By Mr. HARKIN (for himself, Mr. FRIST, Mr. KENNEDY, Mr. CHAFEE, Mr. REED, Mr. MACK, Ms. MIKULSKI, Mrs. MURRAY, Mr. CLELAND, Mr. HELMS, Mr. WARNER, Mr. SCHUMER, Mr. COCHRAN, Mr. DURBIN, Mr. MOYNIHAN, Mrs. BOXER, Mr. ROBERTS, and Mr. REID):

S. 1268. A bill to amend the Public Health Service Act to provide support for the modernization and construction of biomedical and behavioral research facilities and laboratory instrumentation; to the Committee on Health, Education, Labor, and Pensions.

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

S. 1269. A bill to provide that the Federal Government and States shall be subject to the same procedures and substantive laws that would apply to persons on whose behalf certain civil actions may be brought, and for other purposes; to the Committee on the Judiciary.

By Mr. FRIST (for himself and Mr. DOMENICI):

S. 1270. A bill to establish a partnership for education progress; to the Committee on Health, Education, Labor, and Pensions.

By Mr. GRASSLEY:

S. 1271. A bill to improve the drug certification procedures under section 490 of the Foreign Assistance Act of 1961, and for other purposes; to the Committee on Foreign Relations.

By Mr. NICKLES (for himself, Mr. LIEBERMAN, Mr. LOTT, Mr. ABRAHAM, Mr. ALLARD, Mr. BROWNBACK, Mr. COVERDELL, Mr. ENZI, Mr. HAGEL, Mr. INHOFE, Mr. CRAIG, and Mr. SESSIONS):

S. 1272. A bill to amend the Controlled Substances Act to promote pain management and palliative care without permitting assisted suicide and euthanasia, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. BOND:

S. Res. 126. A resolution expressing the sense of the Senate that appreciation be shown for the extraordinary work of Mildred Winter as Missouri teacher and leader in creating the Parents as Teachers program on the occasion that Mildred Winter steps down as Executive Director of such program; considered and agreed to.

By Mr. LOTT:

S. Res. 127. A resolution to direct the Secretary of the Senate to request the return of certain pages; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SCHUMER:

S. 1267. A bill to require that health care providers inform their patients of certain referral fees upon the referral of the patients to clinical trials; to the Committee on Health, Education, Labor, and Pensions.

CLINICAL TRIALS DISCLOSURE ACT OF 1999

Mr. SCHUMER. Mr. President, I rise today to introduce the Clinical Trials Disclosure Act of 1999. As the Senate debates important health care issues such as Medicare, prescription drug access, and managed care reform, I want to call our attention to another important health care matter: doctors and other health care providers accepting payments from drug companies and their contractors to refer patients to clinical trials. Each of us understands that by providing a forum for medical research, clinical trials play a vital role in our health care system. Unfortunately, some providers are violating the patient-doctor relationship by not informing patients of the fees they receive for referrals to the clinical trials.

Recent media reports have highlighted this growing trend that threatens the important relationship between doctor and patient. In one case in California, a doctor received over $1,600 to refer a patient to a prostate cancer drug trial despite the fact that the patient's prostate was healthy. Other drug companies offer bonuses to physicians who refer numbers over and above a certain quota. Providers benefit in other ways, too. A cooperative doctor may get his or her name attached to an academic study authored by a ghost writer based on the drug company's data. No matter how the doctor benefits, however, he or she is not compelled to inform the patient of his or her relationship with the drug company. This is why today I introduce the Clinical Trials Disclosure Act of 1999.

This bill simply requires that if a health care provider receives payments or other compensation for referring a patient to a clinical trial, the provider must inform the patient both orally and in writing. The measure is not intended to discourage patient participation in important medical research. Instead, it will strengthen the relationship between doctor and patient and help ensure that clinical trials attract patients who will benefit from their important work.

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. 1267

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 ''Clinical Trials Disclosure Act of 1999''.

SEC. 2. REQUIRED DISCLOSURE OF REFERRAL FEES.

(a) THROUGH CONTRACTS WITH INSURERS.—

(1) AMENDMENT TO ERISA.—

(A) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is amended by adding at the end the following new section:

''SEC. 714. REQUIRED DISCLOSURE OF REFERRAL FEES.

''The provisions of any contract or agreement, or the operation of any contract or agreement, between a group health plan or health insurance issuer in relation to health insurance coverage (including any partnership, association, or other organization that enters into or administers such a contract or agreement) and a health care provider (or group of providers) shall require that, if the provider refers a patient to a clinical trial, the provider shall disclose (orally and in writing) to the patient (at the time of such referral) any payments or other compensation that the provider receives (or expects to receive) from any entity in connection with such referral.''.

(B) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 note) is amended by inserting after the item relating to section 713 the following new item:

''Sec. 714. Required disclosure of referral fees.''.

(2) AMENDMENTS TO PHSA.—

(A) GROUP MARKET.—Subpart 2 of part A of title XXVII of the Public Health Service Act (42 U.S.C. 300gg-4 et seq.) is amended by adding at the end the following new section:

''SEC. 2707. REQUIRED DISCLOSURE OF REFERRAL FEES.

''The provisions of any contract or agreement, or the operation of any contract or agreement, between a group health plan or health insurance issuer in relation to health insurance coverage (including any partnership, association, or other organization that enters into or administers such a contract or agreement) and a health care provider (or group of providers) shall require that, if the provider refers a patient to a clinical trial, the provider shall disclose (orally and in writing) to the patient (at the time of such referral) any payments or other compensation that the provider receives (or expects to receive) from any entity in connection with such referral.''.

(B) INDIVIDUAL MARKET.—Part B of title XXVII of the Public Health Service Act (42 U.S.C. 300gg-41 et seq.) is amended—

(1) by redesignating the first subpart 3 (relating to other requirements) as subpart 2; and

(2) by adding at the end of subpart 2 the following new section:

''SEC. 2753. REQUIRED DISCLOSURE OF REFERRAL FEES.

''The provisions of section 2707 shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as they apply to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the small or large group market.''.

(b) OTHER PROVIDERS.—A health care provider who provides services to beneficiaries under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) shall, with respect to any patient that such provider refers to a clinical trial, disclose (orally and in writing) to the patient (at the time of such referral) any payments or other compensation that the provider receives (or expects to receive) from any entity in connection with such referral.

By Mr. HARKIN (for himself, Mr. FRIST, Mr. KENNEDY, Mr. CHAFEE, Mr. REED, Mr. MACK, Ms. MIKULSKI, Mrs. MURRAY, Mr. CLELAND, Mr. HELMS, Mr. WARNER, Mr. SCHUMER, Mr. COCHRAN, Mr. DURBIN, Mr. MOYNIHAN, Mrs. BOXER, Mr. ROBERTS, and Mr. REID):

S. 1268. A bill to amend the Public Health Service Act to provide support for the modernization and construction of biomedical and behavioral research facilities and laboratory instrumentation; to the Committee on Health, Education, Labor, and Pensions.

21ST CENTURY RESEARCH LABORATORIES ACT OF 1999

Mr. HARKIN. Mr. President, today I am pleased to introduce the Twenty-First Century Research Laboratories Act of 1999. I am joined in this effort by Senators FRIST, KENNEDY, CHAFEE, REED of Rhode Island, MACK, MIKULSKI, MURRAY, CLELAND, HELMS, WARNER, SARBANES, SCHUMER, COCHRAN, DURBIN, MOYNIHAN, BOXER, ROBERTS, and REID of Nevada. I want to thank my colleagues for cosponsoring this legislation.

First though, let me say how pleased I was that we were able to provide the biggest increase ever for medical research last year. The Conference Agreement of the Fiscal 1999 Labor, Health and Human Services, Education and Related Agencies Appropriations Subcommittee, provided a $2 billion, or 15 percent, increase for the National Institutes of Health. And this year, I and Senator SPECTER will continue our work to make sure that Congress stays on course to double funding for the NIH over the next five years, a target that was agreed to by the Senate, 98 to 0, in 1997.

However, as Congress embarks on this important investment in improved health, we must strengthen the totality of the biomedical research enterprise. While it is critical to focus on high quality, cutting edge basic and clinical research, we must also consider the quality of the laboratories and buildings where that research is being conducted.

In fact, Mr. President, the infrastructure of research institutions, including the need for new physical facilities, is central to our nation's leadership in medical research. Despite the significant scientific advances produced by Federally-funded research, most of that research is currently being done in medical facilities built in the 1950's and 1960's, a time when the Federal Government obligated from $30 million to $100 million a year for facility and equipment modernization. Since then, however, annual appropriations for modernization of our biomedical research infrastructure have dramatically declined, ranging from zero to $20 million annually over the past decade. As a result, many of our research facilities and laboratories are outdated and inadequate to meet the challenge of the next millennium.

In order to realize major medical breakthroughs in Alzheimer's, diabetes, Parkinson's, cancer and other major illnesses, our Nation's top researchers must have top quality, state-of-the-art laboratories and equipment. Unfortunately, the status of our research infrastructure is woefully inadequate.

A recent study by the National Science Foundation finds that academic institutions have deferred, due to lack of funds, nearly $11.4 billion in repair, renovation, and construction projects. Almost one quarter of all research space requires either major renovation or replacement and 70% of medical schools report having inadequate space in which to perform biomedical research.

A separate study by the National Science Foundation documents the laboratory equipment needs of researchers and found that 67 percent of research institutions reported an increased need for laboratory instruments. At the same time, the report found that spending for such instruments at colleges and universities actually declined in the early 1990's.

Several other prominent organizations have documented the need for increased funding for research infrastructure. A March 1998 report by the Association of American Medical Colleges stated that ''The government should reestablish and fund a National Institutes of Health construction authority. . . .'' A June 1998 report by the Federation of American Societies of Experimental Biology stated that ''Laboratories must be built and equipped for the science of the 21st century . . . Infrastructure investments should include renovation of existing space as well as new construction, where appropriate.''

As we work to double funding for medical research over the next five years, the already serious shortfall in the modernization of our Nation's aging research facilities and labs will continue to worsen unless we take specific action. Future increases in NIH must be matched with increased funding for repair, renovation and construction of research facilities, as well as the purchase of modern laboratory equipment.

Mr. President, the bill we are introducing today expands Federal funding for facilities construction and state-of-the-art laboratory equipment through the NIH by increasing the authorization for this account within the National Center for Research Resources to $250 million in FY 2000 and $500 million in FY 2001. In addition, the bill authorizes a ''Shared Instrumentation Grant Program'' at NIH, to be administered by the Center. The program will provide grants for the purchase of shared-use, state-of-the-art laboratory equipment costing over $100,000. All grants awarded under these two programs will be peer-reviewed, as is the practice with all NIH grants and projects.

We are entering a time of great promise in the field of biomedical research. We are on the verge of major breakthroughs which could end the ravages of cancer, heart disease, Parkinson's and the scores of illnesses and conditions which take the lives and health of millions of Americans. But to realize these breakthroughs, we must devote the necessary resources to our Nation's research enterprise.

The Association of American Universities, the Association of American Medical Colleges and the Federation of American Societies of Experimental Biology have all expressed their support for this legislation.

I hope the rest of my colleagues will soon sign on as cosponsors to this important effort to improve the research capacity of this country.

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

S. 1269. A bill to provide that the Federal Government and States shall be subject to the same procedures and substantive laws that would apply to persons on whose behalf certain civil actions may be brought, and for other purposes; to the Committee on the Judiciary.

LITIGATION FAIRNESS ACT

Mr. MCCONNELL. Mr. President, I rise today to introduce the Litigation Fairness Act of 1999. This common sense legislation says that whenever the government sues private-sector companies to recover costs, the government plaintiff gets no more rights than the ordinary plaintiff. If the law is good enough for the average citizen, then it's good enough for the government.

This legislation to codify rules of fair play for government-sponsored lawsuits is necessary for three reasons:

First, the Litigation Fairness Act is necessary to prevent an avalanche of lawsuits against law-abiding companies. Let me say at the outset: this legislation is not about tobacco. Tobacco was just the beginning—the Model Act for hungry and enterprising trial lawyers.

After tobacco, there was speculation that the government would sue the men and women who manufacture and sell guns in America. The speculation was right. And now that we've got government-sponsored lawsuits against gun companies, the speculation turns to other legal industries, such as automobile manufacturers, paint manufacturers, and—yes, even the fast food industry.

Before some of you begin to shake your head about this widespread speculation, let me share some recent theories I've heard that verify that the theater of the absurd continues to move ever closer to legal reality. As reported recently by the Associated Press, a Yale professor is espousing a theory that, ''There is no difference between Ronald McDonald and Joe Camel.'' Both market products that are—and I quote this Professor from a recent seminar—''luring our children into killer habits'' ultimately increasing healthcare costs for the public—so the theory goes. And I promise that I'm not making this up. This Ivy League professor was in Washington just yesterday discussing this emerging theory.

Second, this legislation ensures basic fairness for individual citizens. Under established principles of tort law, private plaintiffs are often barred from recovering damages based on a failure to prove direct causation. For example, if a person is injured in an automobile accident, but cannot prove that his or her injuries were caused by a defect of the

automobile then that person cannot recover from the manufacturer. This legislation simply says that if the injured party couldn't recover from the auto manufacturer, then the government should not be able to sue the manufacturer to recover the health care expenses incurred by the government on behalf of the injured person.

In short: Government plaintiffs should not have rights superior to those rights of private plaintiffs.

Third, the Litigation Fairness Act is necessary to prevent taxation through litigation. The power to tax is a legislative function and those who raise taxes should be directly accountable to the voters. Fortunately, it is getting more and more difficult to raise taxes in the Congress and the State legislatures—so money-hungry trial lawyers and big-government public officials are bypassing legislatures to engage in taxation and regulation through litigation. The Litigation Fairness Act will discourage lawyer-driven tax increases being dressed up and passed off as government lawsuits.

In closing, I want to point out some things that the Litigation Fairness Act does not do: it does not prohibit government lawsuits; it does not close the courthouse door to injured parties; it does not place caps on recoveries or limits on lawyer fees. Further, the Litigation Fairness Act cannot be construed to create or authorize any cause of action for any governmental entity.

In fact, the Litigation Fairness Act does not even prohibit the unholy marriage between plaintiffs' lawyers and government officials—although it admittedly makes such a marriage of money and convenience a bit less desirable. My legislation will simply ensure that the government plays by the same rules as its citizens.

This bill has broad support. I ask unanimous consent that the RECORD include statements in support of the bill from the United States Chamber of Commerce, the American Tort Reform Association, and Citizens for a Sound Economy.

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

[From the U.S. Chamber of Commerce News, June 23, 1999]

U.S. CHAMBER ENDORSES MCCONNELL BILL TO STOP GOVERNMENTS FROM UNDERMINING BUSINESS LEGAL DEFENSES

WASHINGTON, D.C.—The U.S. Chamber of Commerce today endorsed legislation that would stop the growing trend of governments stripping legitimate industries of their legal defenses and rights and then suing them to raise revenue outside the constraints of the political process.

The ''Litigation Fairness Act,'' sponsored by Senator Mitch McConnell (R–KY), would prevent governments at any level from changing laws to retroactively strip businesses of their traditional legal rights and defenses in order to sue them.

''The U.S. Chamber is greatly concerned this dangerous trend of governments changing the laws to facilitate their revenue-grabbing lawsuits,'' said Chamber Executive Vice President Bruce Josten. ''This practice began in the state lawsuits against the tobacco industry to recover Medicaid funds and, just as the Chamber predicted, has now spread to other industries. President Clinton's plan to use the Justice Department to sue the tobacco industry is a prime example of this problem.

''Unfortunately, these lawsuits are becoming all too common,'' Josten added. ''If this trend continues, economic and social decisions affecting all Americans will be made not by the democratically elected legislatures, but instead by trial lawyers.

''McConnell's legislation would help curtail this abusive situation,'' Josten said, noting that the legislation does not affect any individual's rights or ability to sue a company that has caused them harm.

The bill simply says that a government entity filing suite to directly recover funds expended by that government on behalf of a third-party (such as a Medicare or Medicaid patient) would only be entitled to the same rights as an individual suing that defendant. In addition, such a government plaintiff would be subject to the same substantive and procedural rules and defenses as any other individual plaintiff. The legislation recognizes that an indirectly injured party should not have any greater rights than a directly injured person.

''This legislation will stop the erosion of the two hundred years of tort law, while fairly protecting the rights of American industries from the litigious trial lawyers collaborating with federal, state and local governments,'' Josten concluded.

Josten's comments followed a day-long conference, ''The New Business of Government Sponsored Litigation: State Attorneys General and Big City Lawsuits,'' sponsored by the Institute for Legal Reform, the Chamber's legal policy arm, The Federalist Society and The Manhattan Institute. The conference featured Oklahoma Gov. Frank Keating, Alabama Gov. Don Siegelman, attorneys general from New York, Alabama, Delaware and Texas, and noted plaintiff's lawyers such as Richard Scruggs and John Coale. The event can still be viewed on the Chamber's website, at *www.uschamber.org*.

[From the Citizens for a Sound Economy News, June 23, 1999]

SENATOR MCCONNELL'S LITIGATION FAIRNESS ACT WOULD HELP END 'TAXATION THROUGH LITIGATION'

WASHINGTON.—J.V. Schwan, Deputy Director and Counsel for Civil Justice Reform at Citizens for a Sound Economy (CSE), made the following statement in support of Senator Mitch McConnell's bill, *The Litigation Fairness Act*.

''Taxation through litigation is the latest scheme in Washington. When the Administration can't accomplish their goals through legislation, they sue. This is not what our Founding Fathers intended. 'The Litigation Fairness Act' would help stop their 'taxation through litigation scheme.'

''Specifically, the bill would assure that when governments file lawsuits for economic losses allegedly incurred as a result of harm to citizens, the government's legal rights will not be greater than those injured citizens. The bill would preserve and in some instances restore that equitable rule of law.

''McConnell's bill does not bar suits by governments against private defendants, place a cap on the recoveries that may be obtained, or limit attorney fees. It simply codifies a traditional tort law rule that has existed for over 200 years.''

[From the American Tort Reform Association]

GOVERNMENT LITIGATION AGAINST INDUSTRIES

Robert Reich recently wrote in USA Today that ''The era of big government may be over, but the era of regulation through litigation has just begun.'' He advocated that courts should be the regulators of society, deciding whether certain products or services should be available and at what price.

Mr. Reich is referring to the new phenomenon of governments entering into partnerships with private contingency fee attorneys to bring lawsuits against entire industries. Manufacturers of tobacco products and firearms have already been targets of litigation at the State and local levels. At the federal level, President Clinton announced in his 1999 State of the Union address that he has directed the Department of Justice to prepare a litigation plan to sue tobacco companies to recover federal funds allegedly paid out under Medicare.

Future targets of federal and/or state or local cost recovery, or ''recoupment,'' litigations could include producers of beer and wine and other adult beverages, and manufacturers of pharmaceuticals, chemicals, and automobiles. Even Internet providers, the gaming industry, the entertainment industry, and fast food restaurants could be targeted.

THE CHANGES TO BLACK-LETTER TORT LAW

Under traditional tort law rules, third party payors (e.g., employers, insurers, and governments) have long enjoyed subrogation rights to recover costs for healthcare and other expenses that they are obligated to pay on behalf of individuals.

For example, if a worker is injured in the workplace as a result of a defective machine tool, tort law permits the worker's employer to recover the cost of worker compensation and other medical expenses paid on behalf of the employee. Through the process of subrogation, the employer can join in the employee's tort claim against the manufacturer of the machine tool or put a lien on the employee's recovery, but the employer cannot bring a direct action on its own.

Governmental cost recovery actions seek to radically change the traditional subrogation rule. In the State tobacco cases, the attorneys general argued that the States could bring an ''independent'' cause of action against the tobacco companies. Furthermore, the attorneys general argued, because the States' claims were ''independent'' of the claims of individual smokers, the States were not subject to the defenses that could be raised against individual plaintiffs, especially with respect to assumption of risk.

Despite the current unpopularity of the tobacco companies, most courts have followed basic principles of law and dismissed cost recovery claims against the tobacco companies. One federal district court, however, bent the rules and partially sustained a healthcare reimbursement suit in Texas based on a unique expansion of the ''quasi-sovereign'' doctrine. Before the Texas federal court's decision, the quasi-sovereign doctrine had been limited to suits for injunctive relief; it did not extend to suits seeking monetary damages. Even the ''pro-plaintiff'' Minnesota Supreme Court recognized this fact in a tobacco case. The Texas decision produced an avalanche of claims that were ultimately settled out of court.

THE ROLE OF OUTSIDE COUNSEL

Another characteristic of the new ''era of regulation through litigation'' is the partnering of governmental entities and private contingency fee attorneys. This new partnership raises a number of serious ethical and ''good government'' issues:

Contingent fee retainers were designed to give less-affluent persons (who could generally ill-afford hourly rates and up-front retainers) access to the courthouse. Governmental entities have their own in-house legal staff; taxpayers should not have to pay

excessive fees for legal work that could be done by the government itself.

In the State tobacco litigation, it seemed that many of the cases were awarded to private attorneys who had been former law partners or campaign supporters of the elected official. Furthermore, there appears to have been a lack of competitive bidding in the attorney selection process. As a result, experts estimate that some plaintiffs' attorneys were paid in excess of $100,000 per hour.[1]

Should the prosecutorial power of government be brought against lawful, though controversial, industries? ''As the Supreme Court cautioned more than 60 years ago in Berger v. United States, an attorney for the state, 'is the representative not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all'.''[2]

ALL INDUSTRIES COULD BE TARGETS OF LITIGATION

To date, recoupment lawsuits have been filed against politically disfavored industries because plaintiff attorneys know that if courts bend the rules for controversial products, those precedents will apply equally to other industries.

In fact, some contingency fee lawyers have already publicly stated that tobacco and firearms are just the first of many industries likely to be sued in the new era of regulation by litigation. As stated, future targets of litigation could include producers of beer and wine and other adult beverages, manufacturers of pharmaceuticals, chemicals, and automobiles, Internet providers, the gaming industry, the entertainment industry, and fast food restaurants.

SEPARATION OF POWERS VIOLATED

Legislating public policy in the courtroom violates the ''separation of powers doctrine''—the fundamental rule upon which this country's entire system of government is based. The job of legislatures is to legislate; the job of courts is to interpret the law. This bedrock principle of government should not be eroded for the sake of political expediency and political theater.

STATEMENT BY VICTOR E. SCHWARTZ, COUNSEL, AMERICAN TORT REFORM ASSOCIATION, JUNE 23, 1999

THE PRINCIPLE OF EQUAL JUSTICE UNDER LAW IS PRESERVED BY THE LITIGATION FAIRNESS ACT

The Litigation Fairness Act helps assure equal justice under law; that is why the American Tort Reform Association supports it. Liability law should be neutral. Its principles should apply in the same way to all defendants. A basic principle of system of justice is equal justice under law.

Unfortunately, legal principles developed in a few tobacco cases did not apply neutral principles. They gave power to state governments under a fiction called the ''quasi-sovereign doctrine,'' greater power in the law than was possessed by an injured individual. New cases filed by cities against gun manufacturers also may create new principles of law that give those cities greater rights than injured persons. There is little doubt that an engine behind these new principles is the unpopularity of those defendants.

These principles may be limited to so-called ''outlaw defendants''—people who make guns, tobacco, liquor, or other products that significant segments of our society do not like. On the other hand, the principles may apply equally to others. If that is true, those principles can apply against people who make fast foods, automobiles that can go over 100 mph, motorcycles, hunting knives, and even the entertainment industry.

The Litigation Fairness Act preserves the principle that an injured person's right to sue is paramount over government rights, where the government has suffered some indirect economic loss because of that person's harm. It restores equal justice under law and neutrality within our tort system.

For those reasons, the Americans Tort Reform Association supports the Litigation Fairness Act.

By Mr. FRIST:

S. 1270. A bill to establish a partnership for education progress; to the Committee on Health, Education, Labor, and Pensions.

THE EDUCATION EXPRESS ACT

Mr. FRIST. Mr. President, I ask unanimous consent that a summary of the Education Express Act be printed in the RECORD.

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

THE EDUCATION EXPRESS ACT (ED-EXPRESS)

OBJECTIVE

Funds would reaffirm our national commitment to state and local control of education. The purpose of this Act is to infuse significant new dollars into the hands of parents, communities, and state and local governments to improve the education achievement of students. This legislation unties the burdensome and expensive federal strings on education dollars by sending more money straight back to the states and classrooms.

States may elect to receive elementary and secondary education funding by ''Direct Check.'' Most importantly, it requires that 98 percent of the funding be used directly at the local level. Incentives such as replacing existing burdensome federal categorical programs are provided to encourage states to choose the Direct Check. However, states may choose to remain in the categorical system.

The legislation creates three local/state programs to enhance educational excellence: Challenge Fund, Teacher Quality Fund, and Academic Opportunity Fund. These programs will result in a substantial increase in federal education assistance—$36.5 billion over five years.

HOW IT WORKS

Those states that opt for the ''Direct Check'' flexibility will receive their educational funding upon the adoption of a state plan written by the governor or the governor's designee that outlines the goals and objectives for the funds—how the state will improve student achievement and teacher quality, and the criteria used to determine and measure achievement.

Decisons on how funds will be used to meet state goals and objectives will be made at the local level.

PROGRAMS

Challenge Fund ($17 billion over five years) to improve education achievement. Direct Check states will receive an additional 10% of their allotment.

Teacher Quality Fund ($14 billion over five years) to improve education achievement. Direct Check states will receive an additional 10%.

Academic Opportunity Fund ($6 billion over 5 years) to reward student achievement, implement statewide reforms, and reward schools and school districts meeting state goals and objectives. Only Direct Check states will be eligible to receive these funds. States may receive an additional 10% of their allotment if they (1) devote 25% or more of their Challenge Fund allotment for Special Education; (2) demonstrate improved education performance among certain disadvantaged populations; or (3) adopt or show improved performance on state-level National Assessment of Education Progress tests (NAEP).

By Mr. GRASSLEY:

S. 1271. A bill improve the drug certification procedures under section 490 of the Foreign Assistance Act of 1961, and for other purposes; to the Committee on Foreign Relations.

MOST FAVORED ROGUE STATES ACT OF 1999

Mr. GRASSLEY. Mr. President, today I am introducing legislation to help clarify for the administration certain aspects of drug policy that seem to have caused confusion. The confusion seems to lie in how to think about our friends and enemies when it comes to drug policy. There seems to be a willingness to overlook the actions and activities of certain rogue states when it comes to their involvement in drug production and trafficking.

The purpose of our international drug policy is to establish a framework for achieving results that sustain the national interest. As part of that, the goal is to identify countries that are major producers or transit zones for drugs. It is also to determine whether those countries are committed to cooperate with the United States, with other countries, or are taking steps on their own to stop illegal drug production and transit. This goal is clearly in the national interest.

Most illegal drugs used in this country are produced overseas and smuggled to this country. In accomplishing this, international drug thugs violate our laws, international laws, and, in most cases, the laws in the source and transit countries. Those drugs kill and maim more Americans every year than have all international terrorists in the last 10 years. In addition, they have made many of our schools, workplaces, our streets and our homes unsafe and dangerous.

There are few threats more direct, more immediate, and more telling in our everyday lives than drug use and the activities of those who push them on our young people. We pay the costs in our hospitals, in our jails, and in our families. It is a devastation that we share with other countries. And the problem overseas is growing worse. Not only is drug production up but so is use. The source and transit countries are now facing growing drug use problems. Thus, in addition to attacks on the underpinnings of decent government from criminal gangs, many countries now face epidemic drug use among young people.

What other countries do or do not do to confront this threat is of interest to

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[1] Professor Lester Brickman, ''Want To Be a Billionaire? Sue a Tobacco Company,'' The Wall Street Journal, December 30, 1998.

[2] Robert A. Levy. ''The Great Tobacco Robbery. Hired Guns Corral Contingent Fee Bonanza'' Legal Times, Week of February 1, 1999, 27.

us. The nature of the drug trade, production as well as transit, is an interconnected enterprise with international reach. Many drug trafficking gangs have contacts with each other. They share markets, expertise, and facilities. In some cases, they can count on the complicity of foreign governments or of significant individuals in those governments. This means that a serious policy to get at the trade and its connections must be international, coherent, and integrated. It cannot be piecemeal, episodic, and disjointed. But that is what we have today.

Congress has over the years repeatedly pushed for an integrated, coherent approach, often over the reluctance of administrations. Dealing with the drug issue is often messy and uncomfortable. It disturbs the pleasantries of diplomatic exchanges. Progress is hard to achieve and difficult to document. And sometimes taking drug policy serious upsets other plans.

This seems to be the case in this administration's dealings with several major drug producing or transit countries. It seems the administration would rather not know what these countries are up to on drugs, lest knowing make it difficult to pursue other goals. In several of these cases, the countries involved are not friends of the United States. One, Iran, is a sworn enemy. It has used terrorism and other tactics to attack U.S. interests and to kill Americans. it is also a drug producing and transit country.

For many years, the lack of cooperation or reliable information of Iranian counter drug efforts placed them squarely on the list of countries decertified by the United States. Last year, however, the administration removed Iran from the list. it did so on feeble pretexts, with limited information, and in a less than forthright manner. The administration used lawyerly interpretation of statute to drop Iran from the so-called Majors' List. Doing this meant the administration could then duck the question of whether to certify Iran as cooperating on drugs or not.

To accomplish this little sleight of hand, the administration had to ignore the interconnectedness of drug trafficking, congressional intent, and the national interest. So far as I can determine, it did this in the vague hope that a unilateral gesture towards Iran on drugs would see a reciprocal gesture leading to detente. It is hard to account for the change otherwise. And even so it is hard to comprehend. Never mind Iran's continuing hostility, its past and current support of terrorism aimed at the U.S. and American citizens. Never mind the facts. Never mind drug production and transit. Never mind the national interest. This is another case of the triumph of hope over experience that seems to be the lodestar of this Administration's foreign policy.

What makes the case even more disturbing is the apparent subterfuge the administration resorted to in order to evade explaining this major shift in policy. I say major because Iran had been on every drug list since its inception and Iran has been decertified for that whole history. I say subterfuge because of the pettifoggery the administration resorted to.

Given the facts of Iran's past, what is reasonable to assume would be a responsible way of dealing with the issue? It is the clear intent of the law on these matters that the administration would consult with Congress before making a major change in policy. But what did it, in fact, do? Not only did the administration not consult, it nitpicked. The law requires the administration to submit the Majors List by November 1. Instead of complying with this known statutory requirement, the administration delayed by over a week the submission of the list, conveniently waiting until after Congress had adjourned. Mere coincidence? Well, the administration did precisely the same stalling routine the year before when Syria was similarly spirited off the list. Without any prior notice to Congress. Once is accidental, twice is beginning to look like a pattern.

Weeks after this move, the administration finally provided an explanation. It deserves a full retelling to appreciate. First, some basic facts. Iran has a long history of drug production, most opium. It is a major transit country for opium and heroin from Afghanistan and Pakistan. Major Iranian criminal gangs have been involved in the drug trade for years.

Since the Iranian revolution, it has been difficult for any outsiders to determine what, if anything, the Islamic Government is doing to stop this trade. It is also important to understand that Iran was on the Majors List as a producing country. The law requires that any country that grows more than 1,000 hectares of opium poppy be put on the list. Iran met this qualification. The standard for classifying a transit country is not so precise and it is this imprecision that the administration exploited.

Here, in brief, is the administration's explanation for dropping Iran from the list: Iran no longer grows more than 1,000 hectares, and the transited heroin does not come to the United States, so it does not qualify for the list.

This latter rationalization is based on the administration's own favored way of reading the law. In this reading, a major transit country does not qualify for the list if current intelligence information does not show a direct flow to the United States. Since the underground nature and fungibility of the international drug trade is hard to quantify precisely, this leaves a lot of room for interpreting the facts to reach a politically correct conclusion. This, of course, leaves aside the question of whether such an exception was ever part of congressional intent or is consistent with the law or the national interest. The reasoning is shaky on both policy and information. It also ignores the nature of international drug trade and criminal organizations and what must be done to get at them. And it relies on how little we know about what goes on inside Iran.

In reality, the administration's approach is a resort to technicalities and convenient interpretations to dodge the real issues. But as we have been instructed, it all depends upon what the meaning of ''is'' is. But let's remind ourselves that what is being done here is to base a weighty policy decision involving serious issues of national security and well being on lawyerly gamesmanship. And this on the unanchored hope that the gesture, and that's all it is, might get a friendly reaction in Iran. What did Iran actually do in response? What you would expect. It thumbed its nose in our direction. But let me illustrate a little further the way facts have been employed.

Recall that Iran used to be on the Majors List for producing over 1,000 hectares of opium. Drop below this number, in the administration's reasoning, and you automatically fall off the list. In this very careful parsing of meaning, I would suppose that if a country produced 999 hectares, no matter what other facts applied, it wouldn't qualify. But is this the case in Iran? The administration's explanation is that they could not find opium production in Iran in 1998, ergo, they do not qualify on this criteria. But this so-called objective assessment needs a little closer look.

In most cases, we base our estimates of illicit crop production on overhead imagery and photo interpretation. While we are pretty good at it, this is not a precise science, whether we're talking vegetables or missiles. And it is, by the way, even more difficult when it comes to counting vegetables. Good analysis is dependent of weather, adequate overhead coverage, information from corroborating sources, and a track record of surveying that builds up a reliable picture over time. What was the case in Iran? Before the so-called objective, imagery-based assessment in 1998, the last overhead coverage of Iran had been in the early 1990s.

The 1998 decision was therefore based on a one-time shot after years of no informaiton. Corroborating information is also scant. But the situation is even more dubious.

Based on the past estimates, Iran cultivated nearly 4,000 hectares of opium in various growing regions across the country. The 1998 survey concentrated in only one of those traditional growing areas. Although in the early 1990s it was the major one, it still only accounted for some 80 percent of total cultivation. The 1998 survey could find no significant growing areas in these areas. But if we are to believe Iranian authorities, they have specifically attacked this cultivation with vigorous eradication efforts. The imagery would seem to support this claim. But we also know that growers

adjust to enforcement. It is not unreasonable, therefore, to assume that drug producers might shift the locus of cultivation to less accessible areas and resort to measures to disguise production. The 1998 survey did not examine other areas.

We cannot, of course, prove a negative, but that should not lead us to jump to conclusions, especially when those conclusions are what we want. Let me illustrate the point. If 20 percent of Iranian opium production—a number based on earlier assessments—was in areas other than those checked, that figure alone gives us close to 800 hectares. Since those other areas—which cover an immense amount of countryside—were not checked, we cannot know if there was any production for sure. But, it would only require a little effort on the part of growers to shift a small amount of production to get us to our 1,000 hectare threshold. Also remember that opium is an annual plant. In some areas it has more than one growing season. Thus, a region that only had 500 hectares of opium at any one time but had two growing seasons, would have an actual total of 1,000 productive hectares per year. I do not know that this was the case in Iran, but neither does the administration. It doesn't know because it didn't look. It didn't look because it was not convenient.

I would suggest, even if you agree with the assumptions the administration is making about the intent of the law, that there are enough uncertainties in estimating Iranian opium production to counsel caution in reinterpreting the data. And even more caution in using this to revise policy. All the more so, given the nature of Iran's past actions and attitudes towards the United States. But even if you buy all the rationalizations leading to a decision to drop Iran from the Majors List, we are left with this: Is it responsible or creditable to make such a major shift in policy without even the pretense of consultation with Congress? Without an effort to explain the decision and shift to the public?

If there are grounds for reconsidering Iran's counter narcotics efforts, why was it necessary to resort to gimmicks? Is there something wrong with presenting the facts publicly and reaching a reasonable consensus consistent with the national interest? Not to mention that in this decision on Iran and the earlier one on Syria that we did not consult with Israel, our most consistent ally in the region? Was it necessary? Was it wise?

Is this the way we conduct serious counter drug policy as part of our international efforts? But this is not the only disturbing case.

I earlier alluded to a similar situation with regard to Syria. I will not review the details of that case. Suffice it to say, they are in keeping with what was done about Iran. The case I would like to look at more closely is that of North Korea. Here we have another rogue state and enemy of the United States that seems to get favored treatment when it comes to drugs.

There is credible and mounting evidence that North Korea is a major producing country of opium and processor of heroin. Stories of these activities have circulated for years, including details provided by defectors. Information that is further supported by the arrests of North Korean diplomats in numerous countries for drug smuggling using the diplomatic pouch. Defectors have indicated that illegal opium production and heroin sales have been used to fund North Korea's overseas activities and its nuclear program.

These reports also indicate that opium cultivation in North Korea far exceed the 1,000 hectare level, ranging from 3,000 to 7,000 hectares depending on the climate and growing conditions. In a country plagued by famine, precious arable land has been turned to illicit opium production by the government to fund terrorism and the development of nuclear weapons. Until this year, however, the administration did not report on these activities. It was not until Congress required such a report that we have even a hint of all of this in official reporting. When I asked the administration two years ago to supply data on opium cultivation in North Korea, it responded by saying they did not have any detailed information. Why? Because the administration was not looking for it. Under pressure, it is now beginning to look. While I welcome this, I am concerned that this search for information will be handled in the same manner as was used in the case of Iran. Information will be collected, but it will be carefully scripted and narrowly interpreted.

I find it puzzling that we should be willing to cut such corners. What is it about nations that are declared enemies of this country and many of our allies that we look the other way when it comes to drugs? What do we gain from empty gestures? And why do we make these gestures on an issue as basic to the national interest and well being of U.S. citizens as drug policy? I am at a loss to explain it. So, rather than trying to guess at motives, I am offering legislation to clarify the situation and to require more overt explanations. I therefore send to the desk the Most Favored Rogue States Act of 1999 and ask my colleagues to join me in supporting it. It addresses a serious issue that needs our immediate attention.

By Mr. NICKLES (for himself, Mr. LIEBERMAN, Mr. LOTT, Mr. ABRAHAM, Mr. ALLARD, Mr. BROWNBACK, Mr. COVERDELL, Mr. ENZI, Mr. HAGEL, Mr. INHOFE, Mr. CRAIG, AND Mr. SESSIONS):

S. 1272. A bill to amend the Controlled Substances Act to promote pain management and palliative care without permitting assisted suicide and euthanasia, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

PAIN RELIEF PROMOTION ACT OF 1999

Mr. NICKLES. Mr. President, end-of-life issues are some of the most complicated our society wrestles with today, as medical technology dramatically advances and life expectancies continue to increase. Many of us have relatives, or know someone, who has grappled with grave and terminal illnesses. Doctors, caregivers, and family members work together in such situations, not just in an effort to save a loved one's life, but to give them the comfort and palliative care they deserve. However, love and concern can often come up against a confusing and complicated set of Federal and state laws which govern and influence care and treatment decisions in such situations.

Today I, along with Senators LIEBERMAN, LOTT, ABRAHAM, ALLARD, BROWNBACK, COVERDELL, ENZI, HAGEL, HELMS, INHOFE, and CRAIG, introduce the Pain Relief Promotion Act of 1999. This comprehensive legislation will restore the uniform national standard of the Controlled Substances Act (CSA) to all 50 states. The Pain Relief Promotion Act will:

Affirm and support aggressive pain management as a ''legitimate medical purpose'' for the use of federally-controlled substances—even in cases where such use may unintentionally hasten death as a side-effect (''principle of double effect'').

Encourage practitioners to dispense and distribute federally-controlled substances as medically appropriate to relieve pain and other distressing symptoms, by clarifying that such conduct is consistent with the Controlled Substances Act.

Provide that a state law authorizing or permitting assisted suicide or euthanasia does not change the federal government's responsibility to prevent misuse of federally-controlled, potentially dangerous, drugs. The Federal government's responsibility to prevent such misuse in states which have not legalized assisted suicide is already conceded by the Attorney General and would not change.

Provide education and training to law enforcement officials and health professionals on medically accepted means for alleviating pain and other distressing symptoms for patients with advanced chronic disease or terminal illness, including the legitimate use of federally-controlled substances.

Establish a ''Program for Palliative Care Research and Quality'' within the Agency for Health Care Policy and Research (AHCPR) to develop and advance scientific understanding of palliative care, and collect, disseminate and make available information on pain management, especially for the terminally ill health professionals and the general public.

Authorize $5 million for a grant program within the Health Resources and Services Administration (HRSA) to

make grants and contracts for the development and implementation of programs to provide education and training in palliative care. It states that physicians entrusted by the federal government with the authority to prescribe and dispense federally-controlled substances may not abuse that authority by using them for assisted suicide; however, it strongly affirms that it is a ''legitimate medical purpose'' to use these federally-controlled substances to treat patient's pain and end-of-life symptoms, even in light of the unfortunate and unintended side effect of possibly hastening a patient's death.

Recognize that this policy promoting pain control does not authorize the use of federally-controlled substances for intentional assistance in suicide or euthanasia.

Restore the uniform national standard that federally-controlled substances can not be used for the purpose of assisted suicide by applying the current law in 49 states to all 50 states. This bill does not create any new regulatory authority for the DEA.

This is a straight-forward, very positive bill that would merely apply what is current law in 49 states to all 50 states, without increasing the federal regulatory authority of the Drug Enforcement Administration (DEA). The bill has been endorsed by organizations including the National Hospice Organization, American Society of Anesthesiologists, American Academy of Pain Management, and former Surgeon General Dr. C. Everett Koop. And, today I was informed that the House of Delegates of the American Medical Association voted to support the bill.

A variety of provisions in this legislation is in direct response to the June 5, 1998, letter by the Attorney General, allowing Oregon to use federally-controlled substances for assisted suicide, a decision that was in direct opposition to an earlier policy determination by her own Drug Enforcement Administration.

It is significant to remember that in 1984 Congress passed amendments to strengthen the Controlled Substances Act, due to specific concerns regarding the use of prescription drugs in lethal overdoses. Congress's view was that while the states are the first line of defense against misuse of prescription drugs, the federal government must enforce its own objective standard as to what constitutes such misuse—and it must have the authority to enforce that standard when a state cannot or will not do so.

Again, Congress clearly spoke on the issue of assisted suicide when it passed the Assisted Suicide Federal Funding Restriction Act of 1997 by a nearly unanimous vote. Signing the bill President Clinton said it ''will allow the Federal Government to speak with a clear voice in opposing these practices,'' and warned that ''to endorse assisted suicide would set us on a disturbing and perhaps dangerous path.''

It is time for Congress to speak again.

Federal law is clearly intended to prevent use of these drugs for lethal overdoses, and contains no exception for deliberate overdoses approved by a physician. The DEA currently pursues cases where a physician's negligent use of controlled substances has led to the death of a patient, it was inappropriate for the Attorney General to allow for the intentional use of controlled substances to cause the death of a patient. The Pain Relief Promotion Act will clarify federal law, to affirm use of controlled substances to control pain and reject their deliberate use to kill patients.

This legislation is overdue. Already physicians have used these federally controlled substances to cause the death of their patients. There is no role for the Federal government in providing assisted suicide.

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

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

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

S. 1272

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 ''Pain Relief Promotion Act of 1999''.

TITLE I—USE OF CONTROLLED SUBSTANCES CONSISTENT WITH THE CONTROLLED SUBSTANCES ACT

SEC. 101. REINFORCING EXISTING STANDARD FOR LEGITIMATE USE OF CONTROLLED SUBSTANCES.

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

''(i)(1) For purposes of this Act and any regulations to implement this Act, alleviating pain or discomfort in the usual course of professional practice is a legitimate medical purpose for the dispensing, distributing, or administering of a controlled substance that is consistent with public health and safety, even if the use of such a substance may increase the risk of death. Nothing in this section authorizes intentionally dispensing, distributing, or administering a controlled substance for the purpose of causing death or assisting another person in causing death.

''(2) Notwithstanding any other provision of this Act, in determining whether a registration is consistent with the public interest under this Act, the Attorney General shall give no force and effect to State law authorizing or permitting assisted suicide or euthanasia.

''(3) Paragraph (2) applies only to conduct occurring after the date of enactment of this subsection.''.

SEC. 102. EDUCATION AND TRAINING PROGRAMS.

Section 502(a) of the Controlled Substances Act (21 U.S.C. 872(a)) is amended—

(1) by striking ''and'' at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting ''; and''; and

(3) by adding at the end the following:

''(7) educational and training programs for local, State, and Federal personnel, incorporating recommendations by the Secretary of Health and Human Services, on the necessary and legitimate use of controlled substances in pain management and palliative care, and means by which investigation and enforcement actions by law enforcement personnel may accommodate such use.''.

TITLE II—PROMOTING PALLIATIVE CARE

SEC. 201. ACTIVITIES OF AGENCY FOR HEALTH CARE POLICY AND RESEARCH.

Part A of title IX of the Public Health Service Act (42 U.S.C. 299 et seq.) is amended by adding at the end the following:

''SEC. 906. PROGRAM FOR PALLIATIVE CARE RESEARCH AND QUALITY.

''(a) IN GENERAL.—The Administrator shall carry out a program to accomplish the following:

''(1) Develop and advance scientific understanding of palliative care.

''(2) Collect and disseminate protocols and evidence-based practices regarding palliative care, with priority given to pain management for terminally ill patients, and make such information available to public and private health care programs and providers, health professions schools, and hospices, and to the general public.

''(b) DEFINITION.—For purposes of this section, the term 'palliative care' means the active total care of patients whose prognosis is limited due to progressive, far-advanced disease. The purpose of such care is to alleviate pain and other distressing symptoms and to enhance the quality of life, not to hasten or postpone death.''.

SEC. 202. ACTIVITIES OF HEALTH RESOURCES AND SERVICES ADMINISTRATION.

(a) IN GENERAL.—Part D of title VII of the Public Health Service Act (42 U.S.C. 294 et seq.), as amended by section 103 of Public Law 105–392 (112 Stat. 3541), is amended—

(1) by redesignating sections 754 through 757 as sections 755 through 758, respectively; and

(2) by inserting after section 753 the following section:

''SEC. 754. PROGRAM FOR EDUCATION AND TRAINING IN PALLIATIVE CARE.

''(a) IN GENERAL.—The Secretary, in consultation with the Administrator for Health Care Policy and Research, may make awards of grants, cooperative agreements, and contracts to health professions schools, hospices, and other public and private entities for the development and implementation of programs to provide education and training to health care professionals in palliative care.

''(b) PRIORITIES.—In making awards under subsection (a), the Secretary shall give priority to awards for the implementation of programs under such subsection.

''(c) CERTAIN TOPICS.—An award may be made under subsection (a) only if the applicant for the award agrees that the program carried out with the award will include information and education on—

''(1) means for alleviating pain and discomfort of patients, especially terminally ill patients, including the medically appropriate use of controlled substances;

''(2) applicable laws on controlled substances, including laws permitting health care professionals to dispense or administer controlled substances as needed to relieve pain even in cases where such efforts may unintentionally increase the risk of death; and

''(3) recent findings, developments, and improvements in the provision of palliative care.

''(d) PROGRAM SITES.—Education and training under subsection (a) may be provided at or through health professions schools, residency training programs and other graduate programs in the health professions, entities

that provide continuing medical education, hospices, and such other programs or sites as the Secretary determines to be appropriate.

''(e) EVALUATION OF PROGRAMS.—The Secretary shall (directly or through grants or contracts) provide for the evaluation of programs implemented under subsection (a) in order to determine the effect of such programs on knowledge and practice regarding palliative care.

''(f) PEER REVIEW GROUPS.—In carrying out section 799(f) with respect to this section, the Secretary shall ensure that the membership of each peer review group involved includes one or more individuals with expertise and experience in palliative care.

''(g) DEFINITION.—For purposes of this section, the term 'palliative care' means the active total care of patients whose prognosis is limited due to progressive, far-advanced disease. The purpose of such care is to alleviate pain and other distressing symptoms and to enhance the quality of life, not to hasten or postpone death.''.

(b) AUTHORIZATION OF APPROPRIATIONS; ALLOCATION.—

(1) IN GENERAL.—Section 758 of the Public Health Service Act (as redesignated by subsection (a)(1) of this section) is amended in subsection (b)(1)(C) by striking ''sections 753, 754, and 755'' and inserting ''section 753, 754, 755, and 756''.

(2) AMOUNT.—With respect to section 758 of the Public Health Service Act (as redesignated by subsection (a)(1) of this section), the dollar amount specified in subsection (b)(1)(C) of such section is deemed to be increased by $5,000,000.

SEC. 203. EFFECTIVE DATE.

The amendments made by this title take effect October 1, 1999, or on the date of the enactment of this Act, whichever occurs later.

NATIONAL HOSPICE ORGANIZATION,
Arlington, VA, June 11, 1999.

Hon. DON NICKLES,
U.S. Senate,
Washington, DC.

DEAR SENATOR NICKLES: The National Hospice Organization has recently endorsed your bill, ''The Pain Relief Promotion Act of 1999.''

Your legislation would provide a mechanism for health care professionals to collect, review and disseminate vital practice protocols and effective pain management techniques within the health care community and the public. In addition, increased educational efforts focused within the health professions community about the nature and practice of palliative care are important components of your initiative.

Our 2,000 member hospices provide what Americans say they want if they were confronted with a terminal illness—to die in their home, free of pain, and with emotional support for themselves and their loved ones. For over 20 years, hospices have been in the forefront of managing the complex medical and emotional needs of the terminally ill. It is unfortunate that we continue to see individuals living and dying in unnecessary pain when the clinical and medical resources exist but widespread education is lacking.

Your legislation is a step toward a better awareness of effective pain management techniques and should ultimately change behavior to better serve the needs of terminally ill patients and their families.

Sincerely,

KAREN A. DAVIE,
President.

AMERICAN ACADEMY
OF PAIN MANAGEMENT,
Sonora, CA, June 15, 1999.

Senator DONALD NICKLES,
Washington, DC.

DEAR SENATOR NICKLES: The American Academy of Pain Management, America's largest multidisciplinary pain organization, applauds your efforts to end the pain and suffering for Americans. The Board of Directors of the American Academy of Pain Management supports The Pain Relief Promotion Act of 1999. We share your belief that opioid analgesics should be available for those unfortunately suffering from the pain associated with terminal illnesses. The alternatives to assisted suicide and euthanasia are compassionate and appropriate methods for prescribers to relieve pain without fear of regulatory discipline.

The Pain Relief Promotion Act of 1999 provides for law enforcement education, the development and dissemination of practice guidelines, increased funding for palliative care research, and safeguards for unlawful prescribers of controlled substances. This bill appropriately reflects the changing philosophy about pain control as a significant priority in the care of those facing terminal illnesses.

The American Academy of Pain Management thanks you for your effort to improve the quality of life for Americans.

Sincerely,

RICHARD S. WEINER, Ph.D.,
Executive Director.

AMERICAN SOCIETY
OF ANESTHESIOLOGISTS,
Washington, DC, June 16, 1999.

Hon. DON NICKLES,
Assistant Majority Leader, U.S. Senate, Washington, DC.

DEAR SENATOR NICKLES: In my capacity as President of the American Society of Anesthesiologists, a national medical association comprised of 34,000 physicians and other scientists engaged or especially interested in the practice of anesthesiology, I am pleased to offer our endorsement of the Pain Relief Promotion Act of 1999, which I understand you will introduce this week.

Many ASA members engage in a pain management practice, and such a practice regularly includes the treatment of intractable pain, experienced by terminally or severely ill patients, through the prescription of controlled substances. As you are aware, a major concern among these practitioners has involved the possible that aggressive treatment of intractable pain involving increased risk of death—however medically necessary to provide the patient with the best possible quality of life—could be the subject of criminal prosecution as involving alleged intent to cause death.

ASA's House of Delegates has formally expressed the Society's opposition to physician assisted suicide as incompatible with the role of the physician. At the same time, the Society believes anesthesiologists ''should always strive to relieve suffering, address the psychological and spiritual needs of patients at the end of life, add value to a patient's remaining life and allow patients to die with dignity''.

We find your bill to be fully consistent with these principles, in that (1) it denies support in federal law for intentional use of a controlled substance for the purpose of causing death or assisting another person in causing death, but (2) it includes in federal law recognition that alleviating pain in the usual course of professional practice is a legitimate medical purpose for dispensing a controlled substance that is consistent with public health and safety, even if the use of such a substance may increase the risk of death.

ASA believes that the bill articulates an appropriate standard for distinguishing between assisted suicide and medically-appropriate aggressive treatment of severe pain. Although we have some continuing concern whether law enforcement officers will regularly recognize and honor this critical distinction, we believe much can be accomplished through the education and training programs contemplated by section 102 of the bill. We look forward to the opportunity, during congressional consideration of the bill, to work with you and your staff to strengthen this provision to assure that the these programs include input from medical practitioners regularly engaged in a pain management practice.

If we can be of further assistance, please ask your staff to contact Michael Scott in our Washington office, at the address and telephone number listed above.

Sincerely,

JOHN B. NEELD, Jr., M.D.,
President.

ADDITIONAL COSPONSORS

S. 26

At the request of Mr. MCCAIN, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 26, a bill entitled the ''Bipartisan Campaign Reform Act of 1999.''

S. 42

At the request of Mr. HELMS, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 42, a bill to amend title X of the Public Health Service Act to permit family planning projects to offer adoption services.

S. 242

At the request of Mr. JOHNSON, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 242, a bill to amend the Federal Meat Inspection Act to require the labeling of imported meat and meat food products.

S. 285

At the request of Mr. MCCAIN, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 285, a bill to amend title II of the Social Security Act to restore the link between the maximum amount of earnings by blind individuals permitted without demonstrating ability to engage in substantial gainful activity and the exempt amount permitted in determining excess earnings under the earnings test.

S. 510

At the request of Mr. CAMPBELL, the name of the Senator from Arkansas (Mr. HUTCHINSON) was added as a cosponsor of S. 510, a bill to preserve the sovereignty of the United States over public lands and acquired lands owned by the United States, and to preserve State sovereignty and private property rights in non-Federal lands surrounding those public lands and acquired lands.

S. 530

At the request of Mr. GORTON, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 530, a bill to amend the Act commonly