By Mr. CRAIG (for himself and Mr. CRAPO):

S. 1236. A bill to extend the deadline under the Federal Power Act for commencement of the construction of the Arrowrock Dam Hydroelectric Project in the State of Idaho; to the Committee on Energy and Natural Resources.

By Mr. HUTCHINSON:

S. 1237. A bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive military retired pay concurrently with veterans' disability compensation; to the Committee on Armed Services.

By Mr. HUTCHINSON (for himself and Mr. WELLSTONE):

S. 1238. A bill to amend title 38, United States Code, to authorize the payment of dependency and indemnity compensation to the surviving spouses of certain former prisoners of war dying with a service-connected disability related totally disabling at the time of death; to the Committee on Veterans Affairs.

By Mr. GRAHAM (for himself, Mr. MACK, Mr. BINGAMAN, Mr. INOUYE, Mr. INHOFE, Mr. BURNS, Mr. BAUCUS, Mr. CRAPO, Mr. CRAIG, and Mrs. FEINSTEIN):

S. 1239. A bill to amend the Internal Revenue Code of 1986 to treat spaceports like airports under the exempt facility bond rules; to the Committee on Finance.

By Mr. MURKOWSKI (for himself, Mr. BREAUX, Mr. GORTON, Mr. COCHRAN, Mr. HUTCHINSON, Ms. COLLINS, Mrs. LINCOLN, Mr. SHELBY, Ms. SNOWE, Mrs. MURRAY, Mr. SESSIONS, Mr. SMITH of Oregon, Mrs. HUTCHISON, Mr. GRAMS, and Ms. LANDRIEU):

S. 1240. A bill to amend the Internal Revenue Code of 1986 to provide a partial inflation adjustment for capital gains from the sale or exchange of timber; to the Committee on Finance.

By Mr. ASHCROFT (for himself, Mrs. HUTCHISON, Mr. ABRAHAM, Mr. ALLARD, Mr. BOND, Mr. BROWNBACK, Mr. BUNNING, Mr. BURNS, Mr. CHAFEE, Mr. COCHRAN, Ms. COLLINS, Mr. COVERDELL, Mr. CRAIG, Mr. DEWINE, Mr. DOMENICI, Mr. ENZI, Mr. FRIST, Mr. GRAMM, Mr. GRASSLEY, Mr. GREGG, Mr. HAGEL, Mr. HATCH, Mr. HELMS, Mr. HUTCHINSON, Mr. JEFFORDS, Mr. KYL, Mr. LOTT, Mr. MCCAIN, Mr. MCCONNELL, Mr. NICKLES, Mr. ROBERTS, Mr. SESSIONS, Mr. SMITH of Oregon, Mr. SMITH of New Hampshire, Mr. THOMAS, Mr. THURMOND, and Mr. SHELBY):

S. 1241. A bill to amend the Fair Labor Standards Act of 1938 to provide private sector employees the same opportunities for time-and-a-half compensatory time off and biweekly work programs as Federal employees currently enjoy to help balance the demands and needs of work and family, to clarify the provisions relating to exemptions of certain professionals from minimum wage and overtime requirements of the Fair Labor Standards Act of 1938, 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. BROWNBACK (for himself, Mr. LOTT, Mr. ALLARD, Mr. ABRAHAM, Mr. COVERDELL, Mr. SESSIONS, and Mr. CRAIG):

S. Res. 124. A resolution to establish a special committee of the Senate to address the cultural crisis facing America; to the Committee on Rules and Administration.

By Mr. LOTT (for himself, Mr. DASCHLE, Mr. NICKLES, Mr. REID, Mr. AKAKA, Mr. BROWNBACK, Mr. BAUCUS, Mr. COVERDELL, Mr. BAYH, Mr. DOMENICI, Mr. BIDEN, Mr. GRASSLEY, Mr. BINGAMAN, Mr. HUTCHINSON, Mrs. BOXER, Mr. JEFFORDS, Mr. BREAUX, Ms. SNOWE, Mr. BRYAN, Mr. SPECTER, Mr. BYRD, Mr. STEVENS, Mr. CLELAND, Mr. CONRAD, Mr. DODD, Mr. DORGAN, Mr. DURBIN, Mr. EDWARDS, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. GRAHAM, Mr. HARKIN, Mr. HOLLINGS, Mr. INOUYE, Mr. JOHNSON, Mr. KENNEDY, Mr. KERREY, Mr. KERRY, Mr. KOHL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Ms. MIKULSKI, Mr. MOYNIHAN, Mrs. MURRAY, Mr. REED, Mr. ROBB, Mr. ROCKEFELLER, Mr. SARBANES, Mr. SCHUMER, Mr. TORRICELLI, Mr. WELLSTONE, and Mr. WYDEN):

S. Con. Res. 40. A concurrent resolution commending the President and the Armed Forces for the success of Operation Allied Force; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

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

S. 1231. A bill to amend title XVIII of the Social Security Act to establish additional provisions to combat waste, fraud, and abuse within the Medicare Program, and for other purposes; to the Committee on Finance.

MEDICARE FRAUD PREVENTION AND ENFORCEMENT ACT OF 1999

Ms. COLLINS. Mr. President, on behalf of myself and my distinguished colleagues Senator DURBIN and Senator GRASSLEY, I rise today to introduce the Medicare Fraud Prevention and Enforcement Act of 1999. Both of these Senators have been leaders in the fight against Medicare fraud.

This bill will help solve an almost $13 billion problem. According to the HHS Inspector General, waste, fraud, abuse, and other improper payments drained about that much from the Medicare Trust Fund in fiscal year 1998. Fraud and abuse not only compromise the solvency of the Medicare program but also, in some cases, directly affect the quality of care delivered to the 38 million older and disabled Americans who depend upon this program. Although this legislation will not prevent all of the waste, fraud, and abuse that now plagues Medicare, it represents an important step toward a solution to a problem that threatens the financial integrity of this vital social program.

Unfortunately, there is no line item in the budget called ''Medicare Waste, Fraud and Abuse'' that we can simply cut to eliminate this insidious problem. It is a complicated, difficult challenge to plug the holes that make Medicare at high risk for fraud and abuse.

In May 1997, the Permanent Subcommittee on Investigations, which I chair, started an extensive investigation of the Medicare program. So far, my Subcommittee has held three hearings in an effort to expose fraud and abuse within Medicare.

As the Subcommittee's hearings revealed, we are now seeing a dangerous and growing problem with Medicare fraud. Career criminals and bogus providers with no background in health care are increasingly entering the system with the sole purpose of stealing hard-earned taxpayer dollars from the Medicare Trust Fund. Only tough deterrents can prevent these unscrupulous providers from entering the Medicare system. At the same time, however, we must be careful not to make entry into the Medicare program so difficult that the process deters legitimate health care providers. We owe it to the American public to strike this crucial balance.

During a Subcommittee hearing earlier last year, we heard testimony describing egregious examples of fraud committed by unscrupulous health care providers. For example, two physicians who submitted in excess of $690,000 in fraudulent Medicare claims listed nothing more than a Brooklyn laundromat as their office location. We were also told that over $6 million in Medicare funds were sent to durable medical equipment companies that provided no services; one of these companies even listed a fictitious address that would have placed the firm in the middle of a runway at the Miami International Airport.

While the number of unscrupulous providers in the Medicare program is very small relative to the number of honest providers, these criminals nevertheless are able to steal millions of dollars from Medicare, wreaking financial havoc on the program. This fraud contributes to the tremendous increase in health care expenditures and adversely affects the quality of health care given to our nation's elderly and disabled.

In response to the serious problems identified through my Subcommittee's investigation, Senator DURBIN, Senator GRASSLEY, and I are introducing legislation designed to prevent waste, fraud, and abuse by strengthening the Medicare enrollment process, expanding certain standards of participation, and reducing erroneous payments. Among other things, this legislation gives additional enforcement tools to the federal law enforcement agencies pursuing health care criminals.

One of the most important steps this bill takes is to prevent scam artists and criminals from securing the provider numbers that permit them to gain access to the Medicare system. Specifically, this bill requires background investigations to be conducted on all new providers to prevent career criminals from getting involved with Medicare in the first place. In addition, this bill requires site inspections of new durable medical equipment suppliers and community mental health

centers prior to their being given a provider number. This will help close the system to those who apply for a provider number from a bogus or nonexistent location. Together, these provisions are designed to make it more difficult for unscrupulous individuals to obtain a Medicare provider number and begin submitting fraudulent claims.

This legislation also requires community mental health centers to meet applicable certification or licensing requirements in their state before they are issued a provider number, and requires the Secretary of Health and Human Services to establish additional standards for such centers to participate in the Medicare system.

In September of last year, Health Care Financing Administration Administrator Nancy-Ann DeParle acknowledged the extensive fraud associated with community mental health centers as she announced a 10-point plan to curb abuses within this program. I applaud Administrator DeParle for taking a step in the right direction, but we can go further.

Our legislation requires each agency that bills Medicare on behalf of physicians or provider groups to register with HCFA and receive a unique registration number. Many billing companies receive a percentage of the claims they submit that are paid by Medicare. Unethical companies, therefore, have a financial incentive to inflate the cost or number of claims submitted. Because billing companies do not have a Medicare provider number, however, it is difficult for HCFA to sanction or exclude them from billing Medicare. Hence, there is little to deter unscrupulous billing companies from submitting inflated claims. This bill makes all companies accountable for their billings through a uniform registration system.

This legislation also provides that Medicare contractors should be held financially accountable for any amounts they improperly pay to excluded providers 60 or more days after being notified of the exclusion. There have been numerous instances in which a Medicare contractor has continued to pay a provider after HCFA had excluded the provider from participating in the program. As a result, excluded providers have sometimes continued to receive unauthorized payments due to the negligence of contractors.

Why should American taxpayers swallow the cost of improper payments when a contractor has been specifically told not to pay a particular provider and yet continues to do so? This bill would help deter such negligence. I realize, however, that this is a complex issue and that this accountability provision may require further refinement.

Under our legislation, providers also would be required to refund overpayments even if they filed for bankruptcy, if the overpayments were incurred through fraudulent means. This money would then be deposited into the Medicare Trust Fund. Some bad actors have used bankruptcy as a shield against repaying Medicare. Essentially, unscrupulous individuals steal literally hundreds of thousands of dollars from the Medicare program, hide or spend it quickly, and then file for bankruptcy protection when they are caught, leaving the Medicare Trust Fund in debt. With this bill, we intend to close this loophole.

Another provision of this legislation aims to halt trafficking in provider numbers. The bill makes it a felony to knowingly, purchase, sell, or distribute Medicare beneficiary or provider numbers with the intent to defraud. Our investigation revealed that there is a growing problem with unscrupulous providers using ''recruiters'' to fraudulently obtain Medicare beneficiary identification numbers, thereafter using these numbers to bill for services never delivered. This problem must be stopped.

Our legislation will also grant much needed statutory law enforcement authority to qualified special agents of the Department of Health and Human Service's Office of Inspector General. Even though one of their major responsibilities is to enforce federal criminal laws, these special agents have no statutory authority to carry firearms, make arrests, or execute search warrants. The office now operates under a temporary Memorandum of Understanding with the Department of Justice.

This lack of full law enforcement authority jeopardizes the safety of HHS-OIG special agents and witnesses under their protection. As my Subcommittee's hearings have demonstrated, more and more career criminals are becoming involved in health care fraud; this increases the potential danger to the agents charged with investigating these crimes. It is time for Congress to spell out the law enforcement authorities of the HHS Office of Inspector General in a more permanent way.

I am very pleased that Senator GRASSLEY, who has been a leader in the fight against Medicare fraud, waste, and abuse, has agreed to be an original cosponsor of our legislation. Senator DURBIN and I have incorporated into our legislation a valuable proposal that Senator GRASSLEY sponsored, namely requiring the use of Universal Product Numbers (''UPNs'') on claims forms for reimbursement under the Medicare program. Senator GRASSLEY, and a bipartisan coalition, introduced this concept as a freestanding bill, S.256, which I cosponsored earlier this year.

These provisions of our legislation would require that a UPN that uniquely identifies the item would be affixed by the manufacturer to medical equipment and supplies. The UPNs would be based on commercially-accepted identification standards, however, customized equipment would not be required to comply with this requirement. Senator DURBIN and I believe that this proposal is complementary to our package of reforms and strengthens the legislation we are introducing today.

Mr. President, the bill we are introducing today represents our concrete commitment to improve the Medicare program by providing additional tools that are needed to combat the extensive waste, fraud, and abuse that plague our nation's most important health care program. The unscrupulous individuals who commit Medicare fraud drive legitimate providers out of business, cost taxpayers vast sums of money, deliver substandard services and equipment, and endanger our elderly by not providing needed services.

We must use common sense and cost-effective solutions to curtail the spreading infection of fraud that threatens the vitality of Medicare. Yet, we must do more. We have a serious responsibility to older Americans across the country and to the nation's taxpayers to protect the Medicare program. We urge our colleagues to join us in this bi-partisan effort to strengthen and improve the Medicare program.

Thank you, Mr. President, and I ask unanimous consent that the bill, a section-by-section analysis of the bill, and four letters endorsing the legislation be printed in the RECORD.

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

S. 1231

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Medicare Fraud Prevention and Enforcement Act of 1999''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Site inspections and background checks.
Sec. 3. Registration of billing agencies.
Sec. 4. Expanded access to the health integrity protection database (HIPDB).
Sec. 5. Liability of medicare carriers and fiscal intermediaries for claims submitted by excluded providers.
Sec. 6. Community mental health centers.
Sec. 7. Limiting the use of automatic stays and discharge in bankruptcy proceedings for provider liability for health care fraud.
Sec. 8. Illegal distribution of a medicare or medicaid beneficiary identification or provider number.
Sec. 9. Treatment of certain Social Security Act crimes as Federal health care offenses.
Sec. 10. Authority of Office of Inspector General of the Department of Health and Human Services.
Sec. 11. Universal Product Numbers on Claims Forms for Reimbursement Under the Medicare program.

SEC. 2. SITE INSPECTIONS AND BACKGROUND CHECKS.

(a) SITE INSPECTIONS FOR DME SUPPLIERS, COMMUNITY MENTAL HEALTH CENTERS, AND OTHER PROVIDER GROUPS.—Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by adding at the end the following:

''SITE INSPECTIONS FOR DME SUPPLIERS, COMMUNITY MENTAL HEALTH CENTERS, AND OTHER PROVIDER GROUPS

''SEC. 1897. (a) SITE INSPECTIONS.—

''(1) IN GENERAL.—The Secretary shall conduct a site inspection for each applicable provider (as defined in paragraph (2)) that applies for a provider number in order to provide items or services under this title. Such site inspection shall be in addition to any other site inspection that the Secretary would otherwise conduct with regard to an applicable provider.

''(2) APPLICABLE PROVIDER DEFINED.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), in this section, the term 'applicable provider' means—

''(i) a supplier of durable medical equipment (including items described in section 1834(a)(13));

''(ii) a supplier of prosthetics, orthotics, or supplies (including items described in paragraphs (8) and (9) of section 1861(s));

''(iii) a community mental health center; or

''(iv) any other provider group, as determined by the Secretary.

''(B) EXCEPTION.—In this section, the term 'applicable provider' does not include—

''(i) a physician that provides durable medical equipment (as described in subparagraph (A)(i)) or prosthetics, orthotics, or supplies (as described in subparagraph (A)(ii)) to an individual as incident to an office visit by such individual; or

''(ii) a hospital that provides durable medical equipment (as described in subparagraph (A)(i)) or prosthetics, orthotics, or supplies (as described in subparagraph (A)(ii)) to an individual as incident to an emergency room visit by such individual.

''(b) STANDARDS AND REQUIREMENTS.—In conducting the site inspection pursuant to subsection (a), the Secretary shall ensure that the site being inspected is in full compliance with all the conditions and standards of participation and requirements for obtaining medicare billing privileges under this title.

''(c) TIME.—The Secretary shall conduct the site inspection for an applicable provider prior to the issuance of a provider number to such provider.

''(d) TIMELY REVIEW.—The Secretary shall provide for procedures to ensure that the site inspection required under this section does not unreasonably delay the issuance of a provider number to an applicable provider.''.

(b) BACKGROUND CHECKS.—Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) (as amended by subsection (a)) is amended by adding at the end the following:

''BACKGROUND CHECKS

''SEC. 1898. (a) BACKGROUND CHECK REQUIRED.—Except as provided in subsection (b), the Secretary shall conduct a background check on any individual or entity that applies to the Secretary for a provider number for the purpose of furnishing any item or service under this title. In performing the background check, the Secretary shall—

''(1) conduct the background check before issuing a provider number to an individual or entity;

''(2) include a search of criminal records in the background check; and

''(3) provide for procedures that ensure the background check does not unreasonably delay the issuance of a provider number to an eligible individual or entity.

''(b) USE OF STATE LICENSING PROCEDURE.—The Secretary may use the results of a State licensing procedure as a background check under subsection (a) if the State licensing procedure meets the requirements of subsection (a).

''(c) ATTORNEY GENERAL REQUIRED TO PROVIDE INFORMATION.—

''(1) IN GENERAL.—Upon request of the Secretary, the Attorney General shall provide the criminal background check information referred to in subsection (a)(2) to the Secretary.

''(2) RESTRICTION ON USE OF DISCLOSED INFORMATION.—The Secretary may only use the information disclosed under subsection (a) for the purpose of carrying out the Secretary's responsibilities under this title.

''(d) REFUSAL TO ISSUE PROVIDER NUMBER.—

''(1) AUTHORITY.—In addition to any other remedy available to the Secretary, the Secretary may refuse to issue a provider number to an individual or entity if the Secretary determines, after a background check conducted under this section, that such individual or entity has a history of acts that indicate issuance of a provider number to such individual or entity would be detrimental to the best interests of the program or program beneficiaries. Such acts may include, but are not limited to—

''(A) any bankruptcy;

''(B) any act resulting in a civil judgment against such individual or entity; or

''(C) any felony conviction under Federal or State law.

''(2) REPORTING OF REFUSAL TO ISSUE PROVIDER NUMBER TO THE HEALTH INTEGRITY PROTECTION DATABASE (HIPDB).—A determination to refuse to issue a provider number to an individual or entity as a result of a background check conducted under this section shall be reported to the health integrity protection database established under section 1128E in accordance with the procedures for reporting final adverse actions taken against a health care provider, supplier, or practitioner under that section.''.

(c) REGULATIONS; EFFECTIVE DATE.—

(1) REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall promulgate such regulations as are necessary to implement the amendments made by subsections (a) and (b).

(2) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to applications received by the Secretary of Health and Human Services on or after January 1, 2000.

(d) USE OF MEDICARE INTEGRITY PROGRAM FUNDS.—The Secretary of Health and Human Services may use funds appropriated or transferred for purposes of carrying out the medicare integrity program established under section 1893 of the Social Security Act (42 U.S.C. 1395ddd) to carry out the provisions of sections 1897 and 1898 of that Act (as added by subsections (a) and (b)).

SEC. 3. REGISTRATION OF BILLING AGENCIES.

(a) REGISTRATION OF BILLING AGENCIES AND INDIVIDUALS.—Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) (as amended by section 2(b)) is amended by adding at the end the following:

''REGISTRATION OF BILLING AGENCIES AND INDIVIDUALS

''SEC. 1899. (a) REGISTRATION.—The Secretary shall establish procedures for the registration of all applicable persons.

''(b) REQUIRED APPLICATION.—Each applicable person shall submit a registration application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

''(c) IDENTIFICATION NUMBER.—If the Secretary approves an application submitted under subsection (b), the Secretary shall assign a unique identification number to the applicable person.

''(d) REQUIREMENT.—Every claim for reimbursement under this title that is compiled and submitted by an applicable person shall contain the identification number that is assigned to the applicable person pursuant to subsection (c).

''(e) TIMELY REVIEW.—The Secretary shall provide for procedures that ensure the timely consideration and determination regarding approval of applications under this section.

''(f) DEFINITION OF APPLICABLE PERSON.—In this section, the term 'applicable person' means an individual or an entity that compiles and submits claims for reimbursement under this title to the Secretary on behalf of any individual or entity.''.

(b) PERMISSIVE EXCLUSION.—Section 1128(b) of the Social Security Act (42 U.S.C. 1320a–7(b)) is amended by adding at the end the following:

''(16) FRAUD BY APPLICABLE PERSON.—An applicable person (as defined in section 1899(f)) that the Secretary determines knowingly submitted or caused to be submitted a claim for reimbursement under title XVIII that the applicable person knows or should know is false or fraudulent.''.

(c) REGULATIONS; EFFECTIVE DATE.—

(1) REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall promulgate such regulations as are necessary to implement the amendment made by subsections (a) and (b).

(2) EFFECTIVE DATE.—The amendment made by subsections (a) and (b) shall take effect on January 1, 2000.

SEC. 4. EXPANDED ACCESS TO THE HEALTH INTEGRITY PROTECTION DATABASE (HIPDB).

(a) IN GENERAL.—Section 1128E(d)(1) of the Social Security Act (42 U.S.C. 1320a–7e(d)(1)) is amended to read as follows:

''(1) AVAILABILITY.—The information in the database maintained under this section shall be available to—

''(A) Federal and State government agencies and health plans, and any health care provider, supplier, or practitioner entering an employment or contractual relationship with an individual or entity who could potentially be the subject of a final adverse action, where the contract involves the furnishing of items or services reimbursed by 1 or more Federal health care programs (regardless of whether the individual or entity is paid by the programs directly, or whether the items or services are reimbursed directly or indirectly through the claims of a direct provider); and

''(B) utilization and quality control peer review organizations and accreditation entities as defined by the Secretary, including but not limited to organizations described in part B of title XI and in section 1154(a)(4)(C).''.

(b) CRIMINAL PENALTY FOR MISUSE OF INFORMATION.—Section 1128B(b) of the Social Security Act (42 U.S.C. 1320a–7b(b)) is amended by adding at the end the following:

''(4) Whoever knowingly uses information maintained in the health integrity protection database maintained in accordance with section 1128E for a purpose other than a purpose authorized under that section shall be imprisoned for not more than 3 years or fined under title 18, United States Code, or both.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.

SEC. 5. LIABILITY OF MEDICARE CARRIERS AND FISCAL INTERMEDIARIES FOR CLAIMS SUBMITTED BY EXCLUDED PROVIDERS.

(a) REIMBURSEMENT TO THE SECRETARY FOR AMOUNTS PAID TO EXCLUDED PROVIDERS.—

(1) REQUIREMENTS FOR FISCAL INTERMEDIARIES.—

(A) IN GENERAL.—Section 1816 of the Social Security Act (42 U.S.C. 1395h) is amended by adding at the end the following:

''(m) An agreement with an agency or organization under this section shall require that such agency or organization reimburse the Secretary for any amounts paid by the agency or organization for a service under this title which is furnished by an individual or entity during any period for which the individual or entity is excluded, pursuant to section 1128, 1128A, or 1156, from participation in the health care program under this title if the amounts are paid after the 60-day period beginning on the date the Secretary provides notice of the exclusion to the agency or organization, unless the payment was made as a result of incorrect information provided by the Secretary or the individual or entity excluded from participation has concealed or altered their identity.''.

(B) CONFORMING AMENDMENT.—Section 1816(i) of the Social Security Act (42 U.S.C. 1395h(i)) is amended by adding at the end the following:

''(4) Nothing in this subsection shall be construed to prohibit reimbursement by an agency or organization pursuant to subsection (m).''.

(2) REQUIREMENTS FOR CARRIERS.—Section 1842(b)(3) of the Social Security Act (42 U.S.C. 1395u(b)(3)) is amended—

(A) by striking ''and'' at the end of subparagraph (I); and

(B) by inserting after subparagraph (I) the following:

''(J) will reimburse the Secretary for any amounts paid by the carrier for an item or service under this part which is furnished by an individual or entity during any period for which the individual or entity is excluded, pursuant to section 1128, 1128A, or 1156, from participation in the health care program under this title if the amounts are paid after the 60-day period beginning on the date the Secretary provides notice of the exclusion to the carrier, unless the payment was made as a result of incorrect information provided by the Secretary or the individual or entity excluded from participation has concealed or altered their identity; and''.

(b) CONFORMING REPEAL OF MANDATORY PAYMENT RULE.—Section 1862(e) of the Social Security Act (42 U.S.C. 1395y(e)) is amended—

(1) in paragraph (1)(B), by striking ''and when the person'' and all that follows through ''person)''; and

(2) by amending paragraph (2) to read as follows:

''(2) No individual or entity may bill (or collect any amount from) any individual for any item or service for which payment is denied under paragraph (1). No individual is liable for payment of any amounts billed for such an item or service in violation of the preceding sentence.''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to claims for payment submitted on or after the date of enactment of this Act.

(2) CONTRACT MODIFICATION.—The Secretary of Health and Human Services shall take such steps as may be necessary to modify contracts and agreements entered into, renewed, or extended prior to the date of enactment of this Act to conform such contracts or agreements to the provisions of this section.

SEC. 6. COMMUNITY MENTAL HEALTH CENTERS.

(a) IN GENERAL.—Section 1861(ff)(3)(B) of the Social Security Act (42 U.S.C. 1395x(ff)(3)(B)) is amended by striking ''entity'' and all that follows and inserting the following: ''entity that—

''(i) provides the community mental health services specified in paragraph (1) of section 1913(c) of the Public Health Service Act;

''(ii) meets applicable certification or licensing requirements for community mental health centers in the State in which it is located;

''(iii) provides a significant share of its services to individuals who are not eligible for benefits under this title; and

''(iv) meets such additional standards or requirements for obtaining medicare billing privileges as the Secretary may specify to ensure—

''(I) the health and safety of beneficiaries receiving such services; or

''(II) the furnishing of such services in an effective and efficient manner.''.

(b) RESTRICTION.—Section 1861(ff)(3)(A) of the Social Security Act (42 U.S.C. 1395x(ff)(3)(A)) is amended by inserting ''other than in an individual's home or in an inpatient or residential setting'' before the period.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished after the sixth month that begins after the date of enactment of this Act.

SEC. 7. LIMITING THE DISCHARGE OF DEBTS IN BANKRUPTCY PROCEEDINGS IN CASES WHERE A HEALTH CARE PROVIDER OR A SUPPLIER ENGAGES IN FRAUDULENT ACTIVITY.

(a) IN GENERAL.—

(1) CIVIL MONETARY PENALTIES.—Section 1128A(a) of the Social Security Act (42 U.S.C. 1320a–7a(a)) is amended by adding at the end the following: ''Notwithstanding any other provision of law, amounts made payable under this section are not dischargeable under section 727, 1141, 1228(a) or (b), or 1328 of title 11, United States Code, or any other provision of such title.''.

(2) RECOVERY OF OVERPAYMENT TO PROVIDERS OF SERVICES UNDER PART A OF MEDICARE.—Section 1815(d) of the Social Security Act (42 U.S.C. 1395g(d)) is amended—

(A) by inserting ''(1)'' after ''(d)''; and

(B) by adding at the end the following:

''(2) Notwithstanding any other provision of law, amounts due to the Secretary under this section are not dischargeable under section 727, 1141, 1228(a) or (b), or 1328 of title 11, United States Code, or any other provision of such title if the overpayment was the result of fraudulent activity, as may be defined by the Secretary.''.

(3) RECOVERY OF OVERPAYMENT OF BENEFITS UNDER PART B OF MEDICARE.—Section 1833(j) of the Social Security Act (42 U.S.C. 1395l(j)) is amended—

(A) by inserting ''(1)'' after ''(j)''; and

(B) by adding at the end the following:

''(2) Notwithstanding any other provision of law, amounts due to the Secretary under this section are not dischargeable under section 727, 1141, 1228(a) or (b), or 1328 of title 11, United States Code, or any other provision of such title if the overpayment was the result of fraudulent activity, as may be defined by the Secretary.''.

(4) COLLECTION OF PAST-DUE OBLIGATIONS ARISING FROM BREACH OF SCHOLARSHIP AND LOAN CONTRACT.—Section 1892(a) of the Social Security Act (42 U.S.C. 1395ccc(a)) is amended by adding at the end the following:

''(5) Notwithstanding any other provision of law, amounts due to the Secretary under this section are not dischargeable under section 727, 1141, 1228(a) or (b), or 1328 of title 11, United States Code, or any other provision of such title.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to bankruptcy petitions filed after the date of enactment of this Act.

SEC. 8. ILLEGAL DISTRIBUTION OF A MEDICARE OR MEDICAID BENEFICIARY IDENTIFICATION OR PROVIDER NUMBER.

Section 1128B(b) of the Social Security Act (42 U.S.C. 1320a–7b(b)), as amended by section 4(b), is amended by adding at the end the following:

''(5) Whoever knowingly, intentionally, and with the intent to defraud purchases, sells or distributes, or arranges for the purchase, sale, or distribution of 2 or more medicare or medicaid beneficiary identification numbers or provider numbers shall be imprisoned for not more than 3 years or fined under title 18, United States Code (or, if greater, an amount equal to the monetary loss to the Federal and any State government as a result of such acts), or both.''.

SEC. 9. TREATMENT OF CERTAIN SOCIAL SECURITY ACT CRIMES AS FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Section 24(a) of title 18, United States Code, is amended—

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

(2) by adding at the end the following:

''(3) section 1128B of the Social Security Act (42 U.S.C. 1320a–7b).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of enactment of this Act and apply to acts committed on or after the date of enactment of this Act.

SEC. 10. AUTHORITY OF OFFICE OF INSPECTOR GENERAL OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.

(a) AUTHORITY.—Notwithstanding any other provision of law, upon designation by the Inspector General of the Department of Health and Human Services, any criminal investigator of the Office of Inspector General of such department may, in accordance with guidelines issued by the Secretary of Health and Human Services and approved by the Attorney General, while engaged in activities within the lawful jurisdiction of such Inspector General—

(1) obtain and execute any warrant or other process issued under the authority of the United States;

(2) make an arrest without a warrant for—

(A) any offense against the United States committed in the presence of such investigator; or

(B) any felony offense against the United States, if such investigator has reasonable cause to believe that the person to be arrested has committed or is committing that felony offense; and

(3) exercise any other authority necessary to carry out the authority described in paragraphs (1) and (2).

(b) FUNDS.—The Office of Inspector General of the Department of Health and Human Services may receive and expend funds that represent the equitable share from the forfeiture of property in investigations in which the Office of Inspector General participated, and that are transferred to the Office of Inspector General by the Department of Justice, the Department of the Treasury, or the United States Postal Service. Such equitable sharing funds shall be deposited in a separate account and shall remain available until expended.

SEC. . UNIVERSAL PRODUCT NUMBERS ON CLAIMS FORMS FOR REIMBURSEMENT UNDER THE MEDICARE PROGRAM.

(A) (a) ACCOMMODATION OF UPNS ON MEDICARE CLAIMS FORMS.—Not later than February 1, 2001, all claims forms developed or used by the Secretary of Health and Human Services for reimbursement under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) shall accommodate the use of universal product numbers for a UPN covered item.

(b) REQUIREMENT FOR PAYMENT OF CLAIMS.—Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by adding at the end the following:

''USE OF UNIVERSAL PRODUCT NUMBERS

''SEC. 1897. (a) IN GENERAL.—No payment shall be made under this title for any claim for reimbursement for any UPN covered item unless the claim contains the universal product number of the UPN covered item.

''(b) DEFINITIONS.—In this section:

''(1) UPN COVERED ITEM.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'UPN covered item' means—

''(i) a covered item as that term is defined in section 1834(a)(13);

''(ii) an item described in paragraph (8) and (9) of section 1861(s);

''(iii) an item described in paragraph (5) of section 1861 (s); and

''(iv) any other item for which payment is made under this title that the Secretary determines to be appropriate.

''(B) EXCLUSION.—The term 'UPN covered item' does not include a customized item for which payment is made under this title.

''(2) UNIVERSAL PRODUCT NUMBER.—The term 'universal product number' means a number that is—

''(A) affixed by the manufacturer to each individual UPN covered item that uniquely identifies the item at each packaging level; and

''(B) based on commercially acceptable identification standards such as, but not limited to, standards established by the Uniform Code Council-International Article Numbering System or the Health Industry Business Communication Council.''

(c) DEVELOPMENT AND IMPLEMENTATION OF PROCEDURES.—

(1) INFORMATION INCLUDED IN UPN.—The Secretary of Health and Human Services, in consultation with manufacturers and entities with appropriate expertise, shall determine the relevant descriptive information appropriate for inclusion in a universal product number for a UPN covered item.

(2) REVIEW OF PROCEDURE.—From the information obtained by the use of universal product numbers on claims for reimbursement under the medicare program, the Secretary of Health and Human Services, in consultation with interested parties, shall periodically review the UPN covered items billed under the Health Care Financing Administration Common Procedure Coding System and adjust such coding system to ensure that functionally equivalent UPN covered items are billed and reimbursed under the same codes.

(d) EFFECTIVE DATE.—The amendment made by subsection (b) shall apply to claims for reimbursement submitted on and after February 1, 2002.

(B) STUDY AND REPORTS TO CONGRESS.

(a) STUDY.—The Secretary of Health and Human Services shall conduct a study on the results of the implementation of the provisions in subsections (a) and (c) of section 2 and the amendment to the Social Security Act in subsection (b) of that section.

(b) REPORTS.—

(1) PROGRESS REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary of Health and Human Services shall submit a report to Congress that contains a detailed description of the progress of the matters studied pursuant to subsection (a).

(2) IMPLEMENTATION.—Not later than 18 months after the date of enactment of this Act, and annually thereafter for 3 years, the Secretary of Health and Human Services shall submit a report to Congress that contains a detailed description of the results of the study conducted pursuant to subsection (a), together with the Secretary's recommendations regarding the use of universal product numbers and the use of data obtained from the use of such numbers.

(C) DEFINTIONS.

In this Act:

(1) UPN COVERED ITEM.—The term 'UPN covered item' has the meaning given such term in section 1897(b)(1) of the Social Security Act (as added by section 2(b)).

(2) UNIVERSAL PRODUCT NUMBER.—The term 'universal product number' has the meaning given such term in section 1897(b)(2) of the Social Security Act (as added by section 2(b)).

(D) AUTHORIZATION OF APPROPRIATIONS.

The are authorized to be appropriated such sums as may be necessary for the purpose of carrying out the provisions in subsections (a) and (c) of section 2, section 3, and section 1897 of the Social Security Act (as added by section 2(b)).

MEDICARE FRAUD PREVENTION AND ENFORCEMENT ACT OF 1999—SECTION-BY-SECTION SUMMARY

Sec. 1: Short Title: ''Medicare Fraud Prevention and Enforcement Act of 1999''.

Sec. 2: Site Inspections and Background Checks

Requires the Health Care Financing Administration (HCFA) to conduct a site inspection prior to issuing a provider number for all new providers of durable medical equipment, prosthetics, orthotics or supplies, community mental health services, or any other provider group deemed necessary by the Secretary.

Requires site inspections to include, at a minimum, verification of compliance with all established standards of enrollment relating to a particular provider type.

Requires background checks on all new providers prior to issuing a provider number. the background check shall include a criminal history background check. Grants the Secretary the authority to substitute state licensing procedures for background checks if it is determined that a State's procedures have the same substantive requirements.

Requires the Attorney General to provide criminal background information to the Secretary regarding individuals applying for a Medicare provider number. The Secretary may only use this information for determining eligibility for participation in the Medicare program.

The Secretary may decline to issue a provider number if the Secretary determines, after a background check, that the applicant has a history of acts that the Secretary determines would be detrimental to the best interests of the program or its beneficiaries.

The Secretary shall report all decisions to refuse a provider number as a result of a background check to the Health Integrity Protection Database.

HCFA may use Medicare Integrity Program funds to cover the costs of conducting the site visits and background investigations.

A physician or hospital that provides durable medical equipment, prosthetics, orthotics or supplies incident to an office visit or emergency room visit is exempt from the site visit requirement.

Explanation: Currently, site inspections and background checks are random and typically only occur in certain areas of the country and on certain types of providers. Mandating site inspections and background checks would significantly enhance the ability of HCFA to keep ''bad apples'' from entering the program. Site inspections must do more than simply verify that a business actually exists at a particular location; they must ensure that the entity meets or exceeds the established participation standards related to their speciality.

Sec. 3: Registration of Billing Agencies

Requires agencies that bill Medicare on behalf of physicians or provider groups to register with HCFA.

Requires HCFA to assign a unique registration number to each billing agency.

Requires that every claim submitted by a billing agency to Medicare for reimbursement include the agency's unique registration number.

Allows the Secretary to exclude a billing agency from participating in the Medicare program if it knowingly submits a false or fraudulent claim.

Explanation: This provision would require HCFA to assign a unique identifying number (similar to a provider number) to each company which would then allow Medicare to sanction or exclude these companies (and principal owners) from billing Medicare. Federal law enforcement agencies have received several allegations involving cases in which billing companies that bill Medicare on behalf of providers submitted fraudulent (upcoded/unbundled/fictitious) claims for payment. Many billing companies receive a percentage of all claims paid by Medicare; therefore, these companies have a financial incentive to inflate the cost or number of claims submitted. This occurs both with and without the knowledge of the provider. Because these billing companies do not have a Medicare provider number (they bill using the particular physician's provider number), HCFA is currently unable to sanction or exclude the companies from billing Medicare.

Sec. 4: Expand Access to the Health Integrity Protection Database (HIPDB)

Allows any entity that bills Medicare to query the HIPDB before hiring or initiating a contractual relationship with a health care provider.

HIPDB is intended to provide a ''one stop shop'' data base for public information on the imposition of health care sanctions. Includes information such as health care-related criminal convictions, civil judgments, exclusions, and adverse license or certification actions.

Abuse of the information in the HIPDB is a federal felony. Whoever knowingly uses information maintained in the database for unauthorized purposes shall be imprisoned for not more than 3 years or fined under title 18, United States Code, or both.

Currently, the HIPDB is only available to government investigators and health care plans.

Explanation: Expanding access to HIPDB for those entities that bill Medicare will allow for better tracking and accountability of individuals who have received an adverse action; therefore, allowing the employer to make a more informed hiring decision.

Sec. 5. Contractor Payments to Excluded Providers

Requires a Medicare contractor to reimburse the Secretary for any amounts paid by HCFA for claims submitted by excluded providers 60 days after the Secretary has provided notice of the exclusion, unless the payment was made as a result of incorrect information provided by the Secretary or the individual or entity excluded from participation has concealed or altered their identity.

Prevents an excluded provider from directly billing a Medicare beneficiary.

Explanation: There have been numerous instances in which Medicare contractors have continued to pay providers after HCFA had excluded the provider from participating in the program. As a result, excluded individuals and entities have continued to receive Medicare payments due to the negligence of contractor personnel. Instead of draining the Medicare Trust Fund, Medicare contractors should be held financially accountable for any amounts they improperly pay to excluded providers 60 days after they have been notified of the exclusion unless the payment was made as a result of incorrect information by HHS or the excluded provider intentionally concealed or altered its identity so

that the contractor could not have known the provider was excluded. By making Medicare contractors liable for such erroneous payments, they will be encouraged to exert greater diligence when reviewing new provider applications and paying claims.

Sec. 6. Community Mental Health Centers (CMHC)

CMHCs must meet applicable certification or licensing requirements of the state in which they are located before they are issued a provider number.

CMHCs cannot serve only Medicare patients.

CMHCs must meet additional standards of participation to be established by the Secretary before they are issued a provider number.

Explanation: This provision is designed to ensure that fraudulent or fly-by-night companies are not allowed to participate in the CMHC program. Recent subcommittee hearings have highlighted the rampant fraud within the CMHC program. CMHCs are paid by Medicare to provide partial hospitalization services to patients that would otherwise have to be admitted for inpatient psychiatric treatment. The program has grown from about $30 million in 1993 to more than $350 million in 1997. Of the approximately 1,500 CMHCs nationwide, more than 250 of these centers are located in the State of Florida. On-site visits to these facilities in Florida by HCFA personnel revealed that many CMHCs did not meet the criteria for a Medicare provider number, numerous patients did not meet eligibility criteria, and many centers were using non-licensed staff to furnish non-therapeutic services. In essence, Medicare was paying for adult daycare, which is not allowed.

Sec. 7: Bankruptcy Protection

Provides that any overpayment which is the result of fraudulent activity is not dischargeable through the bankruptcy process.

Provides that any civil monetary penalty or collection of past-due obligations arising from breach of a scholarship and loan contract are not dischargeable through the bankruptcy process.

Explanation: Under current law, health care providers and suppliers can use bankruptcy as a shield against recovery of Medicare overpayments. A provider or supplier can assert that any overpayment due to the Medicare program is discharged and does not survive the bankruptcy proceeding. Under this proposal, a provider or supplier would be liable to refund overpayments even in bankruptcy if the provider obtained the overpayment by fraudulent means. This money would eventually be deposited into the Medicare Trust Fund. Additionally, any civil monetary penalties levied or past-due obligations arising from breach of a contract entered into pursuant to the National Health Services Corp Scholarship Program, the Physician Shortage Area Scholarship Program, or the Health Education Assistance Loan Program, are not dischargable.

Sec. 8: Illegal Distribution of a Medicare or Medicaid Provider Number or Beneficiary Identification Number

This provision makes it a felony for a person to knowingly, intentionally, and with the intent to defraud, purchase, sell, or distribute two or more Medicare or Medicaid beneficiary identification numbers or provider numbers.

An individual convicted under this seciton shall be fined under Title 18 of the United States Code or, whichever is greater, an amount equal to the monetary loss to the Government, or imprisoned for not more than 3 years, or both.

Explanation: There are no specific statutes that prohibit the purchase, sale or distribution of a Medicare or Medicaid provider number or beneficiary identification (billing) number. This provision would address the growing trend of unscrupulous providers using ''recruiters'' to fraudulently obtain beneficiary identification numbers in order to bill for bogus services. In addition, this provision will provide penalties for individuals who ''steal'' legitimate provider numbers and then submit fraudulent claims.

Sec. 9: Define Certain Crimes as Health Care Offenses

Defines criminal violations of the Medicare/Medicaid statutes under section 1128B of the Social Security Act (including the illegal sale or distribution of a Medicare provider number or beneficiary identification number) as ''federal health care offenses''.

Explanation: The Health Insurance Portability and Accountability Act (HIPAA) established several enforcement tools for deterring health care related crime, including authority for injunctive relief, streamlined investigative demand and subpoena procedures, and property forfeitures. These remedies were made applicable to all ''Federal health care offenses''. In identifying these criminal provisions, however, some criminal provisions (i.e., kickbacks, false certifications, and overcharging beneficiaries) were inadvertently omitted. This provision defines the aforementioned crimes as well as the offenses enumerated in Section 8 (Illegal Distribution of a Medicare or Medicaid beneficiary identification or provider number) of this bill as Federal health care offenses.

Sec. 10: Authority of Inspector General for the Department of Health and Human Services (HHS)

Gives criminal investigators within HHS' Office of Inspector General the authority to:

Obtain and execute warrants;

Arrest without warrant if—a crime committed against the United States is committed in their presence; or the investigator reasonably believes a felony offense has been committed.

Share in forfeited assets when pursuing a joint investigation with another law enforcement agency.

The authority provided under this section shall be carried out in accordance with guidelines approved by the Attorney General.

Exercise those authorities necessary to carry out those functions.

Explanation: The lack of full law enforcement authority jeopardizes the safety of HHS–OIG agents and witnesses under their protection. HHS–OIG agents currently exercise limited law enforcement authority under a special deputation issued by the Department of Justice through the U.S. Marshals Office. This special deputation allows HHS–OIG agents to exercise only *limited* law enforcement powers. All HHS–OIG agents receive nine weeks of specialized training at the Federal Law Enforcement Training Center. This is the same training required by the United States Marshal Service, United States Secret Service, and numerous other federal law enforcement agencies. More and more career criminals are becoming involved in health care fraud; this increases the potential danger for those agents charged with investigating these crimes. Both the Federal Law Enforcement Officers Association as well as the Fraternal Order of Police support this provision.

Sec. 11: Universal Product Numbers on Claims Forms for Reimbursement

Requires that all Medicare claims forms accommodate a Universal Product Number (UPN) no later than February 1, 2001, in order to receive reimbursement under the Medicare program. The UPN requirement would apply to all durable medical equipment and supplies, orthotics and prosthetics, except for any customized items, billed under the Medicare program.

The Secretary, in consultation with manufacturers and entities with appropriate expertise, shall determine the relevant descriptive information appropriate for inclusion in a UPN.

The Secretary, in consultation with interested parties, shall review information obtained by the use of UPNs on claims forms and shall adjust the Common Procedure Coding System (Medicare's current coding system) to ensure that functionally equivalent UPN covered items are billed and reimbursed under the same codes.

The UPN shall be based upon, but not limited to, commercially acceptable identification standards established by the Uniform Code Council-International Article Numbering System or the Health Industry Business Communications Council. The two Councils are not-for-profit organizations that are currently used by the industry to establish and issue bar codes, but should a similar entity develop, the Secretary retains the discretion to use this as well.

No payments shall be made for claims forms not containing UPNs submitted after February 1, 2002. This grace period provides manufacturers that are not currently using UPNs time to adjust to this new reimbursement system.

The Secretary shall report to Congress no later than 6 months after the date of enactment of this Act on the progress of implementing UPNs on claims forms.

The Secretary shall report 18 months after the date of enactment and annually thereafter for 3 years a detailed description of the results of using the UPN for reimbursement.

Explanation: Currently, HCFA does not know which products it is purchasing. The only identification that is reflected on the claims form is a billing code. The billing code for each individual product can cover a wide range of items. For example, GAO determined that one single Medicare code is used for more than 200 different urological catheters and the wholesale price range of the catheters varies from $1 to $18. The use of a UPN would specifically identify the item and, thus, reduce the likelihood of ''upcoding'' and combat fraud and abuse in the Medicare program.

HEALTH INDUSTRY
DISTRIBUTORS ASSOCIATION,
Alexandria, VA, February 8, 1999.

Hon. SUSAN COLLINS,
Chair, Permanent Subcommittee on Investigations,
Committee on Governmental Affairs, Washington, DC.

DEAR MADAM CHAIRWOMAN: On behalf of the Health Industry Distributors Association (HIDA), I applaud you for introducing the Medicare Fraud Prevention and Enforcement Act. HIDA is the national trade association of home care companies and medical products distribution firms. Created in 1902, HIDA represents over 700 companies with approximately 2500 locations nationwide. HIDA Members provide value-added distribution services to virtually every hospital, physician's office, nursing facility, clinic, and other health care sites across the country, as well as to a growing number of home care patients.

As a professional trade association, HIDA wholeheartedly supports the rigorous enforcement of laws that ensure that Medicare pays reasonable reimbursement amounts for medically necessary items and services on behalf of Medicare beneficiaries. HIDA has long advocated the responsible administration of the Medicare program, and has repeatedly identified specific abusive or illegal practices occurring in the marketplace to assist the government's anti-fraud efforts. HIDA has also assisted in the development of

additional targeted policies designed to aid the government in the administration of the Medicare Program.

The Medicare Fraud Prevention and Enforcement Act is needed to support the integrity of the Medicare Program. HIDA has advocated more stringent standards for Medicare Part B durable medical equipment, prosthetic, orthotic and supply (DMEPOS) providers for a number of years. HIDA believes that that the current Medicare DMEPOS supplier standards are simply insufficient. Importantly, it is not just the de minimus nature of the standards that is deficient, but also the process Medicare uses to determine whether a provider actually meets those standards. The site visits and increased provider scrutiny included in your bill will address our concerns.

By enacting this bill, Medicare will realize an immediate benefit by ensuring that beneficiaries receive DMEPOS services only from legitimate firms. Unscrupulous providers will never have an opportunity to engage in abusive behavior because they will never be able to bill the Medicare program on behalf of beneficiaries. Consequently, these increased standards and enforcement tools will significantly contribute to reducing fraud and abuse in the Medicare program. For these reasons HIDA strongly supports the Medicare Fraud Prevention and Enforcement Act.

Again, thank you for introducing this important bill. Please contact Ms. Erin H. Bush, HIDA's Associate Director of Governmental Relations (703) 838–6110 if we can be of any assistance.

Sincerely,

CARA C. BACHENHEIMER,
Vice President.

PEDORTHIC FOOTWEAR ASSOCIATION,
Columbia, MD, April 27, 1999.

Hon. SUSAN COLLINS,
U.S. Senate, Chair, Government Affairs Permanent Subcommittee on Investigations, Washington, DC.

DEAR SENATOR COLLINS: The Pedorthic Footwear Association (PFA) applauds your leadership and ongoing efforts to combat fraud and abuse in the Medicare program. Your legislation, ''The Medicare Fraud Prevention & Enforcement Act of 1999,'' is encouraging as a positive step forward to strengthen current law and further protect both patients and providers.

PFA strongly shares your concern that only qualified entities should be able to participate and provide health care services to the nation's Medicare patient population. In an effort to protect patients and provide HCFA with improved control of its supplies, PFA greatly appreciates your leadership and introduction of legislation to address these important public policy issues.

The PFA, founded in 1958, is a not-for-profit organization representing professionals in the field of pedorthics—the design, manufacture, modification and fit of footwear, including foot orthoses, to alleviate foot problems caused by disease, overuse, congenital defect or injury. Pedorthists are one of the four professionals recognized by Congress as suppliers of the Therapeutic Shoes for Diabetics benefit.

Shoes are simply apparel for most people, but for individuals with severe diabetic foot disease, shoes are a part of their treatment plan. As such, PFA supports all efforts to ensure that these patients are treated and provided services by qualified individuals. Thank you for your efforts to enhance HCFA's overall ability to accomplish its mission of protecting the health of the patient and the integrity of the Medicare program.

Sincerely,

ROGER MARZANO, C.P.O, C.PED.,
President.

THE AMERICAN OCCUPATIONAL
THERAPY ASSOCIATION, INC.,
Bethesda, MD, May 21, 1999.

Hon. SUSAN COLLINS,
Chair, Permanent Subcommittee on Investigations, Senate Governmental Affairs Committee, Washington, DC.

DEAR MADAM CHAIRMAN: On behalf of the 60,000 occupational therapists, occupational therapy assistants, and students who are members of the American Occupational Therapy Association, I want to express support for your Medicare Fraud Prevention and Enforcement Act of 1999.

As providers whose services are covered under both Parts A and B of the Medicare program, our members are well aware of the importance of assuring that the program is well-run, appropriately administered and monitored and that high standards of quality are maintained, including assurance of the use of qualified personnel.

Your efforts to require scrutiny of new providers can be an important element of an overall improvement in the Medicare program. We are also pleased that your bill recognizes the validity of state licensure as a proxy for background checks.

Thank you for your efforts to promote quality, efficient services under Medicare.

Sincerely,

CHRISTINA A. METZLER,
Director,
Federal Affairs Department.

AARP,
Washington, DC, June 17, 1999.

Hon. SUSAN M. COLLINS,
Chair,
Governmental Affairs Permanent Subcommittee, on Investigations, U.S. Senate, Washington, DC.

DEAR MADAM CHAIR: AARP commends you and your colleague, Sen. Richard Durbin, for introducing the ''Medicare Fraud Prevention and Enforcement Act of 1999.'' Fraud and abuse remain serious problems in the Medicare program that drain valuable funds which could otherwise be used to help strengthen the program for current and future beneficiaries. Your legislation's focus on deterrence is constructive and should significantly improve Medicare's ability to stop fraud by unscrupulous providers before it happens.

The provisions in your bill to require site inspections and background checks of certain providers, to require billing agencies to register with the Health Care Financing Administration, to allow entities billing Medicare to access the Health Integrity Protection Database, and to make it a felony to distribute provider or beneficiary identification numbers are powerful tools that should make those intent on defrauding the Medicare program think twice before attempting to do so.

As we move to strengthen Medicare's ability to identify and eliminate fraud, it is important to do this judiciously so that the vast majority of providers—who are honest and intent on following the rules—are not burdened. The provisions of your bill appear reasonable and seem to reflect this critical balance. While fraud and abuse cannot be completely eliminated, it can be significantly reduced. Your bill will help in this effort.

AARP is pleased to have the opportunity to comment on this legislation and we appreciate the work you and Sen. Durbin have done to reduce the effect of fraud and abuse on the Medicare program and its beneficiaries. We look forward to continuing to work with you and your colleagues in the House and Senate on a bipartisan basis to find effective ways to address this issue.

If you have any questions, please feel free to contact me or have your staff contact Michele Kimball of the AARP Federal Affairs Health Team at 202–434–3772.

Sincerely,

HORACE B. DEETS,
Executive Director.

Mr. DURBIN. Mr. President, in summary, I am proud to be a cosponsor of this bipartisan legislation. I am also proud to be a member of the Permanent Subcommittee on Investigations of the Governmental Affairs Committee, which Senator COLLINS chairs. This has been one of the best assignments I have had in the Senate because Senator COLLINS is not afraid to tackle tough issues. We have gone after the issue of food safety with fascinating hearings which I believe will lead to improving America's food supply and really protecting America's families.

She has shown extraordinary courage in addressing this issue of Medicare fraud. Frankly, it took a very good investigative team and her determination to bring us to this moment where this legislation is being introduced.

Mr. President, 39 million Americans rely on Medicare. If you have a parent or grandparent who is elderly or disabled, they may view Medicare as their health insurance plan. Without it, think where America would be if elderly people and disabled folks had to rely on their own resources to pay for their medical care.

We pay a great deal of money each year in America to keep Medicare, this health insurance plan, solvent and working; about $218 billion a year. What Senator COLLINS is addressing is the fact that we know for a fact that each year we waste anywhere from $13 billion to $21 billion a year. You say: How does that happen? Is it a matter of the bureaucrats moving the paper around, and they get it wrong? No, for the most part, it comes down to people who are setting out to intentionally defraud the Government, and they are so good at it, we lose at least $35 million a day—a day—to these smoothies, these swindlers, these con artists who prey upon the Medicare system as an open pot of money they can reach into and grab.

When Senator COLLINS' investigators went out, they found that some of the people who claimed to be providing medical services and medical equipment do not even exist. The addresses they gave, when we traced them, turned out, if they were true addresses, would be smack dab in the middle of a runway at the Miami International Airport, and no one checked up on it. Year after year, we send out money automatically to these folks without verification.

The legislation I am introducing with Senator COLLINS will really put some teeth in the law and say we are not going to tolerate this anymore. The

money that is being taken out of this program is at the expense of the elderly and disabled and certainly at the expense of America's taxpayers.

Can I give one illustration of this? Nursing homes provide care for elderly people who suffer from incontinency. It is something which happens to many older folks. Nursing homes are supposed to provide adult diapers for seniors who find themselves in this predicament. However, one of the groups that we discovered decided they would try to invent a way to bill the Federal Government for these 30-cent diapers that are needed for elderly people, so they changed the name of the diaper to ''female urinary collection device'' and billed the Federal Government $8 an item: a 30-cent diaper, billed them $8—clearly fraudulent, taking money right out of the Treasury, money that, frankly, should be there for the real needs of senior citizens.

The stories go on and on. With this bill, we try to step forward and say we are going to put an end to it or at least reduce it dramatically. We are going to create incentives for people who take the time, as many seniors should with the help of their families, to go through their medical bills. Really, that is the first line of defense. When a senior under Medicare receives a medical bill, I know it has to be a challenge—it is for me and I am an attorney—they should go through it page by page and look for things that do not make sense. When they discover these things and call into the hotline under Medicare, we can many times track down abuses and fraud and help not only that senior, but every senior and Americans in general.

I salute the Senator from Maine. Her leadership on this issue is absolutely essential.

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

S. 1232. A bill to provide for the correction of retirement coverage errors under chapters 83 and 84 of title 5, United States Code; to the Committee on Governmental Affairs.

THE FEDERAL ERRONEOUS RETIREMENT COVERAGE CORRECTIONS ACT

Mr. COCHRAN. Mr. President, today I am introducing a bill to provide relief to many Federal employees and their families who, through no fault of their own, find themselves the victims of retirement coverage errors.

In 1984, the Federal government made a transition from the Civil Service Retirement System (CSRS) to the Federal Employees Retirement System (FERS). As government agencies carried out the complex job of applying two sets of transition rules, mistakes were made, and thousands of employees were placed in the wrong retirement system—many learning that their pensions would be less than expected. Under the current statutory scheme, federal agencies have no choice but to correct a retirement coverage error when it is discovered, effectively forcing employees into a new retirement plan. Unfortunately, the correction of a retirement coverage error can have a harmful impact on an employee's financial ability to plan for retirement.

This proposal, ''The Federal Erroneous Retirement Coverage Corrections Act,'' provides comprehensive and equitable relief to employees, former employees, retirees, and survivors who are affected by retirement coverage errors. The bill provides individuals with a choice between corrected retirement coverage and the coverage the employee expected to receive, without disturbing Social Security coverage law. For each type of retirement coverage error, individuals are furnished the opportunity to maintain their expected level of retirement benefits without a change in their retirement savings and planning. Among other provisions, the bill also provides that certain employees who missed an opportunity to contribute to the Thrift Savings Plan (TSP) due to a coverage error may receive interest on their TSP make-up contributions.

''The Federal Erroneous Retirement Coverage Corrections Act'' provides a comprehensive solution to the problems faced by Federal employees due to retirement coverage erros—it does so at a reasonable cost and without creating unnecessary administrative burdens.

I invite my colleagues to support this effort to address a serious problem affecting Federal employees and their families.

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

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

THE FEDERAL ERRONEOUS RETIREMENT COVERAGE CORRECTIONS ACT—SECTION-BY-SECTION ANALYSIS

The ''Federal Erroneous Retirement Coverage Corrections Act'' would provide a remedy to federal employees who have been placed in the wrong retirement system.

Section 1: Provides the short title (''Federal Erroneous Retirement Coverage Corrections Act'') and the Table of Contents.

Section 2: Defines the terms used throughout the Act.

Section 3: Provides coverage for all errors that have been in effect for at least three years of service after December 31, 1986.

Section 4: Provides that elections made under this Act are irrevocable.

TITLE I: DESCRIPTION OF RETIREMENT COVERAGE ERRORS AND MEASURES FOR RECTIFICATION

This title details the specific types of retirement coverage errors and the remedies provided by the Act.

Subtitle A: Covers employees and annuitants who should have been FERS covered, but were erroneously covered under CSRS or CSRS Offset. These individuals have a choice between correction to FERS or be covered by CSRS Offset. Includes provisions that allow all employee contributions, and earnings thereon, to remain in the TSP account if CSRS Offset is elected.

Subtitle B: Covers employees who should have been covered by a retirement plan (CSRS, CSRS Offset, or FERS), but were erroneously covered by Social Security only. In all cases, coverage is corrected to the appropriate plan so that the employee has retirement coverage.

Subtitle C: Covers employees who should have been covered by Social Security only, but were erroneously covered by CSRS or CSRS Offset. These individuals have a choice between correction to Social Security only or be covered by CSRS Offset.

Subtitle D: Covers employees who should have been covered by CSRS, CSRS Offset, or Social Security only, but were erroneously covered by FERS. These individuals have a choice between remaining in FERS or correction to the appropriate plan. Includes provisions that allow all employee contributions, and earnings thereon, to remain in the TSP account if coverage other than FERS is elected.

Subtitle E: Covers employees who should have been covered by CSRS Offset, but were erroneously covered by CSRS. Coverage is corrected to CSRS Offset to conform with Social Security coverage law.

Subtitle F: Covers employees who should have been covered by CSRS, but were erroneously covered by CSRS Offset. Coverage is corrected to CSRS to conform with Social Security coverage law.

TITLE II: GENERAL PROVISIONS

Section 201: Requires that all government agencies make reasonable efforts to identify and notify individuals affected by retirement coverage errors.

Section 202: Authorizes OPM, SSA, and TSP to obtain any information necessary to carry out the responsibilities of this Act.

Section 203: Provides for payment of interest on certain deposits made by employees that, due to correction of a retirement coverage error, are returned to the employee. Allows retirement credit for certain periods of service without payment of a service credit deposit. Provides that the retirement or survivor benefit is actuarially reduced by the amount of deposit owed.

Section 204: Provides that the employing agency pays any employer OASDI taxes due for the period of erroneous coverage, subject to the three-year statute of limitations in the Internal Revenue Code. OPM will transfer excess employee retirement deductions to the OASDI Trust Funds to fund the employee share of the OASDI taxes. In no case will an employee be required to pay additional OASDI taxes.

Section 205: Provides that certain employees who missed an opportunity to contribute to TSP due to a coverage error may receive interest on their own TSP make-up contributions. ''Lost'' interest will be paid by the employing agency. Note: Current law already provides that certain employees who missed an opportunity to contribute to TSP due to a coverage error may receive agency matching contributions on TSP make-up contributions, agency automatic one percent contributions to TSP, and interest on both.

Section 206: Provides that employing agencies may not remove excess agency retirement contributions from the Civil Service Retirement and Disability Fund.

Section 207: Requires that agencies obtain written approval from OPM before placing certain employees under CSRS coverage.

Section 208: Authorizes the Director of OPM to extend deadlines, reimburse individuals for reasonable expenses incurred by reason of the coverage error or for losses, and waive repayments required under the Act.

Section 209: Authorizes OPM to prescribe regulations to administer the Act.

TITLE III: OTHER PROVISIONS

Section 301: Makes remedies provided under the Act also available to employees of

the Foreign Service and the Central Intelligence Agency.

Section 302: Authorizes payments from the Civil Service Retirement and Disability Fund for administrative expenses incurred by OPM and for other payments required under the Act.

Section 303: Allows individuals to bring suit against the United States Government for matters not covered under this Act.

Section 304: Provides that the Act is effective from the date of enactment.

TITLE IV: TAX PROVISIONS

Section 401: Provides that transfers and payments of contributions under this Act will not result in an income tax liability for affected employees.

TITLE V: MISCELLANEOUS RETIREMENT PROVISIONS

Section 501: Allows portability of service credit between Federal Reserve service and FERS.

Section 502: Provides technical amendments to chapter 84 of title 5, United States Code, that allow certain transfers to other federal retirement systems to be treated as separations from federal services for TSP purposes.

By Mr. LEAHY (for himself, Mr. HATCH, Mr. BIDEN, Mr. DEWINE, and Mr. SCHUMER):

S. 1235. A bill to amend part G of title I of the Omnibus Crime Control and Safe Streets Act of 1968 to allow railroad police officers to attend the Federal Bureau of Investigation National Academy for law enforcement training; to the Committee on the Judiciary.

NATIONAL ACADEMY FOR LAW ENFORCEMENT TRAINING ATTENDANCE LEGISLATION

Mr. LEAHY. Mr. President, I am pleased to introduce with Senators HATCH, BIDEN, DEWINE, and SCHUMER, a bill to provide railroad police officers the opportunity to attend the Federal Bureau of Investigation's National Academy for law enforcement training in Quantico, Virginia.

The FBI is currently authorized to offer the superior training available at the FBI's National Academy only to law enforcement personnel employed by state or local units of government. Police officers employed by railroads are not allowed to attend this Academy despite the fact that they work closely in numerous cases with Federal law enforcement agencies as well as State and local law enforcement. Providing railroad police with the opportunity to obtain the training offered at Quantico would improve inter-agency cooperation and prepare them to deal with the ever increasing sophistication of criminals who conduct their illegal acts either using the railroad or directed at the railroad or its passengers.

Railroad police officers, unlike any other private police department, are commissioned under State law to enforce the laws of that State and any other State in which the railroad owns property. As a result of this broad law enforcement authority, railroad police officers are actively involved in numerous investigations and cases with the FBI and other law enforcement agencies.

For example, Amtrak has a police officer assigned to the New York City Joint Task Force on Terrorism, which is made up of 140 members from such disparate agencies at the FBI, the U.S. Marshals Service, the U.S. Secret Service, and the Bureau of Alcohol, Tobacco and Firearms. This task force investigates domestic and foreign terrorist groups and responds to actual terrorist incidents in the Metropolitan New York area.

Whenever a railroad derailment or accident occurs, often railroad police are among the first on the scene. For example, when a 12-car Amtrak train derailed in Arizona in October 1995, railroad police joined the FBI at the site of the incident to determine whether the incident was the result of an intentional criminal act of sabotage.

Amtrak police officers have also assisted FBI agents in the investigation and interdiction of illegal drugs and weapons trafficking on transportation systems in the District of Columbia and elsewhere. In addition, using the railways is a popular means for illegal immigrants to gain entry to the United States. According to recent congressional testimony, in 1998 alone, 33,715 illegal aliens were found hiding on board Union Pacific railroad trains and subject to arrest by railroad police.

With thousand of passengers traveling on our railways each year, making sure that railroad police officers have available to them the highest level of training is in the national interest. The officers that protect railroad passengers deserve the same opportunity to receive training at Quantico that their counterparts employed by State and local governments enjoy. Railroad police officers who attend the FBI National Academy in Quantico for training would be required to pay their own room, board and transportation.

This legislation is supported by the FBI, the International Association of Chiefs of Police and the National Railroad Passenger Corporation.

I urge prompt consideration of this legislation to provide railroad police officers with the opportunity to receive training from the FBI that would increase the safety of the American people. I ask unanimous consent that a copy of the bill and letters from the National Railroad Passenger Corporation's Chief of Police, Ernest R. Frazier, and Amtrak's President and CEO, George Warrington, be printed in the RECORD.

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

S. 1235

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

SECTION 1. INCLUSION OF RAILROAD POLICE OFFICERS IN FBI LAW ENFORCEMENT TRAINING.

(a) IN GENERAL.—Section 701(a) of part G of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3771(a)) is amended—

(1) in paragraph (1)—

(A) by striking ''State or unit of local government'' and inserting ''State, unit of local government, or rail carrier''; and

(B) by inserting '', including railroad police officers'' before the semicolon; and (2) in paragraph (3)—

(A) by striking ''State or unit of local government'' inserting ''State, unit of local government, or rail carrier'';

(B) by inserting ''railroad police officer,'' after ''deputies,'';

(C) by striking ''State or such unit'' and inserting ''State, unit of local government, or rail carrier''; and

(D) by striking ''State or unit.'' and inserting ''State, unit of local government, or rail carrier.''.

(b) RAIL CARRIER COSTS.—Section 701 of part G of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3771) is amended by adding at the end the following:

''(d) RAIL CARRIER COSTS.—No Federal funds may be used for any travel, transportation, or subsistence expenses incurred in connection with the participation of a railroad police officer in a training program conducted under subsection (a).''.

(c) DEFINITIONS.—Section 701 of part G of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3771) is amended by adding at the end the following:

''(e) DEFINITIONS.—In this section—

''(1) the terms 'rail carrier' and 'railroad' have the meanings given such terms in section 20102 of title 49, United States Code; and

''(2) the term 'railroad police officer' means a peace officer who is commissioned in his or her State of legal residence or State of primary employment and employed by a rail carrier to enforce State laws for the protection of railroad property, personnel, passengers, or cargo.''.

NATIONAL RAILROAD PASSENGER CORP., POLICE DEPARTMENT,
Philadelphia, PA, March 29, 1999.

Senator PATRICK LEAHY,
Russell Senate Office Building,
U.S. Senate, Washington, DC.

DEAR SENATOR LEAHY: I am very grateful that you have agreed to support legislation which will allow railroad police officers to attend the FBI Training Academy. Your recognition of the importance of this bill speaks highly of your respect for law enforcement.

The FBI Training Academy offers training for upper and middle-level law enforcement officers. The curriculum focuses on leadership and management training. The completion of this training allows the law enforcement professional to play a significant role in developing a higher level of competency, cooperation, and integrity within the law enforcement community.

Railroad police officers are sworn officers charged with the responsibility of enforcing state and local laws in any jurisdiction in which the rail carrier owns property. In their efforts to provide quality law enforcement services to our transportation systems, railroad police officers should have access to the premier training that is currently offered to other police agencies.

Thank you again for your support of the legislation that will provide FBI Training to railroad police officers. Please do not hesitate to contact me on this issue, or any matter of mutual concern.

Sincerely,

ERNEST R. FRAZIER, Sr., Esq.

NATIONAL RAILROAD PASSENGER CORP.,
Washington, DC, April 6, 1999.

Hon. PATRICK LEAHY,
U.S. Senate,
Washington, DC.

DEAR SENATOR LEAHY: I want to take this opportunity to express my thanks for your

support of the Amtrak Police by introducing legislation that would allow railroad police officers to attend the Federal Bureau of Investigation Training Academy.

Amtrak relies on its well-trained officers to serve and protect its customers, employees, trains and stations. It is critical that they are afforded quality training opportunities, such as what the FBI Academy offers, to effectively carry out their duties. I am proud that Amtrak has the privilege of working with this fine group of men and women, and I wholeheartedly support any measure that would enhance their job performance.

Again, thank you for your support of passenger rail and the dedicated law enforcement officers who help make safe travel possible.

Sincerely,

GEORGE D. WARINGTON,
President and CEO.

By Mr. GRAHAM (for himself, Mr. MACK, Mr. BINGAMAN, Mr. INOUYE, Mr. INHOFE, Mr. BURNS, Mr. BAUCUS, Mr. CRAPO, Mr. CRAIG, and Mrs. FEINSTEIN):

S. 1239. A bill to amend the Internal Revenue Code of 1986 to treat spaceports like airports under the exempt facility bond rules; to the Committee on Finance.

SPACEPORT INVESTMENT ACT

Mr. GRAHAM. Mr. President, today I rise with my colleagues, Senators MACK, BINGAMAN, INOUYE, INHOFE, BURNS, BAUCUS, CRAPO, CRAIG, and FEINSTEIN, to introduce legislation entitled the Spaceport Investment Act.

On May 25th, the Cox Commission Report revealed alarming and long-standing instances of Chinese espionage that have damaged our national security. In addition to the theft of nuclear secrets at our National Laboratories, the Cox Report highlighted assistance provided by U.S. satellite manufacturers to Chinese military and civilian launch vehicles. Mr. President, we have helped to create the conditions leading to this sorry state of affairs. To borrow from Pogo, we have met the enemy, and it is us.

U.S. satellite manufacturers have faced increasing pressure to consider the use of foreign launch vehicles, due to a lack of a sufficient domestic launch capability.

The Cox Report recognized these facts specifically at recommendation number 24. I quote from the Report: ''In light of the impact on U.S. national security of insufficient domestic, commercial space-launch capacity and competition, the Select Committee recommends that appropriate congressional committees report legislation to encourage and stimulate further the expansion of such capacity and competition.''

Mr. President, we must address this problem.

Last year, along with Senator MACK, I proposed, Congress passed, and the President signed into law the Commercial Space Act. Congressman DAVE WELDON provided crucial leadership in the House on this issue.

The Commercial Space Act helped break the federal government's monopoly on space travel by establishing a licensing framework for private sector reusable launch vehicles. The Act also provided for the conversion of excess ballistic missiles into space transportation vehicles, helping to reduce the cost of access to space.

Mr. President, to follow-up on the Commercial Space Act this year, I plan to introduce a number of initiatives to further help the commercial space industry in this country. The first of these initiatives is my proposal to stimulate infrastructure development by attracting private sector investment capital to our nation's launch facilities. My proposal achieves this purpose by addressing an issue of great importance to our country's commercial space transportation industry—tax exempt status for spaceport facility bonds. The legislation clarifies that spaceports are eligible for tax exempt financing to the same extent as publicly-owned airports and seaports. This bill will stimulate the growth of spaceports in this country by attracting private sector investment capital for infrastructure improvement, leading directly to the expansion of U.S. launch capacity and competition.

Spaceports are subdivisions of state government. They attract and promote the U.S. commercial space transportation industry by providing launch infrastructure in addition to that available at federal facilities. Spaceport authorities operate much like airport authorities by providing economic and transportation incentives to industry and surrounding communities.

The Spaceport Florida Authority was the first such entity, created as a subdivision of state government by Florida's Governor and State Legislature in 1989. Its purpose is to attract space related businesses by providing a supportive and coordinated environment for space related economic growth and educational development. Since its creation, Spaceport Florida estimates that it has been involved in space-related construction and investment projects worth more than $100 million. These efforts include the modification and conversion of Launch Complex 46 from a military to commercial facility. NASA's Lunar Prospector was launched from this site on January 6, 1998, the first launch conducted from a spaceport.

There are presently four spaceports throughout the country in Florida, California, Virginia, and Alaska, and more than ten others are under consideration. States considering the development of spaceports include Mississippi, Texas, New Mexico, Oklahoma, Montana, Nevada, North Carolina, Louisiana, Utah, and Idaho.

Our Nation's commercial space transportation industry includes not only spaceports themselves and providers of launch services, but also companies which develop needed infrastructure for testing and servicing launch vehicles and their components. This industry faces increasing pressure from government sponsored or subsidized competition from Europe, China, Japan, India, Australia, and Russia. The French Government, for example, indirectly provides Arianespace with most of its infrastructure, including real and personal property. In countries with non-market economies, such as China, the government provides all real and personal property as well as labor necessary to build satellites and launch vehicles.

Mr. President, my proposal does not provide direct federal spending for our commercial space transportation industry. Instead, it creates the conditions necessary to stimulate private sector capital investment in infrastructure. This is an efficient means of achieving our ends.

Mr. President, to be state of the art in space requires state of the art financing on the ground.

I urge my colleagues in the Senate to join us in this important effort by cosponsoring this bill.

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

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

S. 1239

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 ''Spaceport Investment Act''.

SEC. 2. SPACEPORTS TREATED LIKE AIRPORTS UNDER EXEMPT FACILITY BOND RULES.

(a) IN GENERAL.—Paragraph (1) of section 142(a) of the Internal Revenue Code of 1986 (relating to exempt facility bond) is amended to read as follows:

''(1) airports and spaceports,''.

(b) TREATMENT OF GROUND LEASES.—Paragraph (1) of section 142(b) of the Internal Revenue Code of 1986 (relating to certain facilities must be governmentally owned) is amended by adding at the end the following new subparagraph:

''(C) SPECIAL RULE FOR SPACEPORT GROUND LEASES.—For purposes of subparagraph (A), spaceport property which is located on land owned by the United States and which is used by a governmental unit pursuant to a lease (as defined in section 168(h)(7)) from the United States shall be treated as owned by such unit if—

''(i) the lease term (within the meaning of section 168(i)(3)) is at least 15 years, and

''(ii) such unit would be treated as owning such property if such lease term were equal to the useful life of such property.''.

(c) BOND MAY BE FEDERALLY GUARANTEED.—Paragraph (3) of section 149(b) of the Internal Revenue Code of 1986 (relating to exceptions) is amended by adding at the end the following new subparagraph:

''(E) EXCEPTION FOR SPACEPORTS.—Paragraph (1) shall not apply to any exempt facility bond issued as part of an issue described in paragraph (1) of section 142(a) to provide a spaceport in situations where—

''(i) the guarantee of the United States (or an agency or instrumentality thereof) is the result of payment of rent, user fees, or other charges by the United States (or any agency or instrumentality thereof), and

''(ii) the payment of the rent, user fees, or other charges is for, and conditioned upon,

the use of the spaceport by the United States (or any agency or instrumentality thereof).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

By Mr. MURKOWSKI (for himself, Mr. BREAUX, Mr. GORTON, Mr. COCHRAN, Mr. HUTCHINSON, Ms. COLLINS, Mrs. LINCOLN, Mr. SHELBY, Ms. SNOWE, Mrs. MURRAY, Mr. SESSIONS, Mr. SMITH of Oregon, Mrs. HUTCHISON, Mr. GRAMS, and Ms. LANDRIEU):

S. 1240. a bill to amend the Internal Revenue Code of 1986 to provide a partial inflation adjustment for capital gains from the sale or exchange of timber; to the Committee on Finance.

REFORESTATION TAX ACT OF 1999

Mr. MURKOWSKI. Mr. President, I rise to offer bipartisan legislation that would help ensure that our Nation maintains its position as a world leader in the forest products industry. I am pleased to be joined by Senators BREAUX, GORTON, COCHRAN, TIM HUTCHINSON, COLLINS, LINCOLN, SHELBY, SNOWE, MURRAY, SESSIONS, GORDON SMITH, KAY BAILEY HUTCHISON, ROD GRAMS, and MARY LANDRIEU.

This industry is vital to the United States' economy. It ranks in the top ten of the country's manufacturing industries, representing 7.8 of the manufacturing work force. It employs 1.5 million workers, with a payroll of $40.8 billion. I ask my colleagues to attempt to imagine a single minute of their day that does involve the utilization of a forest product—from the paper this speech is written on, to the desk and chair in my office, to the lumber in my house, to the box my computer arrives in. Clearly, the health of the world economy is dependent on a vibrant forest products industry.

At the same time, the industry is facing serious international competitive threats. New capacity growth is now taking place in other countries, where forestry, labor and environmental practices may not be as responsible as those in the U.S. Additionally, a recent study using the Joint Committee on Taxation's estimating model shows that the U.S. forest products industry has the second highest tax burdens in the world—55 percent.

The Reforestation Tax Act recognizes the unique nature of timber and the overwhelming risks that accompany investment in this essential natural asset, and attempts to place the industry on a more competitive footing with our competitors. In short, it would reduce the capital gains paid on timber for both individuals and corporations and expand the current reforestation credit. Because it often takes decades for a tree to grow to a marketable size, it is important that we look carefully at the long-term return on investment and the treatment of the costs associated with owning and planting of timber.

The first part of the Reforestation Tax Act would provide a sliding scale reduction in the amount of taxable gain based on the number of years the asset is held (3% per year). The maximum reduction allowed would be 50 percent. Thus, if the taxpayer held the timber for 17 years, the effective tax rate for corporate holdings would be 17.5% and the rate for most individuals would be 10%.

The second part of the bill would encourage replanting by lifting the existing cap on the reforestation tax credit and amortization provisions of the tax code. Currently, the first $10,000 of reforestation expenses are eligible for a 10 percent tax credit and can be amortized over 7 years. No additional expenses are eligible for either the credit or the deduction, meaning that most reforestation expenses are not recoverable until the timber is harvested. The legislation removes the $10,000 cap and allows all reforestation expenses to qualify for the tax credit and to be amortized over a 5-year period. This change in the law will provide a strong incentive for increased reforestation by eliminating the arbitrary cap on such expenses.

These tax changes will provide a strong incentive for landowners of all sizes to not only plant and grow trees, but also to reforest their land after harvest. This is key to maintaining a long-term sustainable supply of fiber and to keeping land in a forested state.

Besides ensuring fairness, the Reforestation Tax Act will encourage sound forestry practices that keep our environment healthy for the future. Timberlands held by corporations help reduce the demand for timber from public lands. Moreover, by sequestering carbon, managed forests help to offset emissions that contribute to the ''greenhouse effect.'' Unfortunately, the current high tax burden on forest assets runs counter to our nation's commitment to preserve and invest in the environment. This bill would encourage reforestation—or reinvestment in the environment—by extending tax credits for all reforestation expenses and shortening the amortization period for reforestation costs and by making investment in timber viable. As we consider policies to counteract global warming and improve water quality, we need to ensure that our tax policy is aligned with and encourages sound forestry practices.

Mr. President, this legislation is supported by labor and business—large and small. I ask unanimous consent that a copy of the bill and a letter signed by over 75 CEOs from the forest products industry and a letter from the United Brotherhood of Carpenters and Joiners of America be printed in the RECORD.

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

S. 1240

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

SECTION 1. PARTIAL INFLATION ADJUSTMENT FOR TIMBER.

(a) IN GENERAL.—Part I of subchapter P of chapter 1 of the Internal Revenue Code of 1986 (relating to treatment of capital gains) is amended by adding at the end the following new section:

''SEC. 1203. PARTIAL INFLATION ADJUSTMENT FOR TIMBER.

''(a) IN GENERAL.—At the election of any taxpayer who has qualified timber gain for any taxable year, there shall be allowed as a deduction from gross income an amount equal to the qualified percentage of such gain.

''(b) QUALIFIED TIMBER GAIN.—For purposes of this section, the term 'qualified timber gain' means gain from the disposition of timber which the taxpayer has owned for more than 1 year.

''(c) QUALIFIED PERCENTAGE.—For purposes of this section, the term 'qualified percentage' means the percentage (not exceeding 50 percent) determined by multiplying—

''(1) 3 percent, by

''(2) the number of years in the holding period of the taxpayer with respect to the timber.

''(d) ESTATES AND TRUSTS.—In the case of an estate or trust, the deduction under subsection (a) shall be computed by excluding the portion of (if any) the gains for the taxable year from sales or exchanges of capital assets which, under sections 652 and 662 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includible by the income beneficiaries as gain derived from the sale or exchange of capital assets.''

(b) COORDINATION WITH MAXIMUM RATES OF TAX ON NET CAPITAL GAINS.—

(1) Section 1(h) of such Code (relating to maximum capital gains rate) is amended by adding at the end the following new paragraph:

''(14) QUALIFIED TIMBER GAIN.—For purposes of this section, net capital gain shall be determined without regard to qualified timber gain (as defined in section 1203) with respect to which an election is in effect under section 1203.''

(2) Subsection (a) of section 1201 of such Code (relating to the alternative tax for corporations) is amended by inserting at the end the following new sentence:

''For purposes of this section, net capital gain shall be determined without regard to qualified timber gain (as defined in section 1203) with respect to which an election is in effect under section 1203.''

(c) ALLOWANCE OF DEDUCTION IN COMPUTING ADJUSTED GROSS INCOME.—Subsection (a) of section 62 of such Code (relating to definition of adjusted gross income) is amended by inserting after paragraph (17) the following new paragraph:

''(18) PARTIAL INFLATION ADJUSTMENT FOR TIMBER.—The deduction allowed by section 1203.''

(d) TECHNICAL AMENDMENTS.—

(1) Subparagraph (B) of section 172(d)(2) of such Code is amended to read as follows:

''(B) the exclusion under section 1202 and the deduction under section 1203 shall not be allowed.''

(2) The last sentence of section 453A(c)(3) of such Code is amended by striking ''(whichever is appropriate)'' and inserting ''or the deduction under section 1203 (whichever is appropriate)''.

(3) Section 641(c)(2)(C) of such Code is amended by inserting after clause (iii) the following new clause:

''(iv) The deduction under section 1203.''

(4) The first sentence of section 642(c)(4) of such Code is amended to read as follows: ''To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain described in section 1202(a) or qualified timber gain (as defined in section 1203(b)), proper adjustment shall be made for any exclusion allowable under section 1202, and any deduction allowable under section 1203, to the estate or trust.''

(5) The last sentence of section 643(a)(3) of such Code is amended to read as follows: ''The exclusion under section 1202 and the deduction under section 1203 shall not be taken into account.''

(6) The last sentence of section 643(a)(6)(C) of such Code is amended by inserting ''(i)'' before ''there shall'' and by inserting before the period '', and (ii) the deduction under section 1203 (relating to partial inflation adjustment for timber) shall not be taken into account''.

(7) Paragraph (4) of section 691(c) of such Code is amended by inserting ''1203,'' after ''1202,''.

(8) The second sentence of paragraph (2) of section 871(a) of such Code is amended by striking ''section 1202'' and inserting ''sections 1202 and 1203''.

(e) CLERICAL AMENDMENT.—The table of sections for part I of subchapter P of chapter 1 of such Code is amended by adding at the end the following new item:

''Sec. 1203. Partial inflation adjustment for timber.''

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or exchanges after December 31, 1998.

UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA,
Portland, OR, May 27, 1999.

Hon. BILL ARCHER,
Chairman, U.S. House Ways and Means Committee, Washington, DC.
Hon. CHARLES RANGEL,
Ranking Minority Member, U.S. House Ways and Means Committee, Washington, DC.

DEAR CHAIRMAN ARCHER AND REPRESENTATIVE RANGEL: On behalf of the United Brotherhood of Carpenters and Joiners of America (UBC), I am asking you to support HR 1083, ''The Reforestation Tax Act,'' introduced by Representative Jennifer Dunn (R–WA).

The UBC represents 500,000 members across the country, including 30,000 sawmill, pulp and paper workers in the forest products industry. Our members manufacture the wood and paper products used around the globe every day and are concerned with the industry's ability to compete in the future.

The forest products industry has changed dramatically over the last decade, and today we find ourselves at a competitive disadvantage in the global market. Foreign companies, whose wages are far below American standards, have easy access to the American market. At the same time they are keeping American products out of their own markets through tariff and other barriers to trade. U.S. negotiators and the U.S. forest products industry are working to lessen this trade threat, but there is obviously no guarantee our foreign competitors will agree to eliminate what is a significant benefit for them. Progress could take additional years our industry may not have.

The U.S. tax code, however, is one area where the U.S. government can help to mitigate these factors. And that is why we ask for your support of the Reforestation Tax Act. HR 1083 eliminates current inequities between our tax code and the tax treatment given to our competitor industries overseas. It levels the playing field for the U.S. forest products industry, ensuring the long-term viability of high-paying, high skilled jobs. The bill also provides incentives for reforestation activities critical to the future of our industry, our workers and our forests.

Please support this legislation that is important to the working men and women in the forest products industry. Thank you for your consideration.

Sincerely,

MICHAEL DRAPER

AMERICAN FOREST & PAPER ASSOCIATION,
Washington, DC, May 26, 1999.

Hon. BILL ARCHER,
Chairman, Committee on Ways and Means, U.S. House of Representatives, Washington, DC.
Hon. CHARLES RANGEL,
Ranking Member, Committee on Ways and Means, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN AND REP. RANGEL: As the committee begins its work on tax legislation to be considered by Congress later this year, the American Forest & Paper Association (AF&PA), including the undersigned chief executives within the forest products industry, strongly urge you to include in the committee's bill the provisions of H.R. 1083, the Reforestation Tax Act of 1999. Our industry is united in the conviction that this legislation is critically needed to help American companies and workers complete in a global economy, restore equity to the tax code, and encourage future investments in sound, sustainable forestry.

The planting, growing, harvesting and sustained management of timberlands is a vital component of the U.S. economy. The forest products industry employs more than 1.5 million workers, and in 46 states, our industry ranks as one of the top ten manufacturing industries. More than 9.3 million private owners hold and manage more than 390 million acres of timberlands in the U.S.

While our products and businesses may vary, all of us are affected by policies that make it increasingly difficult for U.S. companies and workers to compete in international markets. Just last year, the respected firm of Price Waterhouse Coopers—using the same economic model used by the Joint Committee on Taxation—found that the effective tax rate for U.S. forest products companies was 55%—the second highest among major competitors (Brazil, Canada, Finland, Indonesia, and Japan).

The competitive factors we now face have changed dramatically over the past 10 years. We are not competing on a level playing field with our major international competitors, and this inequity is very obvious in the area of tax.

H.R. 1083 would address some of the government-imposed obstacles to U.S. competitiveness. The legislation would assure that all taxpayers that own timber and manage it sustainably over many years are treated equitably, and it would restore the historical balance in tax rates among various forms of timberland ownership. Additionally, the bill offers incentives to landowners of all sizes to plant and grow trees and to reforest their land after harvest. Thus, H.R. 1083 offers environmentally sound, pro-growth policies to promote sustainable forestry, encourage reforestation and help U.S. workers and companies compete.

The Reforestation Tax Act represents a balanced, bipartisan approach to structural problems that affect an important American industry, and we urge your support for this legislation.

Sincerely,

W. Henson Moore, President & CEO, American Forest & Paper Association.
John Luke, Chairman, President & CEO, Westvaco Corporation.
George W. Mead, Chairman, Consolidated Papers, Inc.
Rick Holley, Chairman, AF&PA, President & CEO, PlumCreek Timber Company.
Kenneth Jastrow, President & COO, Temple-Inland Inc.
David B. Ferraro, President & COO, Buckeye Technologies Inc.
Colin Moseley, Chairman, Simpson Timber Co.
Mark A. Suwyn, President, Chairman & CEO, Louisiana-Pacific Corporation.
Richard E. Olsen, Chairman & CEO, Champion International Corporation.
Jerome F. Tatar, Chairman, President & CEO, Mead Corporation.
Joe Gonyea, II, President & CEO, Timber Products Company.
Thomas M. Hahn, President & CEO, Garden State Paper Company.
Duane C. McDougall, President & CEO, Willamette Industries, Inc.
Alex Kwader, President & CEO, Fibermark, Inc.
R.P. Wollenberg, Chairman, President & CEO, Longview Fibre Company.
William C. Blanker, Chairman & CEO, Esleeck Manufacturing Co., Inc.
Paul T. Stecko, Chairman & CEO, Packaging Corporation of America.
Robert A. Olah, President & CEO, Crown Vantage.
B. Bond Starker, President, Starker Forest Inc.
Leroy J. Barry, President & CEO, Madison Paper Industries.
Raymond M. Curan, President & CEO, Smurfit-Stone Container Corp.
Steven R. Rogel, Chairman, President & CEO, Weyerhauser Company.
John T. Dillon, Chairman & CEO, International Paper Company.
Richard G. Verney, Chairman & Chairman, Monadnock Paper Mills, Inc.
Arnold M. Nemirow, Chairman & CEO, Bowater Inc.,
Marvin Pomerantz, Chairman & CEO, Gaylord Container Corporation.
Edward P. Foote, Jr., President & CEO, Cellu Tissue Coporation.
J.M. Richards, President & CEO, Potlatch Corporation
Bradley Currey, Jr., Chairman & CEO, Rock-Tenn Company.
David C. Hendrickson, President & CEO, FSC Paper Company.
W. L. Nutter, Chairman, President & CEO, Rayonier Inc.
Dan M. Dutton, President & CEO, Stimson Lumber Company.
Wayne J. Gullstad, President, CityForest Corporation.
James H. Stoehr, III, President, Robbins, Inc.
Gerald J. Fitzpatrick, President, Fitzpatrick & Weller, Inc.
J. Edward French, President, French Paper Company.
Jack Rajala, President, Rajala Companies.
Robert D. Bero, President & CEO, Mensaha Corporation.
Gorton M. Evans, President & CEO, Consolidated Papers, Inc.
Gerard J. Griffin, Jr., Chairman, Merrimac Paper Company.
Paul D. Webster, President, Webster Industries.
Edward A. Leinss, Chairman, Ahlstron Filtration Inc.
James L. Burke, President & CEO, Southwest Paper Manufacturing Co.
L. N. Thompson, III, President, T & S Hardwoods Inc.
James E. Warjone,, Chairman & CEO, Port Blakely Tree Farms, L.P.
Richard Connor, Jr., President Pine River Lumber Company, LTD.
Pierre Monahan, President & CEO, Alliance Forest Products, Inc.
L.T. Murray, II, Vice President, Murrary Pacific Corporation.
Stephen W. Schley, President, Pingree Associates, Inc.
Galen Weaber, President, Weaber, Inc.
George Jones, III, President, Seaman Paper Company.
Bartow S. Shaw, Jr., Chairman, Shaw McLeod, Belser, and Hurlbutt
Richard J. Carota, Chairman, President & CEO, Finch, Pruyn & Company, Inc.

William G. Hopkins, CEO, Paper-Pak Products.
A. W. Kelly, President, The Crystal Tissue Company.
Jay J. Gurandiano, President & CEO, St. Laurent Paperboard Inc.
William H. Davis, Chairman, President & CEO, Gilman Paper Company.
Terry Freeman, President, Bibler Brothers Lumber Company.
James F. Kress, Chairman, Green Bay Packaging Inc.
Joseph H. Torras, Chairman, & CEO, Eastern Pulp & Paper Company, Inc.
Charles R. Chandler, Vice Chairman, Greif Brothers Corporation.
D.A. Schirmer, President, Newsprint Sales, Abitibi Consolidated.
J. Edward Woods, President & CEO, Gulf States Paper Corporation.
William B. Johnson, President, Johnson Timber Corporation.
W.T. Richards, Chairman & CEO, Idaho Forest Industries, Inc.
William New, President & CEO, Plainwell Inc.
J.K. Lyden, President & CEO, Blandin Paper Company.
John Begley, President & CEO, Port Townsend Paper Corporation.
Harold C. Stowe, CEO, Canal Industries, Inc.
Thomas D. O'Connor, Sr., Chairman & CEO, Mohawk Paper Mills, Inc.
L.M. Giustina, Partner, Giustina.
Glen H. Duysen, Corporate Secretary, Sierra Forest Products.
Norman S. Hansen, Jr., President, Monadnock Forest Products.
D. Kent Tippy, President & CEO, Little Rapids Corporation.
Bert Martin, President, Frasier Papers, Inc.
Edwin Nagel, President, Nagel Lumber Company, Inc.
William B. Hull, President, Hull Forest Products Inc.
Charles E. Carpenter, President, North Pacific Paper Company.
Edward J. Dwyer, Vice President, Operations, Lyons Falls Pulp & Paper.
Thomas E. Gallagher, Senior Vice President, Coastal Paper Company.
Chris A. Robbins, President, EHV Weidmann Industries, Inc.
Robert Collez, General Manager, Augusta Newsprint Company.
William D. Quigg, President, Grays Harbor Paper, L.P.
Todd W. Nystrom, Vice President & General, Hull-Oakes Lumber Company.
Julius W. Nagy, Vice President, Sales and Marketing, Menominee Paper Company, Inc.
A.D. Correll, Chairman & CEO, Georgia-Pacific Corporation.
John Roadman, President, Banner Fibreboard Company.
Charles S. Nothstine, Vice President, Straubel Paper Company.

NATIONAL ASSOCIATION
OF STATE FORESTERS,
Washington, DC, May 12, 1999.

Hon. BILL ARCHER,
Chairman, House Ways and Means Committee, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: We are writing to you today in strong support of several important tax proposals that are going to come before your committee in the near future. As you know, the tax code has a major impact on the management of private forest lands, lands which are coming under increasing pressure from a number of directions. As land prices and timber demand escalate, forest landowners are faced with tough decisions about the management of their lands. The current tax code can provide a major disincentive to them to properly manage their lands for long-term forestry benefits including sustainable timber production, soil erosion control, wildlife habitat, and carbon sequestration. Several changes to the tax code can help provide incentives to landowners to reforest their lands and keep them in forest cover for the foreseeable future.

First, we'd strongly encourage you to support the Reforestation Tax Act (H.R. 1083), introduced by Rep. Jennifer Dunn and Rep. John Tanner. This bill provides a lower capital gains rate for timber investments, which recognizes the inherent risks and long-term nature of forest management. It also allows landowners to claim tax credits for all of their reforestation expenses, which are currently limited to $10,000. This will provide a major incentive to landowners to make the investment to reforest, a risky commitment of capital over the long-term which provides numerous societal benefits beyond the landowner's property lines.

Representatives Dunn and Tanner have also introduced the Death Tax Elimination Act (HR 8), which we believe would have a positive impact on forest conservation as well. We encourage you to work with them to ensure that Federal estate taxes do not provide yet another incentive to forest land fragmentation.

In addition, we understand that Representative Rob Portman will introduce the Conservation Tax Incentives Act. This bill will provide a level playing field to rural landowners who want to see their lands protected from development over the long-term, but who cannot afford to simply donate their lands for conservation purposes. This is an extremely low-cost approach that will help public agencies and private land trusts protect working lands and acquire sensitive lands for future generations.

We hope you will also consider providing targeted tax incentives for landowners to manage their lands in ways that benefit species of wildfire that are listed or are candidates for listing under the Endangered Species Act.

The National Association of State Foresters is a national non-profit organization made up of the directors of the State Forestry agencies from all 50 States, several U.S. territories, and the District of Columbia. Our membership supports legislation that helps provide incentives to landowners to engage in long-term, sustainable forest management. We hope you will give the proposals discussed above your strongest consideration.

Sincerely,

GARY L. HERGENRADER,
President.

By Mr. ASHCROFT (for himself, Mrs. HUTCHISON, Mr. ABRAHAM, Mr. ALLARD, Mr. BOND, Mr. BROWNBACK, Mr. BUNNING, Mr. BURNS, Mr. CHAFEE, Mr. COCHRAN, Ms. COLLINS, Mr. COVERDELL, Mr. CRAIG, Mr. DEWINE, Mr. DOMENICI, Mr. ENZI, Mr. FRIST, Mr. GRAMM, Mr. GRASSLEY, Mr. GREGG, Mr. HAGEL, Mr. HATCH, Mr. HELMS, Mr. HUTCHINSON, Mr. JEFFORDS, Mr. KYL, Mr. LOTT, Mr. MCCAIN, Mr. MCCONNELL, Mr. NICKLES, Mr. ROBERTS, Mr. SESSIONS, Mr. SMITH of Oregon, Mr. SMITH of New Hampshire, Mr. THOMAS, Mr. THURMOND, and Mr. SHELBY):

S. 1241. A bill to amend the Fair Labor Standards Act of 1938 to provide private sector employees the same opportunities for time-and-a-half compensatory time off and biweekly work programs as Federal employees currently enjoy to help balance the demands and needs of work and family, to clarify the provisions relating to exemptions of certain professionals from minimum wage and overtime requirements of the Fair Labor Standards Act of 1938, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

FAMILY FRIENDLY WORKPLACE ACT

Mr. ASHCROFT. Mr. President, on behalf of the Senator from Texas, Senator HUTCHISON, and myself, I am pleased to reintroduce the Family Friendly Workplace Act. I also am pleased to include a list of 34 colleagues as original cosponsors. It is an opportunity to address a very important need for American families—spending more time together.

Over the past four years, we have been talking about the difficulty that parents have balancing work and family obligations. I do not think there are two values that are more highly or intensely admired in America than these. The first one is the value we place on our families. We understand that more than anything else the family is an institution where important things are learned, not just knowledge imparted but wisdom is obtained and understood in a family which teaches us not just how to do something but teaches us how to live.

The second value which is a strong value in America and reflects our heritage is the value of work. Americans admire and respect work. We are a culture that says if you work well, you should be paid well. If you have merit, you should be rewarded. If you take risks and succeed—you represent the engine that drives America forward.

The difficult issue that faces us as a nation, is how are we going to resolve these tensions? I think that is one of the jobs, that we have to try and make sure we build a framework where people can resolve those tensions and where Government somehow does not have rules or interference that keeps people from resolving those tensions.

For example, there are a lot of times when an individual would say on Friday afternoon to his boss or her boss, ''My daughter is getting an award at the high school assembly today. Can I have an extended lunch hour, maybe just 1 hour so that I can see my daughter get the award? I would like to reinforce, I would like to give her an 'atta girl,' I would like to hug her and say, 'You did a great job, this is the way you ought to work and conduct yourself, it is going to mean a lot to yourself and our family and our country if you keep it up.'''

Right now, it is illegal for the boss to say, ''I will let you take an hour on Friday and you can make it up on Monday,'' because it is in a different 40-hour week. You cannot trade 1 hour for 1 hour from one week to the next. That

will make one week a 41-hour week and will go into overtime calculation. Since most bosses do not want to be involved in overtime, it just does not happen.

This tension between the workplace and the home place, juxtaposed or set in a framework of laws created in the 1930's that does not allow us flexibility, is a problem. For example, you might be asked to do overtime over and over and over again, and you do overtime, and then you are paid time and a half for your overtime. But at some point, you would rather have the time than the money. If the employer agreed to it voluntarily—both parties—we ought to let that happen. It is against the law.

Some employers even want to go so far as to help their families by saying instead of doing 1 week for 40 hours, we would be willing, if you wanted to and on a voluntary basis, let the worker average 40 hours over a 2-week period regularly, so you would only work 9 days in the 2 weeks, but you would work 45 hours the first week and 35 hours the second week and have every other Friday off so you could take the kids to the dentist or drop by the department of motor vehicles and get the car licensed or visit the governmental offices that are not open on Saturday. It is against the law to do that now.

What I have described are two ways to tackle these time problems. First, is the option—when you work overtime, to get in time rather than money—if that is what you want to do. Second, you could schedule a work schedule to fill your needs by spreading 80 hours over two weeks to better accommodate your needs and the needs of your families.

Both of these things are available in the Federal Government and for governmental entities. Since 1978, the Federal Government has said it is OK to swap comp time off instead of overtime pay. The Federal Government also said if you want to have some flexible scheduling so that every other Friday or every other Monday is off, that is something we can work with you on.

It is totally voluntary—voluntary for the worker, it is voluntary for the Federal Government employer or administrator. Neither can force the other because we do not want to force people to work overtime or take comp time, but we want to allow Americans to make choices which will help them resolve the tensions between the home place and the workplace, these two values that are in competition.

These potentials, which exist for Federal workers, it occurs to me, ought to be able to be available to workers in the private sector as well, were we not to be locked into the hard and fast rules of the 1930's. That was a time when Henry Ford said, ''You can have your Ford any color you want so long as it is black.'' Things were not quite as flexible then as they are now, and families did not need the flexibility then as they do now. With 70 to 80 percent of all mothers of school-age children now working and two parents working in all those settings, and the tension between work and home, I think we ought to have more flexibility at the option of both the employer and the worker, only when it is agreed to.

That is really the subject of the Family Friendly Workplace Act which we reintroduce today. It is a way of saying we need to allow families to work out the conflict that exists between these important values that are crucial and so fundamental to the success of this culture in the next century, not just fundamental to the success of our culture, but fundamental to the success of our own families.

ADDITIONAL COSPONSORS

S. 56

At the request of Mr. KYL, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 56, a bill to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers.

S. 195

At the request of Mrs. BOXER, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 195, a bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit.

S. 222

At the request of Mr. LAUTENBERG, the names of the Senator from Minnesota (Mr. WELLSTONE) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 222, a bill to amend title 23, United States Code, to provide for a national standard to prohibit the operation of motor vehicles by intoxicated individuals.

S. 242

At the request of Mr. JOHNSON, the name of the Senator from Nevada (Mr. REID) 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. 326

At the request of Mr. GREGG, his name was added as a cosponsor of S. 326, a bill to improve the access and choice of patients to quality, affordable health care.

S. 329

At the request of Mr. ROBB, the name of the Senator from Oklahoma (Mr. NICKLES) was added as a cosponsor of S. 329, a bill to amend title 38, United States Code, to extend eligibility for hospital care and medical services under chapter 17 of that title to veterans who have been awarded the Purple Heart, and for other purposes.

S. 343

At the request of Mr. BOND, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 343, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for 100 percent of the health insurance costs of self-employed individuals.

S. 386

At the request of Mr. GORTON, the name of the Senator from Tennessee (Mr. FRIST) was added as a cosponsor of S. 386, a bill to amend the Internal Revenue Code of 1986 to provide for tax-exempt bond financing of certain electric facilities.

S. 400

At the request of Mr. CAMPBELL, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 400, a bill to provide technical corrections to the Native American Housing Assistance and Self-Determination Act of 1996, to improve the delivery of housing assistance to Indian tribes in a manner that recognizes the right of tribal self-governance, and for other purposes.

S. 401

At the request of Mr. CAMPBELL, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 401, a bill to provide for business development and trade promotion for native Americans,and for other purposes.

S. 424

At the request of Mr. COVERDELL, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 424, a bill to preserve and protect the free choice of individuals and employees to form, join, or assist labor organizations, or to refrain from such activities.

S. 434

At the request of Mr. BREAUX, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 434, a bill to amend the Internal Revenue Code of 1986 to simplify the method of payment of taxes on distilled spirits.

S. 510

At the request of Mr. CAMPBELL, the name of the Senator from North Carolina (Mr. HELMS) 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. 514

At the request of Mr. COCHRAN, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of S. 514, a bill to improve the National Writing Project.

S. 541

At the request of Ms. COLLINS, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 541, a bill to amend title XVIII of the Social Security Act to make certain changes related to payments for graduate medical education under the medicare program.

S. 607

At the request of Mr. CRAIG, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 607, a bill reauthorize and amend