagues can act quickly to ensure the passage of my legislation to provide a nationwide solution to the nationwide problem of MTBE contamination.

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

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

S. 1037

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

SECTION 1. USE OF METHYL TERTIARY BUTYL ETHER.

Section 6 of the Toxic Substances Control Act (15 U.S.C. 2605) is amended by adding at the end the following:

''(f) USE OF METHYL TERTIARY BUTYL ETHER.—

''(1) PROHIBITION ON USE IN SPECIFIED NONATTAINMENT AREAS.—Effective beginning January 1, 2000, a person shall not use methyl tertiary butyl ether in an area of the United States that is not a specified nonattainment area that is required to meet the oxygen content requirement for reformulated gasoline established under section 211(k) of the Clean Air Act (42 U.S.C. 7545(k)).

''(2) PROHIBITION ON USE IN AREAS OF LEAKAGE.—If the Administrator finds that methyl tertiary butyl ether is leaking into ground water or surface water in an area, the Administrator may immediately prohibit the use of methyl tertiary butyl ether in the area.

''(3) UPGRADING OF UNDERGROUND STORAGE TANKS.—In enforcing the requirement that underground storage tanks be upgraded in accordance with section 280.21 of title 40, Code of Federal Regulations, the Administrator shall focus enforcement of the requirement on areas described in paragraph (2).

''(4) USE OF METHYL TERTIARY BUTYL ETHER IN GASOLINE.—

''(A) INTERIM PERIOD.—

''(i) PHASED REDUCTION.—

''(I) IN GENERAL.—The Administrator shall promulgate regulations to require—

''(aa) by January 1, 2001, a ⅓ reduction in the quantity of methyl tertiary butyl ether that may be used in gasoline; and

''(bb) by January 1, 2002, a ⅔ reduction in the quantity of methyl tertiary butyl ether that may be used in gasoline.

''(II) BASIS FOR REDUCTIONS.—Reductions under subclause (I) shall be based on the quantity of methyl tertiary butyl ether in use in gasoline in the United States as of the date of enactment of this subsection.

''(ii) LABELING.—During the period beginning on the date of enactment of this subsection and ending December 31, 2002, the Administrator shall require any person selling gasoline that contains methyl tertiary butyl ether at retail to prominently label the fuel dispensing system for the gasoline with a notice that the gasoline contains methyl tertiary butyl ether.

''(B) PROHIBITION.—Effective beginning January 1, 2003, a person shall not use methyl tertiary butyl ether in gasoline.''.

SEC. 2. STUDY OF EFFECTS OF FUEL COMPONENTS.

Not later than July 31, 2000, the Administrator of the Environmental Protection Agency shall—

(1) conduct a study of the behavior, toxicity, carcinogenicity, health effects, and biodegradability, in air and water, of ethanol, olefins, aromatics, benzene, and alkylate; and

(2) report the results of the study to Congress.

By Mr. FRIST:

S. 1041. A bill to amend title 38, United States Code, to permit certain members of the Armed Forces not currently participating in the Montgomery GI Bill educational assistance program to participate in that program, and for other purposes; to the Committee on Veterans Affairs.

GI EDUCATION OPPORTUNITY ACT OF 1999

• Mr. FRIST. Mr. President, I rise today to offer legislation that will assist the men and women serving in our armed forces in attaining an education. The GI Education Opportunity Act is targeted at a group serving in our military that has been forgotten since the passage of the Montgomery GI Bill. Before the GI Bill was enacted in 1985, new servicemen were invited to participate in a program called the Veterans' Educational Assistance Program, or VEAP. This program offered only a modest return on the service member's investment and, as a consequence, provided little assistance to men and women in the armed services who wanted to pursue additional education. It was and is inferior to the Montgomery GI Bill that every new serviceman is offered today.

The GI Education Opportunity Act would allow active duty members of the armed services who entered the service after December 31, 1976 and before July 1, 1985 and who are or were otherwise eligible for the Veterans' Educational Assistance Program to participate in the Montgomery GI Bill. This group of military professionals largely consists of the mid-career and senior noncommissioned officer ranks of our services—the exact group that new recruits have as mentors and leaders. If we really believe in the importance of providing our servicemen and women with the education opportunities afforded by the Montgomery GI Bill, it is critical that we offer all service members the opportunity to participate of they choose.

It is important to remember that much of the impetus for the creation of the Montgomery GI Bill was that the Veterans' Educational Assistance Program was not doing the job. It was not providing sufficient assistance for young men and women to go to college. It was expensive for them to participate, and provided little incentive for young men and women to enter the military. The Montgomery GI Bill offers those serving in the military a significant increase in benefits over its predecessor and has been one of the most important recruiting tools over the last decade. It is essential that active military still covered under VEAP but not by the Montgomery GI Bill be brought into the fold.

The injustice that my bill attempts to address is that new recruits are eligible for a better education program than the noncommissioned officers responsible for their training and well-being. Expanding Montgomery Bill eligibility to those currently eligible for VEAP would, in many cases, help mid-career and senior noncommissioned officers, who are the backbone of our force and set the example for younger troops, become better educated. This legislation is modest in its scope and approach, but is enormously important

for the individual attempting to better himself through education. Moreover, this legislation sends a meaningful message to those serving to protect the American interest that Congress cares. S. 4, the Soldiers, Sailors, Airmen, and Marines Bill of Rights Act which I was proud to cosponsor was an enormous step in this direction, and my legislation complements that effort.

Some of the common sense provisions of The GI Education Opportunity Act are: 1. Regardless of previous enrollment or disenrollment in the VEAP, active military personnel may choose to participate in the GI Bill. 2. Participation for VEAP-eligible members in the GI Bill is to be based on the same ''buy in requirements'' as are currently applicable to any new GI Bill participant. For example, an active duty member is required to pay $100 a month for twelve months in order to be eligible for the Montgomery GI Bill. The same would be required of someone previously eligible for VEAP. 3. Any active duty member who has previously declined participation in the GI bill may also participate. 4. There will be a one year period of eligibility for enrollment.

I believe that if we are to maintain the best trained, and most capable military force in the world, we must be committed to allowing the people that comprise our armed forces to pursue further education opportunities. I believe that this modest legislation will have a positive effect on morale and give our noncommissioned officers additional opportunities for self-improvement and life-long learning. I ask for my colleagues support in this effort.●

By Mrs. HUTCHISON (for herself, Mr. BREAUX, Mr. DOMENICI, Mr. BINGAMAN, Mr. LOTT, Ms. LANDRIEU, Mr. COCHRAN, Mr. THOMAS, Mr. BROWNBACK, and Mr. GRAMM):

S. 1042. A bill to amend the Internal Revenue Code of 1986 to encourage domestic oil and gas production, and for other purposes; to the Committee on Finance.

DOMESTIC ENERGY PRODUCTION SECURITY AND STABILIZATION ACT

● Mrs. HUTCHISON. Mr. President, I am pleased today to introduce with my colleague from Louisiana, Senator BREAUX, the Domestic Energy Production Security and Stabilization Act. This bill represents a necessary and workable proposal to ensure that the United States does not lose even more of its energy independence.

Mr. President, the oil and gas industry in this country is in a state of unprecedented crisis. Over the last year-and-a-half, oil and gas prices have been a historic lows. This has led to the closing of over 200,000 domestic oil and gas wells, has brought new exploration to a virtual standstill, and has cost an estimated quarter of a million American jobs.

Not only is this an economic issue, it is also a national security issue. We are importing more oil than we produce. This is not a healthy situation for shaping our foreign policy agenda. If our domestic industry is to survive, then Congress needs to act now to provide tax incentives to encourage energy production in America.

To reverse these trends and increase our energy independence, I have worked on a bipartisan basis to develop the Domestic Energy Production Security and Stabilization Act. The bill provides tax incentives in our significant areas to ensure that our domestic energy infrastructure is not decimated during prolonged periods of low energy prices.

First, the legislation would provide a $3 dollar a barrel tax credit, on the first three barrels that can offset the cost of keeping marginal wells operating during periods of critically low oil and gas prices. Marginal wells are those that produce 15 barrels a day or less. There are close to 500,000 such wells across the U.S. that collectively produce 20 percent of America's oil, more oil than we import from Saudi Arabia.

Second, the bill would provide some relief from the alternative minimum tax (AMT), again during prolonged periods of low energy prices. In a time of financial crisis for the oil and gas industry, this tax has had the effect of exacerbating the impact of low commodity prices and driving even more producers out of business. The AMT was enacted to ensure that companies reporting large financial income paid at least some level of taxes. Unfortunately, for the oil and gas industry, the AMT has only served to make a bad situation worse.

Third, Mr. President, this legislation would change the net income limitation on percentage depletion by eliminating the 65 percent taxable income limitation. Carried-over percentage depletion could also be carried back ten years. This would enable companies to fully utilize their percentage depletion allowance, which many have not been able to do since the onset of the oil and gas crisis.

Finally, Mr. President, this bill brings the U.S. Tax Code in line with the present-day realities of the oil and gas industry by allowing oil and gas exploration (geological and geophysical) costs to be expensed rather than capitalized, and by allowing delay rental lease payments to be deducted in the year in which they are paid, rather than when the oil is actually pumped. Even the Treasury Department has tacitly endorsed these proposed changes as making for sound economic and tax policy.

Taken together, these four major tax provisions will help the job-creating oil and gas sector of the economy to withstand the volatility of the international oil and gas markets. We simply must not allow our nation to become even more dependent on foreign oil. Nor can we afford to shut-down our domestic gas production capability, particularly since natural gas consumption is expected to grow rapidly in the near future, and, unlike oil, natural gas is not imported.

Mr. President, this legislation is long overdue, and I appreciate the support of Senator BREAUX and my other colleagues who are cosponsoring the bill. Most importantly, I urge my other colleagues, particularly those from non-energy producing states, to join with us in supporting this effort. America simply has too much at stake to stand by and let our domestic oil and gas industry jobs and infrastructure be lost to the whims of the world markets.●

● Mr. BREAUX. Mr. President, I am pleased to join with the distinguished Senator from the State of Texas. Senator HUTCHINSON, in introducing the Domestic Energy Production Security and Stabilization Act. I believe it is legislation all of our colleagues should support.

First, I'd like to outline the problem and then discuss how this legislation helps address it. Oil prices may be in the early stages of recovery, but over the last 17 months, a glut in the world market forced crude oil prices down to their lowest inflation-adjusted levels in 50 years. The Independent Petroleum Association of America estimates that, since November 1997, when the price of oil began to decline, more than 136,000 crude oil wells and more than 57,000 natural gas wells have been shut down.

The U.S. petroleum industry last year lost almost 30,000 jobs because of falling crude prices, according to the American Petroleum Institute's annual report. Despite the recent rise in oil prices, job losses continue. Another 3,600 jobs were lost between February and March. This brings the loss since December 1997 to about 54,400 jobs, a decline of 16 percent. In the first three months of 1999, losses amounted to about 24,000 jobs, or a drop of almost 8 percent.

Mr. President, independent producers account for almost a third of Gulf of Mexico oil production on the outer continental shelf (OCS), and almost half of natural gas production. According to the Minerals Management Service, on a per-day basis, the OCS accounts for 27 percent of the nation's natural gas production and 20 percent of the nation's crude oil production. In 1997, production on the federal OCS off Louisiana resulted in $2.9 billion or 83 percent of the $3.5 billion royalties received for all of the OCS. It is not difficult to see that as domestic production falls, so will federal royalty receipts.

And, let's not forget the thousands of jobs created in non-energy sectors to service the energy industry: computers, steel and other metals, transportation, financial and other service industries. When domestic oil and gas production increases, so does the number of jobs created in all these sectors.

This legislation will provide marginal well tax credits, alternative minimum tax relief, expensing of geological and geophysical costs and delay

rental payments and other measures to encourage domestic oil and gas production. It is a safety net. The bill's provisions phase in and out as oil prices fall and rise between $17 and $14 per barrel and natural gas prices fall and rise between $1.86 and $1.56 per thousand cubic feet. It will provide a permanent mechanism to help our domestic producers cope with substantial and unexpected declines in world energy prices.

Let's examine how one aspect of this bill—marginal well production—affects this nation. A marginal well is one that producers 15 barrels of oil per day or 60,000 cubic feet of natural gas or less. Low prices hit marginal wells especially hard because they typically have low profit margins. While each well produces only a small amount, marginal wells account for almost 25 percent of the oil and 8 percent of the natural gas produced in the continental United States. The United States has more than 500,000 marginal wells that collectively produce nearly 700 million barrels of oil each year. These marginal wells contribute nearly $14 billion a year in economic activity. The marginal well industry is responsible for more than 38,000 jobs and supports thousands of jobs outside the industry.

The National Petroleum Council is a federal advisory committee to the Secretary of Energy. Its sole purpose is to advise, inform, and make recommendations to the Secretary of Energy on any matter requested by the Secretary with relating to oil and natural gas or to the oil and natural gas industries. The National Petroleum Council's 1994 Marginal Well Report said that:

> Preseving marginal wells is central to our energy security. Neither government nor the industry can set the global market price of crude oil. Therefore, the nation's internal cost structure must be relied upon for preserving marginal well contributions.

The 1994 Marginal Well Report went on to recommend a series of tax code modifications including a marginal well tax credit and expensing key capital expenditures. The Independent Petroleum Association of America estimates that as many of half the estimated 140,000 marginal wells closed in the last 17 months could be lost for good.

Mr. President, the facts speak for themselves. The U.S. share of total world crude oil production fell from 52 percent in 1950 to just 10 percent in 1997. At the same time, U.S. dependence on foreign oil has grown from 36 percent in 1973 (the time of the Arab oil embargo) to about 56 percent today. That makes the U.S. more vulnerable than ever—economically and militarily—to disruptions in foreign oil supplies. This legislation will provide a mechanism to help prevent a further decline in domestic energy production and preserve a vital domestic industry.●

● Mr. GRAMM. Mr. President, I am pleased to join Senator KAY BAILEY HUTCHISON and a number of other colleagues in the introduction of legislation which we believe will provide critically needed relief and assistance to our beleaguered domestic oil industry.

Our bill contains a number of incentives designed to increase domestic production of oil and gas. The decline in domestic oil production has resulted in the estimated loss of more than 40,000 jobs in the oil and gas industry since the crash of oil prices at the end of 1997. Our legislation will not only put people back to work, it will revitalize domestic energy production and decrease our dependence on imports.

I have sought relief for the oil and gas industry from a number of sources this year. As a member of the Senate Budget Committee, I strongly opposed the $4 billion tax which the Clinton budget proposed to levy on the oil industry. As my colleagues know, that tax is now dead.

Earlier this year I contacted Secretary of State Madeleine Albright and urged her to conduct a thorough review of our current policy which permits Iraq to sell $5.25 billion worth of oil every six months. The revenue generated from such sales is supposed to be used to purchase food and medicine but reports make it clear that Saddam Hussein has diverted these funds from their intended use and that they are being used to prop up his murderous regime. The United States should not be a party to such a counterproductive policy.

Senator HUTCHISON and I earlier this year introduced legislation which contained a series of tax law changes intended to spur marginal well production. The legislation which we introduce today contains those provisions as well as others, such as reducing the impact of the Alternative Minimum Tax (AMT) on the oil and gas industry and relaxing the existing constraints on use of the allowance for percentage depletion.

I am looking forward to working with my colleagues in an effort to enact the legislation as soon as possible.●

By Mr. MCCAIN:

S. 1043. A bill to provide freedom from regulation by the Federal Communications Commission for the Internet; to the Committee on Commerce, Science, and Transportation.

THE INTERNET REGULATORY FREEDOM ACT

Mr. MCCAIN. Mr. President, I rise today to introduce The Internet Regulatory Freedom Act of 1999. This legislation will help assure that the enormous benefits of advanced telecommunications services are accessible to all Americans, no matter where they live, what they do, or how much they earn.

Advanced telecommunications is a critical component of our economic and social well-being. Information technology now accounts for over one-third of our economic growth. The estimates are that advanced, high-speed Internet services, once fully deployed, will grow to a $150 billion a year market.

What this means is simple: Americans with access to high-speed Internet service will get the best of what the Internet has to offer in the way of online commerce, advanced interactive educational services, telemedicine, telecommuting, and video-on-demand. But what it also means is that Americans who don't have access to high-speed Internet service won't enjoy these same advantages.

Mr. President, Congress cannot stand idly by and allow that to happen.

Advanced high-speed data service finally gives us the means to assure that all Americans really are given a fair shake in terms of economic, social, and educational opportunities. Information Age telecommunications can serve as a great equalizer, eliminating the disadvantages of geographic isolation and socioeconomic status that have carried over from the Industrial Age. But unless these services are available to all Americans on fair and affordable terms, Industrial Age disadvantages will be perpetuated, not eliminated, in the Information Age.

As things now stand, however, the availability of advanced high-speed data service on fair and affordable terms is seriously threatened. Currently, only 2 percent of all American homes are served by networks capable of providing high-speed data service. Of this tiny number, most get high-speed Internet access through cable modems. This is a comparatively costly service —about $500 per year —and most cable modem subscribers are unable to use their own Internet service provider unless they also buy the same service from the cable system's own Internet service provider. This arrangement puts high-speed Internet service beyond the reach of Americans not served by cable service, and limits the choices available to those who are.

If this situation is allowed to continue, many Americans who live in remote areas or who don't make a lot of money won't get high-speed Internet service anywhere near as fast as others will. And, given how critical high-speed data service is becoming to virtually every segment of our everyday lives, creating advanced Internet ''haves'' and ''have nots'' will perpetuate the very social inequalities that our laws otherwise seek to eliminate.

This need not happen. Our nation's local telephone company lines go to almost every home in America, and local telephone companies are ready and willing to upgrade them to provide advanced high-speed data service.

They are ready and willing, Mr. President, but they are not able—at least, not as fully able as the cable companies are. That's because the local telephone companies operate under unique legal and regulatory restrictions. These restrictions are designed