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Senate

The Senate met at 9 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Today's prayer will be offered by our guest Chaplain, Rev. David W. Anderson, of the Faith Baptist Ministry, Sarasota, FL.

PRAYER

The guest Chaplain, Rev. David W. Anderson, Faith Baptist Ministry, Sarasota, FL, offered the following prayer:

Almighty Creator and Giver of life, we bow before You with thankful hearts for the innumerable blessings bestowed upon America. Your wisdom guides us to truth, and Your power sustains our freedom. Your forgiveness cleanses our transgressions, and Your Spirit calls us to be a righteous and just Nation.

Wonderful Counselor, enable the men and women of this Senate to balance the pressures of their individual lives with the demands of their offices. Comfort their hearts in times of personal crisis and protect their families. Grant them time with their loved ones and remind them of their need for faith. Strengthen their character and clarify their vision that they might address the complex issues facing our Nation with wisdom, courage, and compassion.

Lord, bless the talents that You have bestowed upon these Your servants. Reward them for the leadership they exercise. Give them the courage to do what is right, the conviction to resist what is wrong, and the counsel to discern the difference. Help them to discuss issues of national concern in a spirit of unity and cooperation, knowing that together they serve the same people and the same sovereign God. In Jesus' Name, I pray. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

SCHEDULE

Mr. GREGG. Mr. President, this morning the Senate will resume consideration of the Commerce/Justice/State bill. At 9:15 a.m. the Senate will vote in relation to the Craig amendment followed by a vote in relation to the underlying Kyl amendment. Following those votes, under a previous consent agreement, the Senate will debate several amendments to be offered to the C.J.S. bill. At the conclusion of that debate, which is expected by early afternoon, the Senate will proceed to a stacked series of votes in relation to those amendments. Following disposition of all amendments in order, it is expected that the Senate will quickly proceed to final passage of the Commerce/Justice/State appropriations bill. Upon completion of the C.J.S. bill it is hoped that the Senate will begin consideration of the transportation appropriations bill. Therefore Members should expect another late night session with votes as the Senate attempts to make progress on the remaining appropriations bills. I thank my colleagues for their attention.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. COATS). Under the previous order, leadership time is reserved.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the Commerce-Justice-State appropriations bill, S. 2260, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2260) making appropriations for the Departments of Commerce, Justice and State, the Judiciary, and related agencies for fiscal year ending September 30, 1999, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Kyl/Bryan amendment No. 3266, to prohibit Internet gambling.

Craig modified amendment No. 3268 (to amendment No. 3266), to clarify that Indian gaming is subject to Federal jurisdiction.

AMENDMENT NO. 3268

The PRESIDING OFFICER. Under the previous order, there will now be 10 minutes for debate, divided in the usual form, on amendment No. 3268, offered by the Senator from Idaho, Mr. CRAIG.

Mr. KYL. Mr. President, since Senator CRAIG is not here, without impinging on the time, I ask unanimous consent that the Presiding Officer, Senator COATS, as well as Senators ENZI, BOND, and MCCONNELL, be added as cosponsors of the amendment of the Senator from Nevada and myself.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. Mr. President, perhaps Senator CRAIG would like to call for a vote on both his amendment and the underlying amendment. I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Without objection, it is in order to request the yeas and yeas.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. CRAIG. Mr. President, I join the Senator and ask for the yeas and nays on the Craig amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

The yeas and nays were ordered.

Mr. CRAIG. Mr. President, I understand each side has 5 minutes. If the desk will notify me when I have used 2 minutes.

Mr. President, my amendment to the Kyl amendment attempts to clarify what I think is important that we do. The Indian Affairs Committee has the authority to hold hearings to move legislation, to bring it to the floor as it relates to Indian gaming. We created IGRA, the Indian Gaming Regulatory Act, and the National Indian Gaming Commission for the purpose of regulating Indian gaming. Indian gaming is regulated.

But the Senator from Arizona, without hearings on this in the authorizing committee, steps in and makes significant changes in the Indian gaming law. Now, the Senator from Arizona and I agree that gaming ought to be regulated; it ought to be controlled, the access ought to be controlled. We want it limited. But in this case, it isn't a matter of limiting, it is a matter of outlawing, stopping something that is already out there, already working, already has stood the test of officialdom, and we believe it meets those standards, and that is the National Indian Lottery. So I hope that my colleagues will stand with me in saying we want regulation and control.

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. CRAIG. I appreciate that. We don't want this kind of stepping in and simply wiping out, with the appropriate committee not holding a hearing to understanding what is exactly going on. That is the intent of my amendment—to maintain the integrity of the National Indian Gaming Commission and the recognition of the relationships between the Indian Nations and the United States itself and the treaty relationship that is clear and has been well established.

I retain the remainder of my time.

Mr. KYL. Mr. President, I yield time to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I oppose the Craig amendment, which will change gambling in the United States as we currently know it. It will give legal validity to the claims that the tribes have that they can provide gambling all over the United States. They cannot; it is illegal. This amendment would give them a monopoly on the Internet in every home in America, without any age discrimination. That is the reason we require it to be on premises, so we can check to see if kids are gambling. This will eliminate enforcement in States like mine where we have had a referendum on gambling.

It was defeated 2-to-1 in every single county in our State. We do not want gambling in Wyoming. We defeated it soundly. This would allow gambling in Wyoming. This would give national legal validity. This will replace lotteries across the State, when they can finally advertise it to the extent that they really want to do it. This will provide for eventual, complete electronic gambling for every home in America, without any State being able to oppose it.

I ask you to oppose the Craig amendment and support the Kyl amendment.

Mr. KYL. Mr. President, I am pleased to yield 1 minute to the Senator from New Jersey.

Mr. TORRICELLI. Mr. President, I am in support of Senator KYL, but I must state my objection to Senator CRAIG's amendment.

In my career in the U.S. Congress, representing Atlantic City, I have never risen on the floor to oppose gaming. But this is too much. All of our communities have a right to decide when and where we want gaming. We restricted it to one city in New Jersey. Under Senator CRAIG's amendment, every living room, every child's bedroom in America will become a gaming parlor. The Internet will bring gaming to children, and it won't be restricted to problem gamers. There will not be any control. If we want to have Indian tribes having Indian gaming, let them do it on their reservation. That is their right, their sovereignty. But my State has sovereignty, too. We have decided not to allow gaming in every community. Some States, like Utah, and many of your States, have decided not to have it at all. Now it will be imposed upon you with a monopoly of gaming on the Internet, available to everyone. I urge my colleagues to defeat the Craig amendment.

Mr. INOUYE. Mr. President, I rise to address some of the statements that were made in our debate last evening on Senator CRAIG's amendment on Senator KYL's amendment on internet gaming.

First, Mr. President, I want to make clear that the amendment we propose absolutely would not exempt Indian tribal governments and Indian gaming from the purview of the Internet Gaming Prohibition Act.

Rather, the amendment allows only the conduct of those games with the application of technology—not internet technology—but the application of television and satellite-generated technology that we envisioned could be used for the conduct of bingo or games that are subject to a tribal-state compact under the Indian Gaming Regulatory Act.

The language on page eleven of Senator KYL's amendment makes it abundantly clear that each person placing or receiving or otherwise making a bet or wager must be physically located on Indian land and that class III games must be conducted consistent with a tribal-state compact and only in the state to which the compact applies.

So we are not proposing to exempt Indian gaming from the internet gaming prohibitions outlined in Senator KYL's amendment.

Secondly, I would want my colleague from Arizona to know that as we read it, there is an ambiguity in the amendment.

States are authorized to enforce the provisions of this amendment, should it become law, for violations by a person.

The term ''person'' includes ''any government''—which must refer to tribal governments, because all other levels of government are specifically mentioned.

Thus, while one section of the bill would restrict state authority to what is provided in tribal state compacts, another section of the bill gives states broad authority to enforce the act as it may relate to the conduct of tribal governments.

Senator CRAIG's amendment would simply preserve the status quo and maintain the integrity of the pervasive federal regulatory scheme in which federal criminal laws are enforced by the United States on Indian lands—a framework, which as I said last evening, has been in place for over one hundred years.

I thank my colleague from Idaho and I wish to assure my colleague from Arizona that I look forward to continuing to work with him as this bill proceeds to conference to address these two matters that I have outlined.

The PRESIDING OFFICER. Who yields time?

Mr. KYL. Mr. President, I inquire how much time remains.

The PRESIDING OFFICER. The Senator has 2 minutes 40 seconds.

Mr. KYL. I yield 1 minute 20 seconds to the Senator from Nevada.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. BRYAN. Mr. President, I thank my colleague from Arizona.

Mr. President, I rise in opposition to the Craig amendment. Three million children in America today are on line on the Internet. By the year 2000, 15 million children will be on the Internet.

Senator KYL and I have offered an amendment which takes a public policy which I think every parent in America will support; that is, to prohibit gambling on the Internet. There simply is no way to control access to the Internet and to the types of gambling that are offered.

If the Craig amendment is adopted, that policy is effectively emasculated.

I join with the junior Senator from Arizona in asking this body to defeat the amendment because every child and every home in America that is on the Internet will have access to gambling on the Internet.

My view is that there is no public policy that would support, in effect, a carve-out to say that we prohibit gambling on the Internet in America for everyone except Indian tribes. That makes no sense, may I respectfully submit to the Presiding Officer and to my colleagues.

If you believe, as Senator KYL and I do, that Internet gambling should be regulated and that we should not have

access to Internet gambling by children, vote against the Craig amendment.

I thank the Chair.

Mr. KYL. Mr. President, the Senator from Idaho wishes to close. Therefore, let me reiterate the key points that the Senator from New Jersey, and also the Senators from Wyoming and Nevada, have made; that is, that you cannot have any exceptions to a national prohibition on Internet gambling if you want the policy to work, because if anyone can do it, then the gambling can occur in the homes, in the privacy of the homes around this country by children, by problem gamblers, or by anyone else if there is any exception because the Internet reaches across interstate boundaries. It knows no boundaries. It reaches into any State. And no State can protect its citizens and protect its public policy of outlawing this activity.

I want to make it very clear that this activity is not being conducted legally today.

In a letter written by the State attorneys general, including the attorney general of Idaho on this precise point, the attorneys general said,

> If Internet gaming is allowed to facilitate the remote placing of bets on an Indian gaming activity, the ultimate absurdity would result. The logical consequence of such a position is that any off-reservation telephone, computer with a modum et cetera, would become a gambling device by which the consumer could communicate with the tribe for the purpose of gambling.

And they specifically refer to the Coeur d'Alene Tribe in Idaho, which is the tribe that the Senator from Idaho wants to permit to gamble.

I urge a vote against the Craig amendment.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, the Senator from Arizona quotes a letter crafted in 1992. Since that time, the tribe in the State of Idaho has a compact that has been established. The attorney general of the State of Idaho believes this is significant.

The topic of children is an interesting item. The Presiding Officer, I and everyone else is very concerned with children's access to the Internet. We recognize the need to provide legislation to block that, and we should.

What I am talking about is something that is already official, that is already underway, and we have not heard a great hue and cry about the damaging of or the destruction of children.

There is something else that is interesting.

We heard from New Jersey and we heard from Nevada. They are protecting their big gaming interests. There are already exceptions in this bill.

There are five exceptions in this bill to use the Internet system to traffic information about gaming.

The Senator is not pure on this. Let's be real, and let's be honest about it. Let's use the committees we have. Let's use the law, the rules, and regulations to govern, control, and regulate Indian gaming structured in a certain way to protect it so that children don't have access to it; so that there is an official screening process; that it is effectively monitored and controlled.

I agree that we ought to control the Internet system, and we ought to make sure that there is not unlimited access. That is exactly what we are trying to do here today.

But let's not destroy the laws that we have created for Native Americans in this country—the controls, and the regulatory system that is established out there.

We heard from the former chairman of the committee. We have already heard from the chairman of the committee. He is saying no hearings were held. A Senator from outside the committee reaches in and changes substantially the structure of the IGRA law and the National Indian Gaming Commission law.

What I am telling you this morning is that you have an option to keep whole the law of the land, which we crafted to control Indian gaming, while at the same time protecting the Internet from open access from offshore gaming from the kind of things that the Senator from Arizona has an absolute right to be concerned about. I, too, am concerned, and I hope that my colleagues will join with me in voting for the Craig amendment to protect the integrity of the Indian Gaming Commission, and the national Indian gaming law that we have established.

With that, I yield the remainder of my time.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, what is the situation now? Are we prepared to go to that vote unless I use leader time at this point?

The PRESIDING OFFICER. The Senator is correct.

Mr. LOTT. I give myself such leader time as I might use. I will be brief, because I know Members are expecting to vote right away.

But I rise to speak against the Craig amendment. I have a long history of being interested in and concerned about the rights and guarantees that we have given Indian tribes. We have one in my home State that has been very industrious. They are really good entrepreneurs and good citizens. I enjoy working with them very much. But this is something beyond that. This would give them ability to get into Internet gambling in a way that it could go into every school and every home all across America.

This is not about tribal rights on their reservation or within their tribal areas. This goes across America. To have a special carve-out for Indian tribes on gambling, I think, is just a fundamental mistake.

I understand why the Senator from Idaho feels he must do that. I understand that there have been some court actions about it. But I also think there is a fundamental principle here. And this violates that principle. They should not be given an opportunity that nobody else in America would have. It touches all Americans.

I am always hesitant to rise in opposition to my friend and my coleader in the Republican Party. But I think in this instance he is just fundamentally wrong.

I urge colleagues to vote against the Craig amendment.

I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Idaho. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 18, nays 82, as follows:

[Rollcall Vote No. 228 Leg.]

YEAS—18

Biden	Daschle	Kempthorne
Boxer	DeWine	Kerrey
Campbell	Domenici	McCain
Cochran	Harkin	Moynihan
Craig	Inouye	Stevens
D'Amato	Johnson	Wellstone

NAYS—82

Abraham	Frist	McConnell
Akaka	Glenn	Mikulski
Allard	Gorton	Moseley-Braun
Ashcroft	Graham	Murkowski
Baucus	Gramm	Murray
Bennett	Grams	Nickles
Bingaman	Grassley	Reed
Bond	Gregg	Reid
Breaux	Hagel	Robb
Brownback	Hatch	Roberts
Bryan	Helms	Rockefeller
Bumpers	Hollings	Roth
Burns	Hutchinson	Santorum
Byrd	Hutchison	Sarbanes
Chafee	Inhofe	Sessions
Cleland	Jeffords	Shelby
Coats	Kennedy	Smith (NH)
Collins	Kerry	Smith (OR)
Conrad	Kohl	Snowe
Coverdell	Kyl	Specter
Dodd	Landrieu	Thomas
Dorgan	Lautenberg	Thompson
Durbin	Leahy	Thurmond
Enzi	Levin	Torricelli
Faircloth	Lieberman	Warner
Feingold	Lott	Wyden
Feinstein	Lugar	
Ford	Mack	

The amendment (No. 3268) was rejected.

Mr. FORD. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BRYAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3266

The PRESIDING OFFICER. The Senate now will have 2 minutes, under the previous agreement, for debate on the Kyl amendment.

The Senator from Arizona is recognized.

Mr. KYL. Thank you, Mr. President.

Mr. President, I thank everyone for the last vote.

The point is, if you are going to ban an activity because the public policy of all 50 States is that their children and

the families in those States should be protected from this activity, if you ever allowed one exception, then because of the nature of the Internet, you wouldn't have a bill.

I appreciate that, and I think that clears the way for passage of the Internet Gambling Prohibition Act. I note for the RECORD some of the organizations that support this legislation: Ralph Nader's Public Citizen, the Christian Coalition, the Focus on the Family and Family Research Council, National Coalition Against Legalized Gambling and Against Gambling Expansion.

Mr. FORD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senator is correct. Will Members please cease all conversations?

Mr. KYL. Mr. President, sports organizations, in particular, are obviously very much afraid of the adulteration of professional and amateur sports. As a result, groups like the National Amateur Athletic Association, Major League Baseball, NFL, NBA, National Hockey League, National Soccer League, and, of course, law enforcement and all 50 States attorneys general support this legislation. In fact, it is because of them that we are proposing it. We can't protect the citizens of our States unless we have legislation of this kind.

Mr. MCCONNELL. Mr. President, I commend Senator KYL for his hard work and determination in bringing S. 474 to the floor today. I am most appreciative that during the process, you have worked closely with several parimutuel industry groups to make certain that S. 474 does not unduly restrict Internet commerce. The bill reflects a clear understanding of this emerging medium and its potential for both honest and unscrupulous purposes.

Mr. KYL. Thank you, Senator MCCONNELL.

Mr. MCCONNELL. Mr. President, I wish to engage the Senator from Arizona in a short colloquy. This is a complicated bill. It addresses areas where technology is rapidly evolving. Some of my questions may be fairly arcane and will be of interest only to those intimately familiar with the intricacies of the interstate simulcasting of horse racing so I ask that my fellow members be patient with us as we work our way through some of these issues.

Senator KYL, as you are well aware, there are a myriad of federal and state laws and regulations that impact interstate simulcasting. In every instance, I will assume that we are addressing only the application of the language of S. 474 and not the general legality of any specific example given. With that understanding, I will proceed with the first of my questions.

Senator KYL, am I correct that S. 474 does not apply to racetracks that may advertise or make past performances, how-to-bet, promotional, and other similar kinds of information available whether via a racetrack World Wide Web site on the Internet or other technological media.

Mr. KYL. The Senator is correct.

INFORMATION ASSISTING IN PLACING A BET OR WAGER

Mr. MCCONNELL. Senator KYL, I now want to discuss the impact of S. 474 on the current practice of the horse racing industry commonly referred to as ''simulcasting and commingling of parimutuel pools.'' Simulcasting of horse racing across the country and around the world has grown exponentially in recent years, to the point that simulcasting now accounts for as much as 60 percent of the industry's total wagering.

To foster growth in the simulcasting market, tracks now routinely merge or commingle the parimutuel pools from several tracks and off track parimutuel facilities into common parimutuel pools. Current odds and winning payoffs are then calculated using a totalizator system. Commingling is a practice preferred by bettors because it increases pool sizes and thus helps to minimize the fluctuation of odds and payoffs.

Any diminution in its current ability to simulcast or commingle pools could have catastrophic effects on the parimutuel industry.

Mr. KYL. Senator MCCONNELL, I assure you S. 474 is not intended to limit the racing industry's activities in the area of simulcasting and commingling of parimutuel pools.

Mr. MCCONNELL. Senator KYL, I appreciate your willingness to consider the parimutuel industry. Now, if I may clarify a few more points.

Section 2 of the bill exempts four categories from the definition of ''information assisting in the placing of a bet or wager.'' My next few questions relate to the applicability of these provisions.

First, Senator KYL, as to the first category of exempt information, found in subsection (8)(C)(i), am I correct in assuming that ''common pool parimutuel pooling'' and ''commingling of parimutuel pools'' are two names for the same process—the merging of parimutuel pools from two or more locations for purposes of calculating the odds and payoffs?

Mr. KYL. Yes, you are correct.

Mr. MCCONNELL. Senator KYL, according to subsection (8)(C)(i) in section 2 of the bill, information concerning parimutuel pools that is exchanged between certain racetracks or other parimutuel facilities is exempted from the prohibition on ''information assisting in the placing of a bet or wager'' so long as that information is ''used only to conduct common pool parimutuel pooling.'' Does this mean that a racetrack or other parimutuel facility may accept wagers on races run at another facility (known as the Host Track), whether the Host Track is located within the same state or in another state or foreign country, and commingle its parimutuel pools into the parimutuel pools at the Host Track?

Mr. KYL. Yes, commingling of wagers as you describe is permitted by S. 474. However, each facility that participates in the pools must be licensed by the state or approved by the laws of the foreign jurisdiction in which it operates.

Mr. MCCONNELL. What if the Host Track located in one state utilizes a totalizator system located in a second state or even a foreign country—could a racetrack or parimutuel facility located in either the host state or a third state commingle wagers on races run at the Host Track into the parimutuel pools at the Host Track without violating S. 474?

Mr. KYL. Yes, assuming each facility that participates in the pools is duly licensed by the State or approved by the laws of the foreign jurisdiction in which it operates. Subsection (8)(C)(ii) states that ''information exchanged between'' certain racetracks or other parimutuel facilities and ''a support service located in another State or foreign jurisdiction'' is not considered ''information assisting in the placing of a bet or wager'' if ''the information is used only for processing bets or wagers made by or with that facility under applicable law.''

The location of the totalizator or other similar system used to process parimutuel pools is irrelevant if the parimutuel pools are transmitted from and received by facilities each of which is licensed by the State or approved by the laws of the foreign jurisdiction in which it operates.

Similarly, commingling may require the use of data transmission or phone lines that pass through numerous states. In such event, it is irrelevant whether parimutuel wagering is legal in all such states. The only relevant inquiry is whether each of which is licensed by the State or approved by the laws of the foreign jurisdiction in which it operates.

The term ''support system'' should be read broadly to mean any system or service necessary to transmit or process information related to the commingling of parimutuel pools, including totalizator systems, telephone lines, and other similar technological devices essential to the commingling process.

Mr. MCCONNELL. What if the host for the wagering pools is in one state or foreign country, the totalizator is in a second state or foreign country, and the race is actually contested in a third state or foreign country. Could commingling of pools take place under this arrangement without violating S. 474?

Mr. KYL. Yes, assuming each facility that participates in the pools is duly licensed by the State or approved by the laws of the foreign jurisdiction in which it operates. As I states earlier, the location of the totalizator or other similar system used to process parimutuel wagers is irrelevant if the parimutuel pools are transmitted to or from facilities each of which is licensed by the State or approved by the laws of

the foreign jurisdiction in which it operates.

Mr. MCCONNELL. Senator KYL, the phrase ''approved by the foreign jurisdiction in which the facility is located'' is used throughout subsection (8)(C). In some foreign countries, the law may simply permit simulcasting and commingling of pari-mutuel pools without requiring formal approval by a regulatory authority. I presume that in such cases, S. 474's approval requirement will be satisfied.

Mr. KYL. Senator MCCONNELL, you are correct.

ACCOUNT AND INTERACTIVE WAGERING

Mr. MCCONNELL. Senator KYL, I would like to discuss the impact of S. 474 on account wagering. It is presently legal, and operating to varying degrees, in eight states. Other states are presently considering this form of wagering on racing. The horse racing industry wants to be able to continue account wagering and other similar activities that utilize emerging technologies. A variety of federal and state statutes and regulations now govern this activity and together, they form a capable regulatory system for parimutuel wagering. Again, any restriction on the current regulatory structure might unduly hamper one of racing's most promising areas for growth.

Mr. KYL. Senator MCCONNELL, what I stated earlier with respect to simulcasting and commingling of parimutuel pools applies equally to account wagering. This bill is not intended to hamper the future growth of horse racing.

Mr. MCCONNELL. Senator KYL, again, I appreciate your willingness to consider the parimutuel industry. Now, if I may clarify a few more points.

Section 3 of the bill broadly prohibits both individuals and persons engaged in a gambling business from placing, receiving, or otherwise making a bet or wager through the Internet or any other interactive computer service. Then, subsection (e) of that section grants two exceptions related to racing: one is an exception for wagers placed by persons physically present at a racetrack or parimutuel facility; a second exception is provided for persons placing, making, or receiving a parimutuel wager on a ''closed-loop subscriber-based service that is wholly intrastate.''

My first question is this. Am I correct in my analysis that S. 474 does not prohibit or restrict account wagering by telephone?

Mr. KYL. Yes, the bill does not address telephone account wagering.

Mr. MCCONNELL. Am I correct that an interactive account wagering system that uses a variety of communications media and computer technology to present audio and/or video information about the races to the home and to communicate wagers from the home to a racetrack or parimutuel facility constitutes an ''interactive computer service.''

Mr. KYL. Yes.

Mr. MCCONNELL. Will such an interactive account wagering system that accepts wagers only from account holders physically located within the same state as the facility where the account wagering system originates pass muster under section 3 of S. 474?

Mr. KYL. Yes, assuming the interactive account wagering system meets the requirements for a ''closed loop subscriber-based service'' as defined in section 3 of the bill.

Mr. MCCONNELL. Senator KYL, does a person have to be physically present at a facility that is open to the public to make a lawful interactive account wager?

Mr. KYL. Again, so long as the person placing the wager is doing so using a ''closed-loop subscriber-based service'' the person is not required to be physically present at a facility that is open to the public to make a lawful wager.

Mr. MCCONNELL. What if the facts are the same as my first interactive account wagering question (i.e., both customer and facility are physically present in the same state) but the race on which the account holder is wagering is being contested in another state or foreign country and the facility where the account wagering system originates is commingling its pools, including its account wagering pools, into the pools of the out-of-state host track where the race is being run. Will this fit within the exceptions found in Section 3 of S. 474?

Mr. KYL. Yes, assuming of course that the wagering pools are being commingled in accordance with section 2 of the bill and further assuming the account wagering system meets the requirements for a ''closed loop subscriber-based service.''

Mr. MCCONNELL. Senator KYL, just a few more questions and we will be finished.

In section 3, Section 1085(e)(2) of the bill, you prohibit the use of an agent or proxy to place wagers unless the agent or proxy is acting on behalf of a licensed parimutuel facility ''in the operation of the account wagering system owned or operated by the parimutuel facility.'' What if a facility licensed to operate an account wagering system engages a separate company to provide the technical expertise necessary to implement an interactive account wagering system on its behalf. Would such an agency fall within the scope of the permitted agency provisions of the bill referenced above?

Mr. KYL. Yes, such a system is an allowed agent, assuming, of course, the interactive account wagering system meets the requirements for a ''closed-loop subscriber-based service that is wholly intrastate.''

Mr. MCCONNELL. thinking back to our earlier discussion of a ''support service,'' what if the facility where the interactive account wagering system originates chooses to utilize support services such as a totalizator system or an interactive computer system located in a second state or even a foreign country to service the account holders.

Mr. KYL. The use of such support services does not change the result assuming the account wagering system meets the requirements for a ''closed loop subscriber-based service that is wholly intrastate.'' As stated previously, the location of the totalizator, path of the phone lines, or the site of other similar support systems is irrelevant.

ENFORCEMENT

Mr. MCCONNELL. Finally, Senator KYL, section 4 of the bill spells out in great detail the civil remedies available to U.S. Attorneys and State Attorneys General to enforce the provisions of S. 474. Section 5 likewise calls for the Secretary of State, in consultation with the Secretary of the Treasury, the Attorney General of the United States and the Secretary of Commerce, to commence negotiations with foreign countries in order to conclude international agreements that would enable the United States to enforce the bill.

Nonetheless, many are concerned that this legislation will be difficult to enforce. If the only entities that obey it are the legitimate, state-licensed parimutuel operators, which they will, while others outside the jurisdictions of the federal and state authorities do not, then you still have the potential for consumer fraud while not producing any revenues for the federal government, state governments or the racing industry itself.

Mr. KYL. Senator MCCONNELL, I am confident that the Justice Department and the National Association of Attorneys General will vigorously enforce this legislation.

Mr. MCCONNELL. Senator KYL, once again I thank you and your staff for your hard work and tenacity in bringing this issue before the Senate. I also thank you for your patience in working through these very complicated issues.

Mr. KYL. Senator MCCONNELL, you are welcome. I am very pleased that we have been able to work together to protect legitimate, law abiding interests who make significant contributions to the nation's economy.

Mr. LEAHY. Mr. President, I have long been an advocate for legislation that ensures that existing laws keep pace with developing technology. It is for this reason that I have sponsored and supported over the past few years a host of bills to bring us into the 21st Century. These bills have included the National Information Infrastructure (NII) Protection Act of 1995; the Criminal Copyright Improvement Act of 1997; the WIPO Copyright and Performances and Phonograms Treaty Implementation Act of 1997; the Digital Millennium Copyright Act of 1998; and legislation that passed the Senate on June 26, 1998, to authorize the comprehensive independent study of the effects on trademark and intellectual property rights holders of adding new generic top-level domains and related dispute resolution procedures.

This same impetus underlies my support of legislation to ensure our nation's gambling laws keep pace with developing technology, particularly the Internet. The Department of Justice has noted that ''the Internet may have diminished the effectiveness of current gambling statutes, in part because existing laws may relate only to sports betting and not the type of interactive gambling (e.g., poker) that the Internet makes possible.'' Vermonters have spoken very clearly that they do not want certain types of gambling permitted in the state, and they do not want current laws to be rendered obsolete by the Internet. I believe, therefore, that there is considerable value in updating our Federal gambling statutes, and I have been pleased to work with Senator KYL on his legislation intended to accomplish that goal, the Internet Gambling Prohibition Act of 1998.

The legislation has been improved since it eas reported out of committee.

The Senate Judiciary Committee reported out the bill on October 23, 1997. Although I voted in favor of the legislation at that time, I noted that I had several concerns about the bill and that I wished to work with Senator KYL and others to address these concerns.

The bill as originally drafted might have inadvertently outlawed the tri-state lottery that is run by the states of Vermont, New Hampshire and Maine. Although Vermonters have clearly indicated that they do not want many other forms of gambling, they do want to maintain this tri-state lottery, which has been in operation since 1985.

The legislation now under consideration states that the prohibitions against Internet gambling in the bill shall not apply to any otherwise lawful bet or wager that is placed, received, or otherwise made for a multi-state lottery operated jointly between two or more States in conjunction with State lotteries, if the lottery or activity is expressly authorized and licensed or regulated under Federal or applicable State law.

I would like to thank the office of Vermont's Attorney General for working with Senator KYL and me to craft this language to ensure that Vermont, New Hampshire and Maine's tri-state lottery remains a permissible activity under this bill.

As originally introduced, the bill contained Sense of the Senate language that the Federal Government should have extraterritorial jurisdiction over the transmission to or receipt from the United States of bets or wagers, information assisting in the placing of bets or wagers, and any communication that entitles the transmitter or recipient to the opportunity to receive money or credit as a result of bets or wagers.

That provision was changed, and when the bill was reported out of the Judiciary Committee, the Sense of the Senate provision was replaced with a requirement that not later than six months after the date of enactment, certain Administration officials would be required to commence negotiations with foreign countries in order to conclude international agreements that would enable the United States to enforce the bill.

I was concerned about the constitutionality of this new requirement mandating that the Executive Branch undertake international negotiations, particularly in light of the decision of the 1993 U.S. Court of Appeals for the Ninth Circuit in Earth Island Institute versus Christopher. The court in this case held unconstitutional a portion of a statute which directed the Secretary of State to initiate international negotiations regarding the protection and conservation of a certain species of sea turtles.

Specifically, the court held this type of directive to intrude upon the conduct of foreign relations by the Executive Branch on the grounds that the ''Constitution commits the power to make treaties to the President.''

The Department of Justice also recommended the deletion of this section. As Anthony Sutin, Acting Assistant Attorney General, stated in his May 28, 1998, letter to me on this legislation:

> If we request that foreign countries investigate, on our behalf, conduct that is legal in the foreign state, we must be prepared to receive and act upon foreign requests for assistance when the conduct complained of is legal, or even constitutionally protected, in the United States.
>
> For example, if we ask a foreign country to investigate an activity (e.g., gambling) that is legal in the foreign state, that country may, for example, ask us to investigate constitutionally protected speech originating on computers based in the United States (e.g., that arguably violates that nation's ''hate speech'' laws). Considering all of the challenges facing law enforcement in the information age, we believe that current efforts should focus on conduct which either is, or should be, universally condemned.

Senator KYL agreed to my request that this section of the bill be deleted, and I believe that the legislation is considerably improved for that reason.

Another constitutional concern was raised by earlier versions of the bill that stated that ''information assisting in the placing of a bet or wager''—''(A) means information that is intended by the sender or recipient to be used by a person engaged in the business of betting or wagering to accept or place a bet or wager; (B) includes any information that invites the information described in subparagraph (A) to be transmitted;'' and then included some exceptions.

I was concerned, as was the Department of Justice, that this language was vague and might raise constitutional concerns as it might be construed to apply to persons who do not have the intent to participate in or assist illegal gambling transactions. Similarly, these earlier versions of the legislation could have been interpreted to prohibit Internet advertising of activities that are entirely legal. This appeared to be an unintentional result of the earlier versions, but one that raised serious constitutional issues.

The Department of Justice suggested deleting subsection (B) altogether, and inserting the phrase ''in violation of state or Federal law'' at the end of subsection (A). The addition of this latter phrase would ensure that transmission of information assisting in the placing of legal bets or wagers would not be criminalized by this legislation. Senator KYL agreed to delete subsection (B), but he did not add the phrase ''in violation of state or Federal law'' at the end of subsection (A). I hope this later suggestion by the Department of Justice is accepted as the legislation moves through the legislative process.

In the bill as originally introduced, an individual bettor who was found guilty of Internet gambling would have been subject to a penalty of $5,000, one year of prison or both. I thought that penalty was extreme. If someone places a $1 bingo bet over the Internet, that might not be activity we want to encourage, but I also do not think we need to lock that individual up in prison and charge him or her 5,000 times that amount in penalties. I expressed my view to Senator KYL, and as a result he softened the penalty for individual bettors.

As the bill currently reads, the individual bettor would be subject to (A) fines not more than the greater of (i) three times the greater of the total amount that the individual is found to have wagered or received or (ii) $500; (B) 3 months prison; or (C) both. I hope that prosecutors and judges will use proper discretion when determining, even under this more reasonable regime, whether to expend federal resources prosecuting and imprisoning individuals who place de minimis bets.

The bill as introduced criminalized the activities of those persons engaged in the ''business of betting or wagering,'' but the bill did not define what constituted a ''business of betting or wagering.'' I believe that it is important that if Congress is going to make certain activities illegal, and subject the executor of that activity to hefty monetary fines and imprisonment, we need to be very clear about what activity, exactly, we are making illegal.

The version of the bill that is now under consideration makes it unlawful for a person engaged in a gambling business for betting or wagering to use the Internet or any other interactive computer service. The bill defines the term ''gambling business'' as a gambling business that involves one or more persons who conducts, finances, manages, supervises, directs or owns all or part of such business and has been or remains in substantially continuous operation for a period in excess of 10 days or has a gross revenue of $2,000 or more during any 24-hour period.

Although I preferred to use the definition of an ''illegal gambling business'' found in 18 U.S.C. 1955, I believe

the bill as it currently reads is an improvement from the original version, and I appreciate Senator KYL's willingness to work with me on this issue.

In addition, language was inserted into the bill which dictates special rules that would apply in any proceeding instituted under the bill in which application is made for a temporary restraining order or an injunction against an interactive computer service. I was not party to the negotiations on this language, nor am I convinced that this language is necessary. Courts, when determining the appropriateness of equitable relief, generally consider factors such as the significance of the threat of irreparable harm to a plaintiff if the injunction is not granted; the state of the balance between this harm and the injury that granting the injunction would inflict on the defendant; the probability that the plaintiff will succeed on the merits; and the public interest. It has not, to date, been demonstrated to me why these traditional standards are not adequate to address situations involving interactive computer services, and I fear that this new language in the bill might cause more mischief than it would cure. I hope that we can continue to work on this language as the bill advances through the legislative process.

Finally, the Senate has accepted an amendment by Senator BRYAN to include a provision addressing Internet games known as ''sports fantasy leagues''. I understand that many of the companies that offer these sports fantasy league games are concerned about the wording of this provision. I also understand that they will be seeking refinements in the language as we move through the legislative process, and I look forward to working with them as well as Senator BRYAN and Senator KYL in that regard.

Mr. KYL. Mr. President, I want to note that an interactive computer service whose facilities or service are used by another person as a means of communication to engage in an activity prohibited by section 1085, and where the interactive computer service does not have the intent that such facilities or service be used for such illegal activity, shall not be considered to violate subsection (b)(1)(B).

Mr. KERRY. Mr. President, I would like to direct a few comments to Senator KYL's amendment adding the Internet Gambling Prohibition Act to S. 2260, the Commerce, Justice, State Appropriations bill. I join with my colleague in opposing unrestricted gambling on the Internet, and I support the adoption of his amendment. However, there are often a variety of reasonable approaches to a problem, and we should be careful not to over-legislate. This is true especially with respect to a vital new medium like the Internet which promises to be an engine of growth for our economy and a source of unprecedented benefits to our citizens for years to come. We need to think carefully before government commandeers the electronic network, through online service providers, in the pursuit of conduct we don't like. While I do not object to asking service providers to cooperate in ways that do not involve significant expense or retard the growth and flow of Internet traffic, I am not convinced that the provisions of the current proposal strike the proper balance. In addition, there is a high risk that we may inadvertently sap the vitality of the Internet if we start to require service providers to serve as an arm of our law enforcement agencies. It is my hope that we can address these concerns as we go to conference with the House.

Mr. JOHNSON. Mr. President, I rise today in strong support of the amendment offered by Senators KYL and BRYAN with respect to gambling on the Internet. I am an original cosponsor of S. 474, the Internet Gambling Prohibition Act of 1997, as introduced in March of last year. I also sponsored the House version of this legislation in the 104th Congress because I am committed to preventing children's access to gambling on the Internet and the harm to the American public in general that is sure to follow unregulated gaming.

Gambling in this country has always been a very regulated activity no matter where it takes place. Unfortunately, we are now faced with a potential explosion of unregulated gambling—gambling on the Internet. States have become so concerned about this problem that state attorney's general nationwide have filed suits against gambling operators on the Internet. The Kyl-Bryan amendment clearly defines objectionable internet activity and establishes guidelines for law enforcement to crack down on those who solicit wagering on-line. The bill applies existing laws against telephone betting or wagering to all electronic communications. This Internet gambling ban will be applied to those who accept bets and those who do the betting.

While the Internet provides our children with many educational opportunities, we must closely scrutinize the industry to ensure that children are not let into the world of unregulated gambling. Preventing children or addicted gamblers from being able to gamble in an unregulated fashion on their home computer must be one of our highest priorities as we venture into the new and dynamic area of regulating electronic commerce.

However, as important as the Internet gambling ban legislation is to protecting this nation's children, I feel compelled to state my concerns about the impact of several provisions included in the pending version of the Internet gambling ban legislation as they may impact Indian tribes. I want to take this opportunity to express my strong support for Senator CRAIG's second degree amendment aimed at addressing several of these provisions. Under the Kyl amendment, the Indian Gaming Regulatory Act (IGRA) would be amended without any involvement or input by the committee of jurisdiction, the Senate Indian Affairs Committee, or any tribal consultation.

Senator CRAIG's amendment would make certain that currently lawful activities fully regulated by the federal government and permitted under the IGRA are not impacted by the Kyl amendment. I believe the Craig amendment is not a carve-out or loophole for Indians, but merely aims to preserve the IGRA process. The Craig amendment does not allow for any new type of Indian gaming. Our emphasis today ought to focus on unregulated internet gaming. To the extent that Congress deals with regulated Indian gaming, it should do so in separate legislation with tribal input.

Like Senator CRAIG, I do not want to encourage special treatment or special exemptions for Indian tribes. I just expect equitable treatment of currently lawful gaming activities by tribes and, most importantly, I expect the Senate to respect the committee of jurisdiction on this issue and invite the input of impacted Indian tribes.

As the Indian tribes in my state will attest, Indian Gaming is a regulated industry. Poverty, unemployment, poor health and welfare dominate much of reservation life across the country. With budget cuts to the BIA and other federal support programs for Indians, Congress must continue to encourage economic self sufficiency at the tribal level. If there are shortcomings with the effectiveness of the current IGRA, they should be addressed with tribal consultation. I am troubled at the prospect of Internet gambling sites opened by any entity, but again, so far as this concern deals with already regulated Indian gaming, it ought to be addressed in separate legislation.

Nationwide, approximately 98 percent of all tribes use the revenue generated by casinos and bingo operations to provide housing, health services, and education to tribal members. Federal law requires tribal governments to use gaming revenue to fund these essential services. It is properly up to each tribe to determine for itself whether it wants to permit regulated gaming within its boundaries. Frankly, I would prefer that other types of economic activity would take hold in Indian country, but I also recognize that in the eyes of many tribal leaders, gaming has proven to be the only successful economic growth option that has worked. Our nation must have tightly regulated Indian gaming, but the ultimate decision whether to permit gaming on a particular reservation should be with the tribe itself. I am committed to protecting the interests of tribes in my state and across the country as they explore economic development through lawful gaming ventures.

Like many of my colleagues, I realize that this debate is clear evidence of the pressing need for Congress to revisit

existing Indian gaming regulations and law. I will urge the Senate Indian Affairs Committee to continue moving forward on this matter.

Mr. President, as an original cosponsor of S. 474, I am nevertheless committed to the Internet Gambling Prohibition Act because the bottom line of this legislation is protecting our citizens and especially our kids. I am aware that the Justice Department believes overall enforcement of this law will be difficult, but I feel strongly that the time has come for Congress to push this issue and instruct Justice to develop the necessary enforcement capabilities and end unlawful Internet gambling. I will support the Senators from Arizona and Nevada, and will work with the Senators and the conferees on this appropriations bill to address the remaining issues of concern to tribes.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, let's get it straight what this does. All of you came to me and said, ''I can't vote for the Craig amendment because it expands gambling on the Internet.'' What the Kyl amendment does is expands gambling.

Right now it is illegal to use the wire to place a bet. U.S. Code 18, section 1084, Transmission of Wagering Information Penalties. Read it. I don't have a minute. It is illegal now.

What the Kyl amendment does is make what is now illegal legal for certain carved-out exceptions which benefit—and there is nothing wrong with this, depending on your interests—which benefit certain segments of the gambling industry. That is what this does.

If I had more than a minute, I would explain in more detail. This expands gambling. It does not cut back on gambling. It expands it. What is now illegal in certain areas becomes legal.

The PRESIDING OFFICER. The time allocated to the Senator has expired.

Mr. BRYAN. Mr. President, I ask unanimous consent to speak for 1 minute on this issue.

Mr. BIDEN. Reserving the right to object, only if I have a minute in response.

The PRESIDING OFFICER. Is there objection to the request?

Mr. MCCAIN. Objection.

Mr. BYRD. Mr. President, I suggest the absence of a quorum. I would like to hear an additional minute——

The PRESIDING OFFICER. Objection is heard. The yeas and nays have been ordered. The clerk will call the roll.

Mr. BYRD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll to ascertain the presence of a quorum.

The legislative clerk proceeded to call the roll.

Mr. GREGG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Mr. President, I ask unanimous consent that a minute be granted to the Senator from Delaware and a minute to the Senator from Nevada.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Nevada is recognized for 1 minute.

Mr. BRYAN. Mr. President, let me say in response to my good friend, the able Senator from Delaware, every States attorneys general in America supports this amendment. Mr. Freeh, the Director of the Federal Bureau of Investigation, supports this amendment.

Under the current law, Internet gambling is spreading all over. There are 140 web sites, $1 billion. We seek to close that door. The Kyl-Bryan amendment seeks to prohibit Internet gambling for everyone—for everyone—so it is not an expansion of gaming.

We want to take gambling off the Internet so kids, libraries, and everybody else who can dial up on the Internet these days will not have access to an Internet gambling site. There are currently 140. That is twice as many as the year before. A year from now, there will be 500 if we don't close this hole. The Christian Coalition, everyone from major league sports teams to the attorneys general to the consumer groups all support this amendment.

The PRESIDING OFFICER. The time allocated to the Senator has expired. The Senator from Delaware has 1 minute.

Mr. BIDEN. Mr. President, that is the first part. Read the second part. It says, a little phrase says exceptions:

Exceptions—Otherwise lawful bets or wagers that are placed, received or otherwise made wholly interstate for State lotteries, racing or parimutuel activity.

Exceptions.

Let me point out one other thing. Under current Federal law, it is illegal to take a bet using a telephone wire, which means that under current law, basically all Internet gambling is illegal because you use a wire.

Under the Kyl amendment, it would become legal to take a bet on the Internet if the States where the bettor placed and received authorized the bet and the bettor is a subscriber of a gambling company's network. This is an expansion. Expansion.

If you want to do something about the Internet, strike exceptions, and I promise you, the sponsors will vote against this. Strike exceptions. If you don't want any betting using the wire, strike ''exceptions.''

The PRESIDING OFFICER. The time allocated to the Senator has expired.

The question is on agreeing to amendment No. 3266. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 90, nays 10, as follows:

[Rollcall Vote No. 229 Leg.]

YEAS—90

Abraham	Feinstein	Lott
Akaka	Ford	Lugar
Allard	Frist	Mack
Ashcroft	Glenn	McCain
Baucus	Gorton	McConnell
Bennett	Graham	Mikulski
Bingaman	Gramm	Moseley-Braun
Bond	Grams	Murkowski
Boxer	Grassley	Murray
Breaux	Gregg	Nickles
Brownback	Hagel	Reed
Bryan	Hatch	Reid
Bumpers	Helms	Robb
Burns	Hollings	Roberts
Byrd	Hutchinson	Rockefeller
Campbell	Hutchison	Roth
Chafee	Inhofe	Santorum
Cleland	Jeffords	Sarbanes
Coats	Johnson	Sessions
Cochran	Kempthorne	Shelby
Collins	Kennedy	Smith (NH)
Conrad	Kerrey	Smith (OR)
Coverdell	Kerry	Snowe
D'Amato	Kohl	Specter
DeWine	Kyl	Thomas
Dodd	Landrieu	Thompson
Dorgan	Lautenberg	Thurmond
Durbin	Leahy	Torricelli
Enzi	Levin	Warner
Faircloth	Lieberman	Wyden

NAYS—10

Biden	Feingold	Stevens
Craig	Harkin	Wellstone
Daschle	Inouye	
Domenici	Moynihan	

The amendment (No. 3266) was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote.

Mr. NICKLES. I move to lay the motion on that table.

The motion to lay on the table was agreed to.

PRIVILEGE OF THE FLOOR

Mr. HOLLINGS. Mr. President, I ask unanimous consent for floor privileges for Linn Schulte-Sasse, a staffer for the Senator from Minnesota, Senator WELLSTONE.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. Mr. President, I thank the National Association of Attorneys General, especially Attorney General Dan Lungren and Attorney General Jim Doyle, and Thomas Gede, Traci Sanders, Alan Kesner, and Stephen Higgins, of my staff, and Andy Vermilye of Senator BRYAN's staff for their assistance in the bill which we have just passed. I appreciate their efforts very, very much.

Mr. NICKLES. Mr. President, I compliment my colleague from Arizona and also Senator BRYAN from Nevada for their leadership in and passage of their amendment. I think it is a very important amendment and not an easy one. I compliment them for doing it.

AMENDMENT NO. 3272

(Purpose: To amend certain criminal laws relating to the compensation of attorneys.)

Mr. NICKLES. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES] for himself, Mr. INHOFE and Mr. SESSIONS, proposes an amendment numbered 3272.

Mr. NICKLES. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title II, insert the following:

SEC. 2___. COMPENSATION OF ATTORNEYS.

(a) CONTROLLED SUBSTANCES ACT.—Section 408(q)(10) of the Controlled Substances Act (21 U.S.C. 848(q)(10)) is amended—

(1) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(2) by inserting after subparagraph (A) the following:

''(B)(i) Notwithstanding any other provision of law, the amount of compensation paid to each attorney appointed under this subsection shall not exceed, for work performed by that attorney during any calendar month, an amount determined to be the amount of compensation (excluding health and other employee benefits) that the United States Attorney for the district in which the action is to be prosecuted receives for the calendar month that is the subject to a request for compensation made in accordance with this paragraph.

''(ii) The court shall grant an attorney compensation for work performed during any calendar month at a rate authorized under subparagraph (A), except that such compensation may not be granted for any calendar month in an amount that exceeds the maximum amount specified in clause (i).''.

(b) ADEQUATE REPRESENTATION OF DEFENDANTS.—Section 3006A(d)(3) of title 18, United States Code, is amended—

(1) by striking ''Payment'' and inserting the following:

''(A) IN GENERAL.—Subject to subparagraph (B), payment''; and

(2) by adding at the end the following:

''(B) MAXIMUM PAYMENTS.—The payments approved under this paragraph for work performed by an attorney during any calendar month may not exceed a maximum amount determined under section 408(q)(10)(B) of the Controlled Substances Act (21 U.S.C. 848(q)(10)(B)).''.

The PRESIDING OFFICER. There are 10 minutes equally divided on this amendment. The Senator from Oklahoma is recognized.

Mr. NICKLES. The amendment I send to the desk on behalf of myself, Senator INHOFE, and Senator SESSIONS would try to bring some balance on what we pay for court-appointed attorneys in Federal death penalty cases. Right now, we find out that in a case conducted in Colorado, the so-called McVeigh case, Oklahoma City bombing case, the defense attorneys—these are court-appointed, taxpayer-financed attorneys—are compensated at a rate much higher than we pay U.S. attorneys.

I wasn't aware of this. I didn't know about it until the U.S. attorneys from Oklahoma mentioned to me that in some cases court-appointed defenders are paid at rates maybe three, four, or maybe five times as much as they are paid.

Just to give you the figures, the U.S. attorneys in most places around the country are paid $118,000.

A court-appointed defense attorney is paid $125 an hour. In some of these cases, like the Oklahoma City bombing case, it is not unreasonable that they might work 80 hours or more per week. That means they make $10,000 a week. A U.S. attorney makes $10,000 a month—actually, a little less than that. So the essence of this amendment is that we should not compensate court-appointed attorneys more than we pay U.S. attorneys. I might mention that in the Oklahoma City case, we had a court-appointed attorney and I think 13 assistants, all of whom would be eligible to receive these large sums.

So I thank my colleague, Senator SESSIONS, who is a former U.S. attorney, and also my colleague, Senator INHOFE. I hope we can adopt this amendment.

Mr. GREGG. Mr. President, I rise in support of the amendment. I think it is an excellent amendment. It is an issue that we have raised a number of times at the subcommittee level with the judges. We are not only concerned about the reimbursement schedules being skewed, but we are especially concerned about the fact that in capital crimes we are spending an extraordinary amount of money on defense counsel—over a million dollars in many instances. That comes right out of the taxpayers' pockets. It is very difficult and it skews the entire ability to do other defense work because of how much money is pouring into the capital crime area.

This specific amendment is right on target. I strongly support it. I hope we will not have to go to a vote on it, but if we do, I hope we can agree to this.

Mr. HOLLINGS. Mr. President, Senator LEAHY of Vermont is presently conducting a hearing, and he is in opposition to this. He is unable to be here to speak at this time.

I am persuaded by the Senator from Oklahoma.

I yield whatever time is necessary to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, let me just state my understanding of this. When I was in private practice—and I don't pretend to know the details of all the circumstances the Senator from Oklahoma is talking about, but when I was court appointed to handle a case, I was expected, through that hourly fee that was granted to me, to cover all of my costs, which meant the costs of my office, costs of my assistants, the costs of everything.

Frankly, the hourly fee I got for court-appointed work was substantially less than the hourly fee I got for any other work. And I assume that is still the case. So I think to make the comparison he is making and say the U.S. attorney gets $118,000 and the court-appointed attorney gets $125 per hour, and that we should try to make a comparison there, I think it is really very much apples to tangerines because, in fact, the U.S. attorney has a tremendous office arrangement, with support of all kinds, in addition to his salary, whereas the court-appointed attorney gets none of that.

Mr. NICKLES. If the Senator will yield, I want to make clear that what we are talking about is compensation. We are talking about payments, not about overhead. The Senator from New Hampshire mentioned that in these Federal cases expenses are allowed. I am talking about compensation. I also might mention that, in Oklahoma, I compared what we pay in Oklahoma for a capital case; there is a $20,000 cap—$20,000 to the lead attorney, and for co-counsel, $5,000.

I might mention, on other cases on the Federal level—for a felony case, we have caps at $3,500. All I am talking about is having a cap equal to the salary. So we are talking salaries, not about other benefits.

Mr. BINGAMAN. Mr. President, if I could ask the Senator, does his amendment contain a cap as to each case? Is he saying that each capital case will be limited to a certain amount that can be spent on the defense attorney?

Mr. NICKLES. To respond to my colleague, we are talking about so much, not per case, but per attorney. We didn't limit the number of attorneys. We just didn't want to be in a situation where a U.S. attorney is hiring additional counsel and to have the defense counsel say, ''Hey, we can pay three or four times more. Come fight on our side of the case.''

Right now, in the case of the Oklahoma City bombing case, the defense attorneys made—I am not talking about expenses—they individually made probably three or four times as much as U.S. attorneys. I think that is inequitable. I am talking about what they receive in take-home pay, per attorney.

Mr. BINGAMAN. Let me just clarify. When you are talking about the take-home pay for the court-appointed counsel, you are talking about the amount of funds they take with which to pay for their law firm's ability to participate in the case. I think that is clearly a figure that bears very little resemblance to what the U.S. attorney gets in salary and the paycheck that he takes home at the end of each month. I think you are trying to put an artificial limit on what the court-appointed counsel can get, which I think is a real disservice to the criminal justice system. If we are going to continue with the notion that we are going to have court-appointed counsel for people who are accused of crimes and who can't afford their own counsel, we have to have some reasonable way of compensating them and not expect that court-appointed counsel to work for nothing half of the time, or more, during each month.

Mr. President, based on my understanding of the amendment, I oppose the amendment. I understand that Senator LEAHY is opposed to the amendment, but he is not able to be here right now to make a statement. I think this will artificially limit the amount

of work that court-appointed counsel are able to do on behalf of criminal defendants. To that extent, I think it subverts the criminal justice system. I oppose it.

Mr. NICKLES. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Oklahoma has 1 minute 48 seconds.

Mr. NICKLES. Mr. President, certainly, my colleague has a right to oppose the amendment. Let me capsulize it again. We have a situation where Federal death penalty cases—most of them are handled in the States and most States have caps. My State has a cap of $20,000 for the lead attorney. We are not doing that. We are not capping what somebody can pay for their private attorneys. They can pay their private attorney anything they want to.

Since we are talking about court-appointed attorneys, they are going to be paid for by the taxpayers, like we pay U.S. attorneys. I am saying that we should not pay that individual—their compensation, not their overhead or expenses; those are other items—three or four times as much as we pay the U.S. attorneys.

I didn't even say we would limit the number of attorneys. I want people to have an adequate defense. In the McVeigh case, the defense counsel had 13 or 14 attorneys. The expenses are going to come out and be public, and people will be outraged. I am trying to have basic equity. I don't think they should make more than a U.S. attorney. I think that is a real outrage. Then when you find out they might have made three or four times as much money as a U.S. attorney—and again, I am not talking about expenses, I am talking about what they make—that is an injustice. We need equity and balance. That is why I have proposed this amendment. I hope my colleagues will vote for it.

Mr. President, my colleague from South Carolina says U.S. attorneys almost make as much as U.S. Senators. Most of us work a little more than 40 hours a week. Again, I just urge my colleagues to support the amendment. I will ask for the yeas and nays if my colleague from New Mexico wants them.

Mr. BINGAMAN. I don't require the yeas and nays. I would like to be reported as voting against the amendment.

Mr. NICKLES. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the order, the amendment will be stacked to be voted on later.

Who seeks recognition?

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENT NO. 3273

(Purpose: To prohibit from trademark the flag, coat of arms or other insignia of any federally recognized Indian tribes)

Mr. BINGAMAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mew Mexico [Mr. BINGAMAN], for himself and Mr. DOMENICI, proposes an amendment numbered 3273.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert:

Notwithstanding any rights already conferred under the Trademark Act, Section 2 of the Act entitled ''An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes,'' approved July 5, 1946, commonly referred to as the Trademark Act of 1946 (15 U.S.C. 1052(b)), is amended in subsection (b) by inserting ''or of any federally recognized Indian tribe,'' after ''State or municipality,''.

Mr. BINGAMAN. Mr. President, the amendment is a simple amendment to correct a longstanding error in what is known as the Lanham Act, the statute that controls what can and what cannot be trademarked.

In doing so, let me indicate my appreciation to Senator LEAHY and Senator INOUYE for their support and, of course, my colleague Senator DOMENICI.

Mr. President, the Lanham Act of 1946, the primary statute governing what can and cannot be trademarked, protects flags, coats of arms, and official insignia of the United States, States, municipalities, and foreign nations.

It essentially says those cannot be trademarked. However, the act neglects to protect the insignias which belong to American Indian tribes. I believe strongly that this was an oversight. It is time we corrected the oversight.

Significantly, I want to be clear that in offering this amendment, I do not intend to affect existing trademark rights that may already have been conferred under this act. This amendment also does not have any affect on any current existing, non-trademarked usage of these tribal insignia but only sets out to prohibit the trademarking of tribal insignia in the same way a State's, municipality's, foreign nation's, and the United States' insignia currently is protected.

A key point that must be made here is that tribal governments are recognized as forms of government listed under the Act and should be treated in the same way that State, municipal, county, and of course the United States governments are considered. The Lanham Act originally was passed in 1946, and at that time, there was not as much recognition of the governmental status that federally-recognized Indian tribes hold. Today, however, we understand more than ever that tribal governments are sovereign and should be respected as such. Thus, it is an appropriate time to include federally recognized tribes for protection under the Lanham Act.

Significantly, tribal insignia often are considered sacred by a respective Indian tribe, and for that reason they should be prohibited from trademark. The Lanham Act protects from trademark anything that would disparage a belief. For example, if someone wanted to trademark a crucifix, Star of David, or Madonna and Child, in such a way that would disparage any one of those significant symbols, the trademark office is directed by law to deny that application for trademark.

However, there are is no similar protections for the many symbols that American Indian people hold very sacred. For example, the Zia pueblo, which is located in New Mexico, holds very sacred a symbol they refer to as the ''sun symbol.'' This symbol is probably familiar to many people because it appears on the flag of the State of New Mexico. It is a very popular symbol among businesses and artisans. The Pueblo of Zia generally does not take particular issue with the use of the symbol unless there is an attempt to have the symbol trademarked, the use of which would disparage their religious beliefs. Clearly they have a real interest in seeing that someone else does not come along and trademark the insignia that the tribe has always claimed as its own. Unless you are a tribal member, you could not appreciate the significance of the symbol. In fact, Zia Pueblo holds the symbol so sacred that it would be against their religious beliefs to disclose to anyone outside of the tribe how they use the symbol in their sacred rituals.

Indeed, applications have been submitted to the Office of Patent and Trademarks, and each time an application is submitted, the Pueblo must contest the application. This involves substantial legal costs to the Pueblo, and the Pueblo Tribe is not in a financial circumstance where it can take on those legal costs in an indefinite future.

The Pueblo is located in a very isolated, desolate area of the state and has very high unemployment. I admire the Pueblo because they hold fast the centuries-old traditions and beliefs in spite of that great economic hardship. They are a non-gaming tribe and have few resources for water treatment facilities, schools or other vital services. Nonetheless, they are willing to contest the trademarking of a symbol that they hold very sacred. The problem is pervasive among all twenty-two tribes in New Mexico and among all American Indian tribes nationwide.

Yet we have a statute in place that protects every form of government, even foreign nations, but it does not protect American Indian governments.

By simply inserting ''federally recognized Indian tribes'' in a list that already includes ''United States,'' ''States,'' ''municipality,'' and ''foreign nation,'' my amendment finally will offer protection from trademark to tribes the same protection that already is conferred upon any other form of government. My amendment does not affect any existing trademark rights that may already have been conferred under the Lanham Act.

What we are saying here is that we should take the Lanham Act where it provides for exceptions and says that you cannot trademark the insignia of the United States, States, municipalities, and foreign nations. We are saying we should assert federally recognized Indian tribes as another one of the categories that enjoys this same protection.

To me, it is a very straightforward amendment. I see no real basis for anyone opposing the amendment. I hope that it will be agreed to. I urge my colleagues to support this amendment.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Chair would like to clarify that the time remaining to the proponents is 5 minutes 58 seconds, and for the opponents, 10 minutes.

Does anyone seek recognition?

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the time be evenly charged against the two sides, and I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. Mr. President, I yield the remainder of my time.

Mr. GREGG. Mr. President, we yield the remainder of our time, and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The vote will be postponed.

Mr. GREGG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GREGG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Mr. President, we are waiting for one or two Senators to come down. I simply advise my colleagues that progress is being made. We now have two votes ordered. We have a number of amendments still pending under the unanimous consent agreement, and we are trying to work out a number of them. Hopefully, we will soon have the next amendment in order to be offered.

While we are waiting for that, though, I would like to speak on another subject. I ask unanimous consent to speak as if in morning business for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ALAN B. SHEPARD, JR.

Mr. GREGG. Mr. President, last night Alan Shepard died. Alan Shepard is a huge figure in the lives of those of us who are in that postwar baby boom generation which went through the Sputnik experience and the early days of our space program. He is a huge figure especially for those of us who come from New Hampshire, because he was born and raised in Derry, NH, a small town. In fact, a while after he went into space, for many years, Derry sort of changed its name and called itself Space Town in honor of Alan Shepard.

He was really an extraordinary American, embodying so much of what makes our country a special place. He came from a small, rural community. It has gotten quite big. In fact, it is a city now. But when he grew up, it was still a small, rural community. He committed his life to service of this Nation and, of course, he was one of those exceptional people who was in the early test pilot program which transitioned into the early astronaut program. We have the great benefit of having another one of those exceptional people in the Senate with us in Senator GLENN.

Alan Shepard was the first to go into space as an American, and his impact on our country was extraordinary because of that. I can recall very vividly—I must have been 9 or 10 years old—that our whole class in school met in the evening in order to watch this thing called Sputnik go through the sky. And it threw a great scare into our Nation at the time because we, at that time, having come out of World War II and the Korean war, viewed ourselves as a nation of extraordinary strength and really a nation of at least scientific leadership that was unparalleled, and suddenly the Soviet Union, which was a clear and present threat of proportions which cannot even be appreciated today, had launched a satellite which made it clear we were not maybe as far ahead as we thought we were. In fact, in the area of space we were behind.

And so the commitment was made to overtake the Soviet lead in space technology, but, more importantly, to make America the preeminent space explorer of the world. That commitment was made first by President Eisenhower and followed aggressively by President Kennedy, President Johnson and President Nixon. But the personification of the success of that commitment was Alan Shepard, because not only did he go into space as the first American, but then after overcoming significant physical restrictions—he had a very severe inner ear problem which he went back and had operated on—he went back into space and landed on the Moon. Of course, who can forget his hitting a golf ball on the Moon. I think he used a 6 iron and hit it 300 yards—almost a Tiger Woods drive.

Alan Shepard was a person who believed totally in the American dream and who lived the American dream. He was an icon of our culture and clearly a dominant figure of our time. We will miss him. In New Hampshire, we will especially miss him because we are very proud of him. We are a small State. At that time we had less than 1 million people, and here it is, with less than 1 million people, we sent the first person in space and he was from New Hampshire. Great pride.

I express my sorrow to his family and join with all Americans in thanking him for what he did for our Nation, to restore our pride in ourselves and to establish once again that we are a nation that is unique, filled with people who are unique, who, when we pull together to take on a task, no matter how daunting, such as putting a person on the Moon and putting a person in space, will always succeed.

Mr. President, I yield the floor.

Mr. President, I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GREGG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

The Senate continued with the consideration of the bill.

AMENDMENT NO. 3274

(Purpose: To authorize the local law enforcement block grant program)

Mr. GREGG. Mr. President, I send to the desk an amendment on behalf of Senator DEWINE and ask that it be reported.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Hampshire [Mr. GREGG], for Mr. DEWINE, for himself and Mr. LEAHY, proposes an amendment numbered 3274.

Mr. GREGG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. GREGG. Mr. President, I ask unanimous consent the amendment be agreed to.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3274) was agreed to.

Mr. GREGG. Mr. President, I move to reconsider the vote.

Mr. ABRAHAM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GREGG. Mr. President, I make a point of order a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KERREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3275

(Purpose: To prohibit the Administrator of the Environmental Protection Agency from implementing or enforcing the public water system treatment requirements related to the copper action level of the national primary drinking water regulations for lead and copper until certain studies are completed)

Mr. KERREY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nebraska [Mr. KERREY], for himself and Mr. HAGEL, proposes an amendment numbered 3275.

Mr. KERREY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 135, after line 11, insert the following:

SEC. 423. TEMPORARY PROHIBITION ON IMPLEMENTATION OR ENFORCEMENT OF PUBLIC WATER SYSTEM TREATMENT REQUIREMENTS FOR COPPER ACTION LEVEL.

(a) IN GENERAL.—None of the funds made available by this or any other Act for any fiscal year may be used by the Administrator of the Environmental Protection Agency to implement or enforce the national primary drinking water regulations for lead and copper in drinking water promulgated under the Safe Drinking Water Act (42 U.S.C. 300f et seq.), to the extent that the regulations pertain to the public water system treatment requirements related to the copper action level, until—

(1) the Administrator and the Director of the Centers for Disease Control and Prevention jointly conduct a study to establish a reliable dose-response relationship for the adverse human health effects that may result from exposure to copper in drinking water, that—

(A) includes an analysis of the health effects that may be experienced by groups within the general population (including infants) that are potentially at greater risk of adverse health effects as the result of the exposure;

(B) is conducted in consultation with interested States;

(C) is based on the best available science and supporting studies that are subject to peer review and conducted in accordance with sound and objective scientific practices; and

(D) is completed not later than 30 months after the date of enactment of this Act; and

(2) based on the results of the study and, once peer reviewed and published, the 2 studies of copper in drinking water conducted by the Centers for Disease Control and Prevention in the State of Nebraska and the State of Delaware, the Administrator establishes an action level for the presence of copper in drinking water that protects the public health against reasonably expected adverse effects due to exposure to copper in drinking water.

(b) CURRENT REQUIREMENTS.—Nothing in this section precludes a State from implementing or enforcing the national primary drinking water regulations for lead and copper in drinking water promulgated under the Safe Drinking Water Act (42 U.S.C. 300f et seq.) that are in effect on the date of enactment of this Act, to the extent that the regulations pertain to the public water system treatment requirements related to the copper action level.

Mr. KERREY. Mr. President, this amendment is offered by myself and my colleague from Nebraska, Senator HAGEL. We intend to talk on it for a brief period of time and then we will withdraw the amendment.

I offered this amendment in a similar fashion on the HUD and independent agencies appropriations bill. We, since that time, entered into negotiations with the Environmental Protection Agency and it is possible that the problems we have in Nebraska will be resolved. It is also possible that the issue does not get resolved. If that is the case, I want to alert my colleagues that there will be an opportunity to vote on this amendment at some point, if Senator HAGEL and I and the rest of the Nebraska delegation are not able to get satisfaction from the Environmental Protection Agency. As I said, they are attempting to work with us at this point to try to resolve this problem.

The problem simply stated is that, under the rulemaking of the Safe Drinking Water Act, there was established a lead and copper rule. Under the procedures of the Safe Drinking Water Act, these rules get reviewed every 6 years, so it is an appropriate time—it has been 7 years—an appropriate time for us to be reevaluating the science supporting the rule itself. That is essentially what we are challenging to begin with.

There is not a single city in Nebraska that has copper in excess of 1.3 milligrams in its water supply. So, you say, what is the problem? The problem is that if water sits in copper pipes overnight, the first draw on that water will produce copper in excess of 1.3 milligrams in some of our systems. Thus, our cities are being asked to invest millions of dollars to take care of the problem by removing the copper in a manner that is acceptable to the EPA. That will become a very critical part of this issue, because the EPA tells us what is and is not acceptable to take care of a problem that, as I said, has not produced a public health problem in Nebraska. We don't have a public health problem in Nebraska. We don't have any public health people saying we believe there is a clear and present problem with copper, a problem such as exists with lead. With lead, there is a public health problem, although not in Nebraska. With copper, we have no public health problem. What we have, instead, is a scientific evaluation by EPA which has caused them to say we should not allow any more than 1.3 milligrams per liter of copper in drinking water. And as a consequence, all across the country EPA is asking cities to invest substantial amounts of money to treat and reduce the concentration of copper below 1.3 milligrams.

I have a chart here. Some statements have been made by other institutions in regard to what is a safe amount of copper, which I would like to read, just to establish that there is a significant amount of dispute on the science of this. Not a small amount of dispute, but a significant amount.

The World Health Organization has established 2 milligrams per liter as their standard for copper in drinking water. That is 60 percent higher than 1.3 milligrams per liter.

In Canada, they have declared 5.3 milligrams per day as the lowest oral dose at which local GI irritation was seen.

The National Academy of Sciences in 1977 said:

> Limited data are available on the chronic toxicity of copper. The hazard from dietary intakes of up to 5 milligrams per day appear to be quite low.

A longer statement, made in 1994 by the Centers for Disease Control in regards to a study in Nebraska—this study is currently being peer reviewed, which EPA needs to have in order to make a final determination:

> . . . at the time of the survey, people were not experiencing GI related to the level of [copper] in their drinking water, even though 51 of the selected homes had [copper] drinking water levels that were greater than two times the EPA action level the year prior to the study. . .

There is a significant amount of scientific disagreement as to what the standard ought to be. Again, we are not experiencing a public health problem. If we are experiencing a public health problem, let's get after it and deal with it. That is what the Safe Drinking Water Act is all about. If you don't have a public health problem, you should not, in my judgment, be requiring the municipalities to make an investment that produces no benefit. That is basically what we are talking about here.

The municipalities have a limited amount of money. They have to go to their taxpayers to pay for any treatments to drinking water. We go to taxpayers through the state revolving loan fund. We then provide funds to the States and the States and municipalities make the determination: How do we spend our money so as to maximize the public health in our community?

The states and the municipalities are telling us that they don't see a public health problem with copper, but they are willing to try to work with the Environmental Protection Agency to solve this problem.

Mr. President, first of all, we have asked the Environmental Protection Agency to allow the National Academy of Sciences to impanel a study group to evaluate the science that underlies this standard—a peer reviewed evaluation—and come back and say, ''This is our current estimate of the situation, our current estimate based upon reviewing all the science, particularly the peer-reviewed science that is out there; this is what we see the current situation to be.''

Allow EPA, in short, to do what the Safe Drinking Water Act says it is supposed to do, which is to review these regulations once every 6 years. It has been 7 years. There is plenty of evidence that would indicate it is time for EPA to review this standard, including other people's evaluations, and as I said, the presence of an overwhelming fact, which is that we are not experiencing public health problems in Nebraska.

In our negotiations—Senator HAGEL, Congressmen BEREUTER, CHRISTENSEN and BARRETT—we had a meeting yesterday with EPA. We are asking EPA to empower and to contract with the National Academy of Sciences to do a study of the science underlying this rule to determine whether 1.3 milligrams per liter is reasonable. If we get a ''yes'' on that request, which we don't have at the moment—as I said, my colleagues may be spared the opportunity of coming down here and voting on this amendment.

There is another problem we are experiencing with EPA. Again, we talked with region 7, and we talked, as well, with Administrator Browner, and perhaps we can get true flexibility. We have asked for flexibility in dealing with this problem. I will describe for my colleagues one of the things the Nebraska department of health asked the Environmental Protection Agency for, in terms of flexibilities in implementing this rule, and the answer from EPA was no. They asked if it would be OK if the State of Nebraska paid for the removal of copper piping and copper fixtures, get rid of the copper altogether as a solution to this problem. The answer from EPA was that this is not one of the acceptable solutions that is on their list.

Eliminating the copper was not an acceptable solution to the EPA, Mr. President, nor was it acceptable to engage in a significant public health campaign to help people understand—and to ask them to flush, once a day, the water in their systems to remove the copper that leached into the water after sitting overnight in the pipes—especially in smaller communities where you have a relatively small audience. EPA was saying things like, ''Well, yeah, but somebody could get up in the middle of the night and have to go to the bathroom and maybe forget and take a drink of water.''

This is the sort of reason given to people to support legislation like the Safe Drinking Water Act? We want the Government to be a positive force in keeping our people safe, but when we hear rationale like this, we scratch our heads and wonder whether or not it is all worthwhile.

We seem to frequently run into this sort of inability to bring common sense to the process. I am hopeful that Administrator Browner—she was very positive yesterday—I am hoping Administrator Browner will, first of all, ask the National Academy of Sciences to do a study of the underlying science, which is overdue given the conflicting analyses we have seen; and, second, to direct region 7 to work with us to get a flexible plan that enables us, bottom line, to have our cities and our States saying to us, ''We have identified a solution here; we have a means of dealing with this; here is what it is going to cost us; we are willing to make this investment.''

Understand, at the community level where they are drinking the water, they are saying, ''There are public health problems that are much larger than this. We don't have anyone getting sick from copper. We understand you all think we ought to be getting sick at these levels, but we are not. We are willing to work with you and willing to make an investment, but we want that investment to be justified. We want the cost to track somehow with the benefit. We want to be able to say here is the benefit we are getting with the cost of the expenditure itself.''

I am pleased to inform my colleagues, at the conclusion of Senator HAGEL's and my remarks on this, we are prepared to withdraw this amendment and not put you through the process of voting on this at this time. But if we are not able to get a satisfactory answer from Administrator Browner, I inform my colleagues there will be an opportunity to vote on this amendment.

My guess is that any of you out there who have municipalities that are discussing this with the Environmental Protection Agency—I guarantee you, all you have to do is talk to your colleagues in Minnesota and ask them how it worked. They implemented the EPA plans for copper removal, and it hasn't worked in nearly half of the 130 water systems they were forced to treat. They did everything the EPA told them to do to reduce copper levels and it didn't work. They still have the problem and are now scratching their heads and trying to figure out what they are going to do next.

Mr. President, I appreciate the indulgence of the Senator from South Carolina and the Senator from New Hampshire and other colleagues. I look forward to coming to the floor and saying that this issue is satisfactorily resolved. Administrator Browner, I believe, is making a good-faith effort, but we have a ways to go before we are certain we don't have to come back and appeal to our colleagues, who are likely experiencing similar things, to give us a change in the law that will give us time to allow these scientific studies to be reviewed, and possibly, this rule revised.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Nine-and-a-half minutes remain for the proponents. The Chair recognizes the junior Senator from Nebraska.

Mr. HAGEL. Thank you, Mr. President.

Mr. President, I rise to support this amendment sponsored by my good friend and colleague, the senior Senator from Nebraska, Senator KERREY.

As Senator KERREY has very directly stated, this amendment is an attempt to bring some much-needed common sense—common sense, Mr. President, common sense—to the EPA regulatory process. We are not in any way attempting to amend the Safe Drinking Water Act.

I commend my colleague from Rhode Island, the distinguished chairman of the Environment and Public Works Committee, Senator CHAFEE, for his hard work in crafting this bill over the years and having brought it up to date and focused on what is important, and that is to protect the safety of our drinking water. It is important that we be clear on this point. We are not attempting to amend the Public Works Committee's hard efforts, the Safe Drinking Water Act. No attempt is being made to amend the Safe Drinking Water Act.

What we are asking here is EPA delay the enforcement of copper regulations until the completion of scientific studies that are already underway. Regulations imposed by the EPA on copper levels in drinking water are unrealistic and will impose financial hardships on a number of communities in Nebraska. Is it too much to ask—really, is it too much to ask—that scientific studies be completed before costs are imposed? Mr. President, that is just common sense.

The town of Hastings, NE, population 23,000, will be forced to pay over $1 million in the first year to comply with these onerous regulations and $250,000 the year after that. More than 60 Nebraska water systems face similar financial burdens because of the EPA's enforcement of these copper regulations.

The most incredible part of this issue is that the EPA has not proven that there is a health risk. As my friend, Senator KERREY, said, they want to prove it; they want to tell us we have it, but they can't make the scientific link. The EPA used case studies to set these copper levels, some of which are over 40 years old, and often included only a few people. One EPA case study from 1957 refers to 15 nurses, 10 of which got sick after drinking cocktails

with between 5.3 and 32 milligrams of copper—very strong scientific evidence.

Yet, a 1994 interim study conducted by the Centers for Disease Control and Prevention found that EPA's copper standard seriously exaggerated health effects in Nebraska due to water consumption. In comparison, the CDC study conducted in 1994 to examine almost 200 households in Nebraska in a controlled, scientific way, found no relationship between the copper concentrations and illness.

One of the problems in Nebraska, Mr. President, is that copper does not come from the city's water system. It comes from copper pipes—copper pipes—in individual homes. Yet only six of the homes tested, in Hastings, NE, had copper levels above the EPA standards. And for those six homes, the EPA is going to force the people of the entire town in Nebraska to spend millions of dollars to change the system.

This is folly. This is nonsense. This is one of the most clear examples of EPA zealousness that I think I have ever seen.

The State of Nebraska has attempted to make its case with the EPA but has been repeatedly dismissed. The State suggested allowing residents to let the water run in the taps for a short period of time before using water for drinking. Nebraska's Department of Health and Human Services would have used a public education program to ensure that this ''flushing'' method was done correctly. Residents already did this on their own and copper levels dropped to nearly zero—copper levels dropped to nearly zero—after letting the tap run for a few seconds. The State also said it would pay to replace the copper plumbing for affected households.

The attorney general of the State of Nebraska has filed a lawsuit to try to block the EPA enforcement of these regulations until we have some sound science. And the Governor, Governor Nelson, is involved.

The attitude of the EPA toward the people of Nebraska has been one of supreme arrogance. Some of my colleagues may wonder why this is such a problem in Nebraska. Why haven't they heard about this in their States?

Well, Nebraska is unique, not only because we play decent football, Mr. President, but also because we rely, almost exclusively, on groundwater for our water supplies. Because of this, some towns and cities in Nebraska do not have a central water system but a number of systems that feed into the main system.

For these towns of Nebraska, treating drinking water means treating each individual well, which drastically increases costs. And for what? The people of Nebraska do not want unsafe drinking water; of course they don't. If there was a real health risk, they would pay to have the water treated. But when the scientific evidence shows no health risk, when the EPA rejects every commonsense alternative—many of what my colleague from Nebraska talked about—what are the people of Nebraska to do? They have turned to their congressional delegation. They have turned to their Congress and asked for help.

The Constitution gives Congress the authority to decide whether or not Federal agencies can spend the money of the American taxpayers, what they spend it on, and why they spend it. Too often we have neglected this authority and let Federal agencies run right over the top of the American people, the very people who pay the bills—the taxpayers. But we don't have a voice. That is why Senator KERREY and I are on the floor today.

We are here to bring the case of the people of Nebraska to the Senate, as our colleagues are doing in the House. We have no other recourse, Mr. President. Again, we are not attempting to amend the Safe Drinking Water Act. We are asking to change the regulations so that we have some ability, some flexibility to wait until we have sound science. What an outrageous request. What an outrageous request.

Mr. President, dealing with the EPA is like wandering around in the Land of Oz, this mystical land. But we wish to pull back the curtain and get to some reality and common sense. It is my hope, as is the hope of my friend and colleague, the senior Senator from Nebraska, that our colleagues will listen to this plea and will assist us in this effort. We are grateful for an opportunity to tell our story—a real story.

Thank you. I yield the floor.

The PRESIDING OFFICER (Ms. SNOWE). Who yields time?

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Madam President, I ask unanimous consent that letters in support for this amendment from the National Governors' Association, the Central Nebraska Mayor's Association, the League of Nebraska Municipalities, the city of Columbus, the city of Hastings, the village of Snyder, and the village of Fairmont be printed in the RECORD.

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

NATIONAL GOVERNORS ASSOCIATION,
Washington, DC, July 16, 1998.

Hon. BOB KERREY,
U.S. Senate, Senate Hart Office Building, Washington, DC.

DEAR SENATOR KERREY: We are writing to share our concerns about the lead and copper rule promulgated by the U.S. Environmental Protection Agency (EPA) under the Safe Drinking Water Act. Communities in many states, particularly smaller communities, face substantial costs under this rule. We understand that serious questions have been raised about the rule, including the justification for the current action level, the cost effectiveness of the rule, and the replicability of the sampling procedures used under the rule. We understand that the rule may also interfere with the implementation of other pending regulations, such as the Disinfectant/Disinfection Byproducts Rule. Such interference could have serious adverse health consequences.

In the face of these uncertainties, we urge you to take steps to ensure that the lead and copper rule is based on the best available, peer-reviewed science and is subject to risk assessment, comparative risk assessment, and risk management techniques that include analyses of costs and benefits. The Governors have recommended that for all regulations with a substantial potential impact on public health or the economy, the regulatory agency should be required to certify that the regulation is likely to produce benefits that justify the costs. In determining that the benefits justify the costs, the agency should consider the full scope of qualitative and quantitative costs and benefits, exercise sound judgment, use realistic assumptions, weigh all reasonable alternatives, and strike an appropriate balance between costs and benefits.

We would appreciate your assistance in ensuring that EPA satisfies these recommendations in the case of the lead and copper rule. Thank you for your consideration of this important issue.

Sincerely,

E. BENJAMIN NELSON,
Chair, Committee on Natural Resources.
MARC RACICOT,
Vice Chair, Committee on Natural Resources.

CENTRAL NEBRASKA MAYOR'S ASSOCIATION,
June 8, 1998.

Hon. ROBERT KERREY,
Hart Building,
Washington, DC.

DEAR SENATOR KERREY: We are writing to convey to you the solid support of four major Nebraska communities for the recent efforts by the Nebraska congressional delegation regarding the lead and copper rule designation in the Safe Drinking Water Act. In an April 24, 1998 letter to USEPA, Nebraska's congressional delegation unanimously urged bringing common sense and good scientific evidence to the copper rule. We support that position and encourage you to continue pressing this issue in our behalf, as well as that of many other Nebraska communities.

As you are well aware, epidemiological evidence generated by the Centers for Disease Control indicates that the drinking water standards for copper are arbitrarily established at levels far below those believed to pose any threat to human health. Incredibly, the level established by USEPA is less than the recommended daily minimum amount of cooper for human consumption, established by another federal agency. What is more unnerving, is the fact that cities are being mandated to make significant changes to their water delivery systems, not because of the source of supply, or because of the water systems themselves, but because of the copper water services in private homes. This of course can be solved by running the water for a few seconds each morning before taking any water for drinking purposes, which, we suspect, is a universal practice. Viewed another way, does USEPA have any evidence whatsoever that anyone is consuming water with ''unaccepted levels'' of copper in it?

We believe that USEPA has strayed from its original mandate of ensuring a clean environment. Instead, communities throughout the country are confronted with the hypertechnical wanderings of a bureaucratic juggernaut, promulgating unreasonably stringent environmental standards that lack good scientific evidence, ignore practical testing procedures, and are totally devoid of any common sense.

It is particularly vexing to deal with unreasonable standards which will cost Nebraskans millions of dollars while providing no apparent benefit. Cities are asked by their populations to provide essential services that enhance the quality of life of their citizens. Dollars are tight and public scrutiny is high. The waste of time, effort, and precious dollars on misguided notions like the copper rule for drinking water, is totally unacceptable. Please continue and intensify your efforts to bring good scientific evidence to these and other rules, regulations and standards of USEPA.

Thank you again for your interest in this matter.

Sincerely,

KEN GRADY,
Mayor of Grand Island.
JAMES D. WHITAKER,
Mayor of North Platte.
J. PHILLIP ODOM,
Mayor of Hastings.
PETER S. ————,
Mayor of Kearney.

LEAGUE OF
NEBRASKA MUNICIPALITIES,
Lincoln, NE, July 17, 1998.

Senator BOB KERREY,
U.S. Senate,
Washington, DC.

DEAR SENATOR KERREY: Thanks for your attempted heroics late (verrrrry late) last night on behalf of Nebraska municipal water distribution systems. The staff at the League of Nebraska municipalities informed me that you used considerable debating skills and knowledge of procedure to try to amend a measure to give Nebraskans some relief from the EPA Copper Rule. It is not that often anymore that you get to see good debating skills put to use in legislative process, but you apparently made Nebraska look good.

Again, I appreciate all the work that you and your staff have put in on this issue. As you know, and very effectively communicated, compliance with this regulation will cost Nebraskans millions of dollars for little or no health benefit. Nebraska municipal officials are not against the protection of public health. They live in the very communities that they serve. But meeting the ''at the tap-first draw'' copper standard seems to be throwing money away.

Sincerely,

JIM VAN MARTER,
League President,
Mayor, Holdrege, Nebraska.

COLUMBUS, NE,
July 10, 1998.

Hon. ROBERT KERREY,
U.S. Senate,
Washington, DC.

DEAR SENATOR KERREY: On behalf of the City of Columbus, I would like to lend our support to your amendment to place a prohibition on the enforcement of the Copper Ruling by the Environmental Protection Agency (EPA).

From all indications, this ruling appears unsupported by scientific evidence. If this should be enforced, it will cost our city thousands of dollars.

I ask that you give us every consideration in fighting this ruling. We appreciate your leadership in helping us concerning this matter.

Sincerely,

GARY GIEBELHAUS,
Mayor.

HASTINGS, NE,
July 10, 1998.

Re Copper regulations.

Hon. TRENT LOTT,
Rayburn Building,
Washington, DC.

DEAR SENATOR LOTT: I am writing to you on behalf of the citizens and water rate payers of the City of Hastings, Nebraska, an agricultural community of 22,000 people located in the south central part of the state. The drinking water system for our community is operated by our local Board of Public Works. Tests of drinking water (taken in private homes) indicate that the levels of copper in the water barely exceeds the action level for copper established pursuant to the 1986 Safe Drinking Water Act. The State of Nebraska has issued an order to the City, directing implementation of costly ''optimal corrosion control treatment''.

USEPA's active level for copper in drinking water is based upon two outdated (one is at least 40 years old) and unreliable studies. Recent epidemiological evidence generated by the Centers for Disease Control indicates that the drinking water standards for copper are arbitrarily established at levels far below those believed to pose any threat to human health. It is most noteworthy that the level established by USEPA is less than the federally recommended daily minimum amount of copper for human consumption. In fact, the amount of copper in a multiple vitamin tablet exceeds the USEPA's action level.

Senator, we, and many other communities around the country, are being directed by government to expand millions of dollars on our water systems in just a few short years, with literally no reasonable expectation of benefit to public health. This makes absolutely no sense at all. We would hope that you agree that it is foolish to act on poor information, when good information is readily attainable. We need your help. (Our water department, which operates at a loss most years, estimates that installation of the required modifications will cost $1,000,000 initially, with an added operations expense of approximately $250,000 per year.)

Nebraska Senator Robert Kerrey and Chuck Hagel have introduced legislation which would prohibit USEPA's implementation or enforcement of this rule until more reliable studies can be completed and evaluated. The expected time frame for obtaining this much more reliable information is less than 30 months.

We ask that you join our Nebraska Delegation in its efforts to gain a reprieve which makes eminent sense. In our estimation, there are no risks associated with taking the time to get the facts straight. We do not know of even one copper related illness, belly ache or sniffle in the more than one hundred year history of this county. I can tell you without fear of contradiction, that if we had the one million dollars and more to spend, the public health and quality of life in our community would be much better served by spending that money on fire trucks and police cars.

Public health and safety are the top priority of Hastings city government. We, and many other units of local government are on the front line. But we have precious few resources and dollars for this effort. Please help prevent the bureaucratic misdirection of our dollars and resources, so that we can do what is best for our community.

You can undoubtedly discern from the tone of this letter, that I am already convinced that further studies will show that the action level for copper is unreasonably low. My limited review of available data, and information provided by those knowledgeable on the matter, unanimously support this conviction. Please rest assured, however, that Hastings will expeditiously comply with whatever standard emanates from the more current studies. We have faith in good science. Recent history shows that Congress shares that faith.

Thank you for your interest in this matter.

Sincerely,

J. PHILLIP ODOM,
Mayor of Hastings.

SNYDER, NE,
July 14, 1998.

Senator ROBERT KERREY,
Hart Building,
Washington, DC.

DEAR SENATOR KERREY: I am sending this letter to inform you of the costs of a small town to comply with the copper rule. The population of the Village of Snyder is 280, and we have a water budget of $31,000.00 for this fiscal year. Snyder also has two (2) wells, according to our engineer our capital expenses would be $30,000.00 for building modification and equipment purchases. The ongoing operational costs including chemicals, training, administrative, and repairs/maintenance would cost $12,000.00. The first year would cost the Village $42,000.00, and require us to budget an additional $12,000.00 per year. If we have to use bonds to pay for the capital costs, there will be additional expenses.

This does not include the cost of a corrosion control study as required by the administrative order. Our engineer estimated between $3,000.00 and $3,500.00, or the quarterly notices that we have to publish. There is also the cost of additional water testing that we are required to perform.

Although, the easy answer is to raise rates it is not always the best one.

I would like to thank you for your efforts to help us.

I am enclosing a separate cost breakdown.

Sincerely,

JOEL D. HUNKE,
Chairperson,
Village Board of Trustees.

Enclosure.

Village of Snyder estimated cost for compliance lead and copper administrative order

Capital expenses:	
1. Modify well house buildings at $10,000/building	$20,000
2. Purchase equipment at $5,000/well	10,000
Total capital expenses	$30,000
Ongoing operational costs:	
1. Chemicals at $0.10/1,000 gallons of water 1997 production was 44,675,000 gallons	4,468
2. Monitoring, testing, training, administrative $3,000/yr for 1st well and $2,500/yr for 2nd well	5,500
3. Repairs and Maintenance $1,000/well/year	2,000
Total operational costs	11,968
Grand total	41,968

FAIRMONT, NE,
July 13, 1998.

Re Lead and copper ruling.

Senator ROBERT KERREY,
Hart Building,
Washington, DC.

DEAR SENATOR KERREY: The Fairmont Village Board of Trustees would like to thank you for your efforts to assist municipal water systems in Nebraska which are currently under Administrative Order for violation of copper standards in drinking water.

I am enclosing a letter from our engineers pertaining to the costs if Fairmont would

have to comply with the Administrative Order. In review it would cost the village $45,000 for the capital outlay and approximately $18,000 annually for ongoing operations costs.

Our village board believes that the copper action level is excessively stringent, has an excessive safety margin and is not supported by sound scientific data and studies. The ruling requires the village to expend public funds for monitoring and treatment of public water supply system of the Village in order to correct contaminations which occur within the service lines and plumbing systems owned by private persons or entities, and our board does not feel that public funds should be used in this manner.

Thank you for your assistance in this matter and if you need additional information, please contact our office or the League of Nebr. Municipalities.

Sincerely,

DAVID R. SEGGERMAN,
Chairperson, Fairmont Village Board of Trustees.

Enclosure.

JOHNSON ERICKSON O'BRIEN,
Wahoo, NE, July 8, 1998.

Re Lead and copper rule estimated cost for compliance.

LINDA CARROLL,
Clerk,
Fairmont, NE.

DEAR LINDA: This letter is in response to recent requests that we have gotten regarding the cost of compliance with the Lead and Copper Rule.

Every case will be different, but I believe that the following will provide a good general guideline for determining how much it will cost to deal with the Lead and Copper Rule.

C. In general, most well buildings are not set up to provide adequate space or provide an appropriate environment for use as a chemical feed room. Depending on the building site conditions and the layout, we believe it is likely that the well building will need to be expanded and rough cost for the building modifications would be $10,000 per well (POE).

D. The type of chemical treatment that will be necessary for each well will depend on the detailed chemical analyses of the well water. However, for planning purposes, we would estimate that the cost for chemical feed equipment and electrical modifications needed could be approximately $5,000/well (POE) and the raw cost of chemical would be approximately 10¢/1,000 gallons of water pumped.

E. In addition, to the chemical cost, it would be anticipated that considerable additional cost/time will be involved in the daily monitoring of the chemical feed systems, testing, and administrative time involved in maintaining records, etc. It would appear reasonable to assume that the costs could be around $3,000/yr. for the first well, and maybe $2,500 for each added well.

F. Also, I would expect that repairs and maintenance costs could be $1,000/well/year to keep pumps and controls updated/operational.

In conclusion, we believe that costs for Lead and Copper Rule compliance would be:

A. Capital Expenditure Costs
1. Building Modification: $10,000/well (POE)
2. Equipment Costs: $5,000/well (POE)
Total: $15,000/well (POE)

B. Ongoing Operational Costs
1. Chemical Costs: 10¢/1,000 gal. pumped
2. Operational/Administrative Costs: $3,000/yr. 1st well (POE) $2,500/yr. each added well (POE)
3. Repairs/Maintenance: $1,000/yr./well (POE)

If you have any questions regarding this letter or if you need anything further from us, please feel free to advise.

Sincerely,

RON BOTORFF.

A. Village of Fairmont has 3 wells @$15,000.00=$45,000.00 Capital set up.

B. Village of Fairmont 1997 water use 75,000,000 gallons÷1,000 @10¢=7,500.00 Chemical Cost.

Operation/Admin—1 well @$3,000.00+2 wells @$2,500.00=8,000.00 Oper/Admin.

Repairs & Maint. 3 wells @$1,000.00=3,000.00 Rep. & Maint.

In review, the capital expenditure for the Village of Fairmont would be approximately $45,000.00 and annual expenditures for ongoing operational costs would be approximately $18,500.

Mr. KERREY. Madam President, I am prepared to yield back the remainder of my time. I do not know if—Senator CHAFEE is probably not going to speak because I told him we would withdraw the amendment.

I say to the Senator from New Hampshire, if you don't want to take the additional 10 minutes, I will ask unanimous consent to withdraw the amendment.

Mr. GREGG. I have no objection to the Senator from Nebraska withdrawing the amendment.

Mr. KERREY. Do we need to yield back time in opposition?

The PRESIDING OFFICER. Yes, the Senator should yield back his time.

Mr. GREGG. I will yield back our time.

AMENDMENT NO. 3275 WITHDRAWN

Mr. KERREY. I ask unanimous consent that the amendment offered by myself and Senator HAGEL be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is withdrawn.

The amendment (No. 3275) was withdrawn.

The PRESIDING OFFICER. Who seeks recognition?

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. What is the parliamentary status now?

The PRESIDING OFFICER. Amendments are in order.

AMENDMENT NO. 3276

(Purpose: To condition the availability of funds for United States diplomatic and consular posts in Vietnam)

Mr. KERRY. Madam President, therefore, I send an amendment to the desk and ask for its immediate consideration on behalf of myself, Senator JOHN MCCAIN, and Senator BOB KERREY.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Massachusetts [Mr. KERRY] for himself, Mr. MCCAIN and Mr. KERREY, proposes an amendment numbered 3276.

Mr. KERRY. I ask that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 96, strike line 23 and all that follows through line 12 on page 100 and insert the following:

SEC. 405. None of the funds appropriated or otherwise made available by this Act may be obligated or expended to pay for any cost incurred for—

(1) opening or operating any United States diplomatic or consular post in the Socialist Republic of Vietnam that was not operating on July 11, 1995,

(2) expanding any United States diplomatic or consular post in the Socialist Republic of Vietnam that was operating on July 11, 1995, or

(3) increasing the total number of personnel assigned to United States diplomatic or consular posts in the Socialist Republic of Vietnam above the levels existing on July 11, 1995,

unless the President certifies within 60 days the following:

(A) Based upon all information available to the United States Government, the Government of the Socialist Republic of Vietnam is fully cooperating in good faith with the United States in the following:

(i) Resolving discrepancy cases, live sightings, and field activities.

(ii) Recovering and repatriating American remains.

(iii) Accelerating efforts to provide documents that will help lead to fullest possible accounting of prisoners of war and missing in action.

(iv) Providing further assistance in implementing trilateral investigations with Laos.

(B) The remains, artifacts, eyewitness accounts, archival material, and other evidence associated with prisoners of war and missing in action recovered from crash sites, military actions, and other locations in Southeast Asia are being thoroughly analyzed by the appropriate laboratories with the intent of providing surviving relatives with scientifically defensible, legal determinations of death or other accountability that are fully documented and available in unclassified and unredacted form to immediate family members.

Mr. KERRY. Madam President, are we operating under a time agreement on this?

The PRESIDING OFFICER. Twenty minutes evenly divided.

Mr. KERRY. Twenty minutes equally divided.

Madam President, I yield myself such time as I may use. I ask that the Chair let me know when I have used 7 minutes.

Madam President, for the past 3 years we have had language in the appropriations bill that prohibits funding for the expansion of our diplomatic presence in Vietnam unless the President of the United States certifies that Vietnam is cooperating on the POW/MIA issue.

The fact is that the standard currently in law requires a tough certification by the President. The President has to certify that Vietnam is fully cooperating. The President has to certify that in good faith Vietnam is cooperating in four specific areas: resolving discrepancy cases, live sightings and field activities, remains recovery and repatriation, providing documents, and assisting in the trilateral investigations with Laos.

That is a fair and a sensible standard, Madam President. However, section 405

of the pending bill that has been put into the bill creates a whole new standard. It creates a standard of significant increased capacity for subjectivity and for distortion and, frankly, for an unreasonableness, which, if adopted, would set back our relationship and our capacity to build the progress and relationship not just on POW/MIA but on human rights and other issues where we have been making progress.

The amendment that I offer with Senator MCCAIN from Arizona and Senator BOB KERREY from Nebraska would strike section 405, replacing it with the language in the current law that requires a certification from the President, and requires the same standard of certification that we have had over the course of the last years.

In our judgment, section 405 will not only undo much of the cooperation that we have but could conceivably set back our capacity to be able to find answers on the POW/MIA issue. We believe it would undermine the policy of normalization and it would create an unreasonable certification standard in an effort to prevent the expansion of our diplomatic presence and, thus, our relationship.

Current law requires the President to certify whether or not Vietnam is cooperating in good faith. I want the Senate to know that the President made that certification on March 4 of this year, as he has for the past 2 years.

Section 405, however, in the legislation that we seek to strike, incorporates a standard that requires the President to somehow say that they are fully forthcoming, fully cooperating in good faith, and the words ''fully forthcoming'' present all kinds of complications about what is possible to give, what is not possible, what documents somebody may have, whether or not it is possible to give them, and raises issues that the POW/MIA committee and those who have been involved in this issue for a long period of time have argued for some period of time and resolve with the language that is currently in the law.

Over the many years that I have been involved in this issue, we have always had a struggle over this central question of what they have, what they don't have, who may have it, who has control of it, and if you get caught in the total subjectivity of a standard that no one in the intelligence community or elsewhere believes they can possibly meet, all we do is create a mischief in the process.

There is no question that we need to keep pressing for documents. We are. We just had a whole new slug of documents turned over that we are in the process of translating. We discovered new items from many of these unilateral turnovers of documents. The point is, they are happening because there is a cooperative effort, because we are engaged in marching down a road together in order to try to assert the truth here.

I think we also have to recognize that just as we deem certain documents pertaining to the military and to our country's national security as being classifiable or sensitive, so do they. We may not view it the same way, but clearly they are going to present, and their agencies—whether the defense agency, the interior agency—will argue that one document or another represents a security risk. So we have to work through the process of that. If we hold ourselves accountable to a standard where we are subject to some agency or bureaucrat being less than forthcoming in that regard about a document we don't even know they have, it seems to me we are creating an impossible situation and an impossible standard.

In addition to that, section 405 also adds other new conditions to the process. It requires Vietnam to resolve hearsay reports which pertain to the possible or confirmed prisoner of war/missing in action. Apart from the question of how anyone resolves a hearsay report, this requirement would add an enormous burden to both the American and Vietnamese teams, who are on the ground, who are pursuing nonhearsay reports. They are already tasked on a very clear schedule of trying to determine every single nonhearsay report, absolutely certain evidence they have, which requires them to go out into the field, interview, dig, do a whole host of other very time-consuming efforts. To suggest that every single hearsay report has got to be resolved to the exclusion of the confirmed reports that they are already pursuing is to, again, raise this to a standard of absurdity.

The fact is, we have made enormous progress on the POW/MIA issue precisely because of Vietnamese cooperation. In the last 5 years, American and Vietnamese teams have concluded 30 joint field activities in Vietnam; 233 sets of remains have been repatriated, and 97 have been identified.

The PRESIDING OFFICER. The Senator has used 7 minutes.

Mr. KERRY. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH of New Hampshire. It is my understanding I have 10 minutes.

The PRESIDING OFFICER. That is correct.

Mr. SMITH of New Hampshire. I yield myself 7 minutes at this point.

I rise to support the committee language that is in the bill before us with respect to Vietnam. I urge my colleagues on both sides of the aisle to listen carefully to the debate between myself and my colleague from Massachusetts.

It seems that we can depend on three things anymore in America—death, taxes, and the fact that Senators KERRY and MCCAIN will somehow oppose any language that I try to support in regard to the POW/MIA issue.

Senator KERRY said that this is not workable, that the term ''fully forthcoming'' is not workable. Of course it is workable. It is workable because the language says that the President's judgment, the President's own judgment, is based on information available to the U.S. Government. There is nothing unworkable about that language at all. It is very workable. The President has continued to certify the very language that the Senator from Massachusetts wants to revert back to, which was language that I helped to write and put in the bill last year. We are simply upgrading it a little bit. That is not anything to be concerned about. The President still does the certification. It is his judgment. No one is changing that. I might not agree with the President's judgment from time to time, but he has the right to make that judgment under the law. That is the issue here.

I hope the Senators and their staffs who are monitoring this debate will look at section 405 to see what the Senator from Massachusetts is striking—it is found on page 96 of the committee bill—because it is reasonable. I think most Senators will resist the effort to strike it. It is reasonable.

Senator GREGG and the committee support this language. The committee language continues a certification process that was begun in 1995 when the President established full diplomatic relations with Vietnam. It has continued, through this year, when the President issued his latest certification in March. Now, whether or not we agree or disagree with the President's certification is not the issue. I happen to disagree. I didn't believe he should have certified based on the evidence. But he did, and he has the right to do that under the law.

What the committee has done is to further modify the language in an appropriate manner based on developments and communications from the executive branch over the last year. Each time, in the end, the President has complied with the certification process. I have no doubt he will do it this time. In fact, let me refer to the President's own words when he issued the most recent certification in March of this year.

> In making this determination, I wish to reaffirm my continuing personal commitment to the entire POW/MIA community, especially to the immediate families, relatives, friends, and supporters of these brave individuals, and to reconfirm that the central, guiding principle of my Vietnam policy is to achieve the fullest possible accounting of our prisoners of war and missing in action.

That is the President. I have that document right here, signed by the President of the United States.

I ask unanimous consent this document be printed in the RECORD.

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

[Presidential Determination No. 98–16]

MEMORANDUM FOR THE SECRETARY OF STATE

Subject: Vietnamese Cooperation in Accounting for United States Prisoners of War and Missing in Action (POW/MIA).

As provided under section 609 of the Departments of Commerce, Justice, and State,

the Judiciary, and Related Agencies Appropriations Act, 1998, Public Law 105–119, I hereby determine, based on all information available to the United States Government, that the Government of the Socialist Republic of Vietnam is fully cooperating in good faith with the United States in the following four areas related to achieving the fullest possible accounting for Americans unaccounted for as a result of the Vietnam War:

(1) resolving discrepancy cases, live sightings, and field activities;

(2) recovering and repatriating American remains;

(3) accelerating efforts to provide documents that will help lead to the fullest possible accounting of POW/MIAs; and

(4) providing further assistance in implementing trilateral investigations with Laos.

I further determine that the appropriate laboratories associated with POW/MIA accounting are thoroughly analyzing remains, material, and other information, and fulfilling their responsibilities as set forth in subsection (B) of section 609, and information pertaining to this accounting is being made available to immediate family members in compliance with 50 U.S.C. 435 note.

I have been advised by the Department of Justice and believe that section 609 is unconstitutional because it purports to use a condition on appropriations as a means to direct my execution of responsibilities that the Constitution commits exclusively to the President. I am providing this determination as a matter of comity, while reserving the position that the condition enacted in section 609 is unconstitutional.

In making this determination I have taken into account all information available to the United States Government as reported to me, the full range of ongoing accounting activities in Vietnam, including joint and unilateral Vietnamese efforts, and the concrete results we have attained as a result.

Finally, in making this determination, I wish to reaffirm my continuing personal commitment to the entire POW/MIA community, especially to the immediate families, relatives, friends, and supporters of these brave individuals, and to reconfirm that the central, guiding principle of my Vietnam policy is to achieve the fullest possible accounting of our prisoners of war and missing in action.

You are authorized and directed to report this determination to the appropriate committees of the Congress and to publish it in the Federal Register.

WILLIAM J. CLINTON.

Mr. SMITH of New Hampshire. For the Senator from Massachusetts and others now to basically prevent the committee from updating the language based on the President's own words, and based on the words of Sandy Berger and others, sends a terrible message, a message that I simply do not understand, for the life of me, why we have to fight this battle day in and day out, year in and year out, on the floor of the Senate. There is nothing wrong with this language, I say to my colleague, with all respect. The President still has the right to certify. And he does in spite of the fact that I disagree, many times, with his reasoning for the certification.

To prevent the committee from updating this language sends, I think, a terrible message to the Government of Vietnam: It is OK, do whatever you want. Go ahead, provide us documents, don't provide us documents; provide us access, don't provide us access, it doesn't matter. The families of 2,000-plus American service personnel still unaccounted for, don't worry about it. Our Nation's veterans, we no longer attach the same priorities to the POW/MIA effort in our development of relations with Vietnam which we had in the last 3 years. Don't worry about that. Let's go ahead, pursue lines of trade, sell oil, buy oil, whatever. Set up a full diplomatic mission. Don't worry about these things. Don't worry about POW/MIA. That is a side issue that is not really important.

That is reason alone for the Senators and my colleagues to table this amendment. Don't send this kind of message to the families. God knows they have been through enough. They support the language in the committee bill. That should be enough right there. These are the people who have suffered. It hasn't been Senator SMITH; it hasn't been others on the Senate floor—well, in some cases, there has been great suffering by some of my colleagues in the Vietnam war. But it is the families of the missing who want this message. We should do it for them, if for no other reason. They have been in touch with me as recently as this morning. They passionately object to what the Senator from Massachusetts is trying to do. They have told me that.

I ask unanimous consent that their statements be printed in the RECORD immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. SMITH of New Hampshire. I have statements from the League of Families, the Alliance of Families, from 70 former POWs, from major veterans groups, including the American Legion. And I know that others support what we are doing, like the National Vietnam Veterans Coalition, and many others support the language and support the committee process.

So I hope that we will defeat this effort.

EXHIBIT 1

NATIONAL LEAGUE OF FAMILIES OF AMERICAN PRISONERS AND MISSING IN SOUTHEAST ASIA,
Washington DC, July 23, 1998.

Hon. BOB SMITH,
Dirksen Senate Office Building,
Washington, DC.

DEAR SENATOR SMITH: The POW/MIA families strongly support the language currently in the Commerce, State, Justice appropriations bill as the best way to motivate the Socialist Republic of Vietnam government to account for Americans still missing from the Vietnam War.

The League is not surprised that the Clinton Administration, faced with another Congressional certification requirement, prefers broad language that is politically easier to finesse, than specific criteria that must be met. However, at the League's 29th Annual Meeting, U.S. Ambassador to Vietnam, the Honorable Douglas ''Pete'' Peterson, expressed frustration that the language was too broad, requiring either certification of full cooperation or nothing, leaving no room for incremental judgments.

The League's position is based upon past and current official assessments of what Vietnam can do unilaterally to account for missing Americans. Unilateral actions do not simply mean support for joint field operations, a necessary process in the longer term, but steps by the government of Vietnam to locate and return identifiable remains and provide relevant documents that are still being withheld.

Congress has the ability to stand behind those who serve—past, present and future—by retaining the language in the Committee's bill. Efforts by Senators John Kerry and John McCain to remove this language may be well-intended, but are illogical. There is no risk that Vietnam will halt bilateral POW/MIA cooperation and risk achieving their priority mission of MFN. By retaining the Committee's language, Congress can signal it recognizes that more can and should be done by Vietnam on this issue of stated highest national priority to the Clinton Administration and understandable importance to the American people.

Please stand with the POW/MIA families and America's veterans and oppose the Kerry/McCain amendment to remove relevant POW/MIA language.

Respectfully,

ANN MILLS GRIFFITHS,
Executive Director.

NATIONAL ALLIANCE OF FAMILIES,
Bellevue, WA, July 21, 1998.

Hon. ROBERT SMITH,
Dirksen Building,
Washington, DC.

DEAR SENATOR SMITH: The membership of the National Alliance of Families strongly opposes any effort to weaken the Committee's language which is already in the Commerce, Justice, and State, the Judiciary Appropriations Bill No. S.2260 for the fiscal year 1999 in respect to the POW/MIA Accounting (Sec. 405).

We support your efforts on behalf of our loved ones who still remain Prisoner of War and/or Missing in Action from the Vietnam War.

Thank you for your generous and strong dedication to those men who have served their Country these many years.

Sincerely,

DOLORES APODACA ALFOND,
National Chairperson.

AN OPEN LETTER TO PRESIDENT CLINTON FROM FORMER U.S. POWS

AMERICAN DEFENSE INSTITUTE,
Alexandria, VA, July 10, 1995.

The Honorable WILLIAM J. CLINTON,
President of the United States,
The White House, Washington, DC.

DEAR MR. PRESIDENT: As former U.S. Prisoners of war during the Vietnam Conflict, we are writing to request you not to establish normal diplomatic relations with Vietnam until you can certify that there has been full disclosure and cooperation by Hanoi on the POW/MIA issue. While we appreciate Vietnam's support for U.S. crash site recovery and archival research efforts, we know firsthand Vietnam's ability to withhold critical information while giving the appearance of cooperation. We were all subjected to such propaganda activity during the war, and we would be the least surprised if Hanoi was continuing to use similar tactics in its dealings with the United States.

Of particular concern to us are the several hundred POW/MIA cases involving our fellow servicemen who were captured or lost in enemy-controlled areas during the war, yet they still have not been accounted for by Vietnam. We understand that much of the fragmentary information provided by Vietnamese officials to date indicates they could do more to resolve these cases.

Some of our fellow servicemen became missing during the same incidents which we survived. They have not been accounted for. Some were captured and never heard from again. They have not been accounted for. Some were known to have been held in captivity for several years and their ultimate fate has still not been satisfactorily resolved. They have not been accounted for. Still others were known to have died in captivity, yet their remains have not been repatriated to the United States. They have not been accounted for.

Finally, we remain deeply concerned with reports from U.S. and Russian intelligence sources that maintain several hundred unidentified American POWs were held separately from us during the war, in both Laos and Vietnam, and were not released by Hanoi during Operation Homecoming in 1973. Many of these reports have yet to be fully investigated.

America deserves straightforward answers if Vietnam really wants normalized diplomatic and economic relations. If Vietnam truly has nothing to hide on the POW/MIA issue, then why have they not released their wartime politburo and prison records on American POWs and MIAs? Why have they not fully disclosed other military records on POWs and MIAs?

We would only be compounding a national tragedy if we normalized relations with Hanoi before you, as Commander in Chief, can tell us Hanoi is being fully forthcoming in accounting for our missing comrades.

Perhaps more than any other group of Americans, we want to put the war behind us. But it must be done in an honorable way. We, therefore, ask you to send a clear message to Hanoi that America expects full cooperation and disclosure on American POWs and MIAs before agreeing to establish diplomatic and special trading privileges with Vietnam.

Sincerely,

John Peter Flynn, Lt Gen, USAF (ret).
Robinson Risner, Brig Gen, USAF (ret).
Sam Johnson, Member of Congress.
Eugene ''Red'' McDaniel, CAPT, USN (ret).
John A. Alpers, Lt Col, USAF (ret).
William J. Baugh, Col, USAF (ret).
Adkins, C. Speed, MAJ, USA (ret).
F.C. Baldock, CDR, USN (ret).
Carroll Beeler, CAPT, USN (ret).
Terry L. Boyer, Lt Col, USAF (ret).
Cole Black, CAPT, USN (ret).
Paul G. Brown, LtCol, USMC (ret).
David J. Carey, CAPT, USN (ret).
John D. Burns, CAPT, USN (ret).
James V. DiBernado, LtCol, USMC (ret).
F.A.W. Franke, CAPT, USN (ret).
Wayne Goodermote, CAPT, USN (ret).
Jay R. Jensen, Lt Col, USAF (ret).
James M. Hickerson, CAPT, USN (ret).
James F. Young, Col, USAF (ret).
J. Charles Plumb, CAPT, USN (ret).
Larry Friese, CDR, USN (ret).
Julius Jayroe, Col, USAF (ret).
Bruce Seeber, Col, USAF (ret).
Konrad Trautman, Col, USAF (ret).
Lawrence Barbay, Lt Col, USAF (ret).
Ron Bliss, Capt, USAF (ret).
Arthur Burer, Col, USAF (ret).
James O. Hivner, Col, USAF (ret).
Gordon A. Larson, Col, USAF (ret).
Robert Lewis, MSgt, USAF (ret).
James L. Lamar, Col, USAF (ret).
Armand J. Myers, Col, USAF (ret).
Terry Uyeyama, Col, USAF (ret).
Richard D. Vogel, Col, USAF (ret).
Ted Guy, Col, USAF (ret).
Paul E. Galanti, CDR, USN (ret).
Laird Guttersen, Col, USAF (ret).
Lawrence J. Stark, Civ.
Michael D. Benge, Civ.
Marion A. Marshall, Lt Col, USAF (ret).
Richard D. Mullen, CAPT, USN (ret).
Philip E. Smith, Lt Col, USAF (ret).
William Stark, CAPT, USN (ret).
David F. Allwine, MSgt, USAF (ret).
Bob Barrett, Col, USAF (ret).
Jack W. Bomar, Col, USAF (ret).
Larry J. Chesley, Lt Col, USAF (ret).
C.D. Rico, CDR, USN (ret).
Robert L. Stirm, Col, USAF (ret).
Bernard Talley, Col, USAF (ret).
Paul Montague, Civ.
Leo Thorsness, Col, USAF (ret).
Robert Lerseth, CAPT, USN (ret).
Ray A. Vodhen, CAPT, USN (ret).
Richard G. Tangeman, CAPT, USN (ret).
John Pitchford, Col, USAF (ret).
Steven Long, Col, USAF (ret).
Brian Woods, CAPT, USN (ret).
Dale Osborne, CAPT, USN (ret).
Ralph Galati, Maj, USAF (ret).
Ronald M. Lebert, Lt Col, USAF (ret).
Harry T. Jenkins, CAPT, USN (ret).
John C. Ensch, CAPT, USN (ret).
Render Crayton, CAPT, USN (ret).
Henry James Bedinger, CDR, USN (ret).
Brian D. Woods, CAPT, USN (ret).
Read B. Mecleary, CAPT, USN (ret).
Ted Stier, CDR, USN (ret).
James L. Hutton, CAPT, USN (ret).
John H. Wendell, Lt Col, USAF (ret).
John W. Clark, Col, USAF (ret).
Carl B. Crumpler, Col, USAF (ret).
Verlyne W. Daniels, CAPT, USN (ret).
Roger D. Ingvalson, Col, USAF (ret).

THE AMERICAN LEGION,
Washington, DC, September 18, 1997.

Hon. JUDD GREGG,
Chairman, Subcommittee on Commerce, Justice, State, and Judiciary, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR SENATOR GREGG: The American Legion urges you and your colleagues to retain in conference the Senate-passed language on the POW/MIA Issue and U.S. relations with Vietnam (Sec. 406) in the Commerce, Justice, State, and Judiciary Appropriations bill for the Fiscal Year beginning October 1, 1997.

As you know, Section 406 states no funds will be made available for U.S. diplomacy with Vietnam, beyond what existed prior to July 11, 1995, until President Clinton certifies to Congress that Vietnam is ''fully cooperating'' on the POW/MIA issue based on a ''formal assessment of all information available to the U.S. Government.''

This new certification will be critical in view of the Senate's findings this past April, during the debate that took place during Pete Peterson's confirmation hearing as Ambassador to Vietnam. Most importantly, The President's certification last year was ''seriously flawed'' and not the result of a careful and thorough analysis of the facts.

Section 406 is vital to letting communist Vietnam know that their full cooperation, which includes unilateral cooperation, in accounting for our missing and captured personnel from the Vietnam War is still a precondition to full normalization of relations.

At The American Legion's 79th National Convention earlier this month, our delegates unanimously reaffirmed our policy that insists on the fullest cooperation before any further favorable actions towards Vietnam be taken.

Again, we urge you in the strongest possible terms, to retain the Senate-passed language on the POW/MIA issue.

Thank you for your continuing cooperation and support.

ANTHONY G. JORDAN,
National Commander.

The PRESIDING OFFICER. The Senator's 7 minutes have expired.

Mr. SMITH of New Hampshire. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. KERRY. Madam President, I yield myself 2 minutes.

Senator MCCAIN is chairing a committee; otherwise, he would be here. Senator HAGEL also wanted to speak in favor of my amendment, but he had to go away for a moment. I don't know if he will return in time.

Let me say to colleagues that for the families and for the legitimate concerns of all those groups that want to make sure that this process is working properly, they can look with pride to the fact that we are engaged in the most expensive, most thorough, most effective, most extraordinary and comprehensive effort to provide for the accounting of the missing in the history of human warfare.

No country has ever before, in all of human history, gone to the lengths that we have gone to, to try to account for our missing and our lost in the course of a war. That is what we are doing today. There is, in the current law, a requirement that the President certify that, based upon all information available to the U.S. Government, that Vietnam is fully cooperating in good faith with the United States in resolving discrepancy cases, live sightings, field activities, recovering and repatriating American remains, accelerating efforts to help provide documents that would lead to the fullest possible accounting of prisoners of war and the missing in action, providing further assistance in implementing trilateral investigations with Laos, and recovering all archival eyewitness accounts, and so forth.

That is the current law. What the Senator from New Hampshire seeks to do is place a whole lot of new hoops in, some of which can't be met because the intelligence community itself is divided over it. Then they have a whole new way of arguing, saying that, gee, we are not doing the job. There is even a requirement in his section 405 about a specific document that has to be resolved, the main intelligence directorate and ministry of defense of the Soviet Union document of 1971. This has been analyzed extensively by our intelligence community. Let me just say that document has been found to be in error, inaccurate. And to have us now argue about it is a waste of the time, I think, of the standard.

I reserve the remainder of my time.

Mr. SMITH of New Hampshire. Madam President, with all due respect of my colleague, on that last point, this is a document entitled the Comprehensive Report of the U.S.-Russia Joint Commission on POWs/MIAs, of which Senator John KERRY is a member, and I am, as well as others. In that document, which Senator KERRY signed, is this phrase:

There is debate within the U.S. side of the commission as to whether the numbers cited in these reports are plausible. The U.S. Government has concluded that there probably is more information in Vietnamese party and military archives that could shed light on these documents. But, to date, such information has not been provided by the Vietnamese government.

That is an absolute statement signed by Senator KERRY, which goes exactly in the opposite direction of what the Senator is trying to do by striking the language. It says simply that the Vietnamese have not provided all of the information. This commission says so and it was signed by the Senator himself. So I do not understand how the Senator can sign one document and come to the floor and try to strike all the language that supports the document that he signed. I think the whole matter is just subject to great criticism in that regard alone.

In addition, I have a letter from Sandy Berger, the President's National Security Adviser, that says, ''Vietnam's full faith efforts in cooperating on this issue are essential to the development of the relationship.''

We have that in our language. In addition, there is another letter from Mr. Berger, dated April 10, 1997. The previous one was August 15, 1997. The same point: We will continue efforts already underway to require additional information on these documents, the 735 document, including access to this document, and on and on and on—all of these relating directly to the language.

In addition, the Senator from Arizona, who I understand is supporting the Senator from Massachusetts, said on the floor of the Senate on April 10, Madam President:

I thank [the Senator from New Hampshire] because if it had not been for him, this very important letter from the White House would not have come to our leader signed by Sandy Berger, Assistant to the President for National Security Affairs. It lays out a very important set of priorities for further actions that need to be taken by the United States and by the Vietnamese so that we can finally put this difficult chapter behind us.

That is exactly what we are doing in this language, laying out this series of priorities. It is updating it and laying out the priorities. I urge my colleagues to simply look at 405 and respect the wishes of the families and veterans groups and others, and please keep the language in there for the sake of those people who have suffered so much throughout this process.

I yield the floor.

Mr. KERRY. Madam President, I yield myself the balance of time. My colleagues know there is nobody in the U.S. Senate more committed to finding out what happened than our colleague, Senator JOHN MCCAIN, who spent 6 years-plus of his life in a prison in Vietnam. Senator MCCAIN understands very clearly, as others of us do, that a few years ago, there were 196 individuals on the list of last known alive in Vietnam. In the last few years, because of our efforts, we have determined the fate for all but 43 of those 196. The Defense Department is opposed to the language the Senator from New Hampshire has put in the bill because they say it will set back our effort to get the answers on the other 43. The administration is opposed to it. I believe that, in good conscience, the Senate should be opposed to that language because it will set back our efforts and set back our progress.

Mr. GREGG. Has all time expired?

The PRESIDING OFFICER. Yes.

Mr. GREGG. I move to table the Kerry amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

At the moment, there is not a sufficient second.

Mr. GREGG. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GREGG. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Madam President, I move to table the Kerry amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The vote will occur in sequence at a later time.

Who seeks recognition?

Mr. GREGG. Madam President, I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GREGG. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NOS. 3277, 3278, AND 3279, EN BLOC

Mr. GREGG. Madam President, I send amendments to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Hampshire (Mr. GREGG), for himself and Mr. HOLLINGS, proposes amendments numbered 3277, 3278, and 3279 en bloc.

Mr. GREGG. Madam President, I ask unanimous consent that reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 3277

TITLE V—INDEPENDENT AGENCIES

FEDERAL COMMUNICATIONS COMMISSION

On page 105, at the end of line 22, insert the following: ''*Provided further*, That any two stations of that are primary affiliates of the same broadcast network within any given designated market area authorized to deliver a digital signal by November 1, 1998 must be guaranteed access on the same terms and conditions by any multichannel video provider (including off-air, cable and satellite distribution).''

AMENDMENT NO. 3278

At the end of title IV, insert the following new sections:

SEC. . None of the funds appropriated or otherwise made available by this Act of any other Act for fiscal year 1999 or any fiscal year thereafter may be expended for the operation of a United States consulate or diplomatic facility in Jerusalem unless such consulate or diplomatic facility is under the supervision of the United States Ambassador to Israel.

SEC. . None of the funds appropriated or otherwise made available by this Act of any other Act for fiscal year 1999 or any fiscal year thereafter may be expended for the publication of any official government document which lists countries and their capital cities unless the publication identifies Jerusalem as the capital of Israel.

SEC. . For the purposes of the registration of birth, certification of nationality, or issuance of a passport of a United States citizen born in the city of Jerusalem, the Secretary of State shall, upon request of the citizen, record the place of birth as Israel.

AMENDMENT NO. 3279

At the end of the bill insert the following new title:

TITLE —

SECTION 1. SHORT TITLE.

This title may be cited as the ''National Whale Conservation Fund Act of 1998''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the populations of whales that occur in waters of the United States are resources of substantial ecological, scientific, socio-economic, and esthetic value;

(2) whale populations—

(A) form a significant component of marine ecosystems;

(B) are the subject of intense research;

(C) provide for a multimillion dollar whale watching tourist industry that provides the public an opportunity to enjoy and learn about great whales and the ecosystems of which the whales are a part; and

(D) are of importance to Native Americans for cultural and subsistence purposes;

(3) whale populations are in various stages of recovery, and some whale populations, such as the northern right whale (Eubaleana glacialis) remain perilously close to extinction;

(4) the interactions that occur between ship traffic, commercial fishing, whale watching vessels, and other recreational vessels and whale populations may affect whale populations adversely;

(5) the exploration and development of oil, gas, and hard mineral resources, marine debris, chemical pollutants, noise, and other anthropogenic sources of change in the habitat of whales may affect whale populations adversely;

(6) the conservation of whale populations is subject to difficult challenges related to—

(A) the migration of whale populations across international boundaries;

(B) the size of individual whales, as that size precludes certain conservation research procedures that may be used for other animal species, such as captive research and breeding;

(C) the low reproductive rates of whales that require long-term conservation programs to ensure recovery of whale populations; and

(D) the occurrence of whale populations in offshore waters where undertaking research, monitoring, and conservation measures is difficult and costly;

(7)(A) the Secretary of Commerce, through the Administrator of the National Oceanic and Atmospheric Administration, has research and regulatory responsibility for the conservation of whales under the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.); and

(B) the heads of other Federal agencies and the Marine Mammal Commission established

under section 201 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1401) have related research and management activities under the Marine Mammal Protection Act of 1972 or the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(8) the funding available for the activities described in paragraph (8) is insufficient to support all necessary whale conservation and recovery activities; and

(9) there is a need to facilitate the use of funds from non-Federal sources to carry out the conservation of whales.

SEC. 3. NATIONAL WHALE CONSERVATION FUND.

Section 4 of the National Fish and Wildlife Establishment Act (16 U.S.C. 3703) is amended by adding at the end the following:

''(f)(1) In carrying out the purposes under section 2(b), the Foundation may establish a national whale conservation endowment fund, to be used by the Foundation to support research, management activities, or educational programs that contribute to the protection, conservation, or recovery of whale populations in waters of the United States.

''(2)(A) In a manner consistent with subsection (c)(1), the Foundation may—

''(i) accept, receive, solicit, hold, administer, and use any gift, devise, or bequest made to the Foundation for the express purpose of supporting whale conservation; and

''(ii) deposit in the endowment fund under paragraph (1) any funds made available to the Foundation under this subparagraph, including any income or interest earned from a gift, devise, or bequest received by the Foundation under this subparagraph.

''(B) To raise funds to be deposited in the endowment fund under paragraph (1), the Foundation may enter into appropriate arrangements to provide for the design, copyright, production, marketing, or licensing, of logos, seals, decals, stamps, or any other item that the Foundation determines to be appropriate.

''(C)(i) The Secretary of Commerce may transfer to the Foundation for deposit in the endowment fund under paragraph (1)—

''(I) any amount (or portion thereof) received by the Secretary under section 105(a)(1) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1375(a)(1)) as a civil penalty assessed by the Secretary under that section; or

''(II) any amount (or portion thereof) received by the Secretary as a settlement or award for damages in a civil action or other legal proceeding relating to damage of natural resources.

''(ii) The Directors of the Board shall ensure that any amounts transferred to the Foundation under clause (i) for the endowment fund under paragraph (1) are deposited in that fund in accordance with this subparagraph.

''(3) It is the intent of Congress that in making expenditures from the endowment fund under paragraph (1) to carry out activities specified in that paragraph, the Foundation should give priority to funding projects that address the conservation of populations of whales that the Foundation determines—

''(A) are the most endangered (including the northern right whale (Eubaleana glacialis)); or

''(B) most warrant, and are most likely to benefit from, research managment, or educational activities that may be funded with amounts made available from the fund.

''(g) In carrying out any action on the part of the Foundation under subsection (f), the Directors of the Board shall consult with the Administrator of the National Oceanic and Atmospheric Administration and the Marine Mammal Commission.''.

Mr. GREGG. Madam President, I ask unanimous consent that the amendments be agreed to.

The PRESIDING OFFICER. Is there objection?

If there is no further debate, without objection, the amendments are agreed to en bloc.

The amendments (Nos. 3277, 3278, and 3279), en bloc, were agreed to.

Mr. GREGG. Madam President, I move to reconsider the vote by which the amendments were agreed to.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GREGG. Madam President, to bring our colleagues up to speed, we now are down to four amendments which are still to be debated and on which votes may be ordered. We presently have votes ordered on at least three amendments. We are waiting for our colleagues who have these amendments in order to come to the floor and make their presentations. It looks as if we will begin voting probably in an hour or so, I hope. There will be a sequence of votes that will be at least three long, potentially six.

Madam President, I make a point of order a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LIEBERMAN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3280

(Purpose: To express the sense of the Senate regarding the impact of Japan's recession on the economies of East and Southeast Asia and the United States)

Mr. LIEBERMAN. Madam President, I have an amendment which I send to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. LIEBERMAN], for himself, Mr. THOMAS, Mr. GRAHAM, Mr. LUGAR, Mr. BINGAMAN, Mr. MACK, Mr. DURBIN, Mr. INHOFE, Mr. KOHL, Mr. REID, Mr. BREAUX and Mr. BROWNBACK, proposes an amendment numbered 3280.

Mr. LIEBERMAN. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER (Mr. SMITH of New Hampshire). Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title VI, insert the following new section:

SEC. 6___. SENSE OF THE SENATE REGARDING JAPAN'S RECESSION.

(a) FINDINGS.—Congress makes the following findings:

(1) The United States and Japan share common goals of peace, stability, democracy, and economic prosperity in East and Southeast Asia and around the world.

(2) Japan's economic and financial crisis represents a new challenge to United States-Japanese cooperation to achieve these common goals and threatens the economic stability of East and Southeast Asia and the United States.

(3) A strong United States-Japanese alliance is critical to stability in East and Southeast Asia.

(4) The importance of the United States-Japanese alliance was reaffirmed by the President of the United States and the Prime Minister of Japan in the April 1996 Joint Security Declaration.

(5) United States-Japanese bilateral military cooperation was enhanced with the revision of the United States Guidelines for Defense Cooperation in 1997.

(6) The Japanese economy, the second largest in the world and over 2 times larger than the economy in the rest of East Asia, has been growing at a little over 1 percent annually since 1991 and is currently in a recession with some forecasts suggesting that it will contract by 1.5 percent in 1998.

(7) The estimated $574,000,000,000 of problem loans in Japan's banking sector and other problems associated with an unstable banking sector remain the major roadblock to economic recovery in Japan.

(8) The recent weakness in the yen, following a 10 percent depreciation of the yen against the dollar over the last 5 months and a 45 percent depreciation since 1995, has placed competitive price pressures on United States industries and workers and is putting downward pressure on China and the rest of the economies in East and Southeast Asia to begin another round of competitive currency devaluations.

(9) Japan's current account surplus has increased by 60 percent over the last 12 months from 71,579,000,000 yen in 1996 to 114,357,000,000 yen in 1997.

(10) A period of deflation in Japan would lead to lower demand for United States products.

(11) The unnecessary and burdensome regulation of the Japanese market constrains Japanese economic growth and raises costs to business and consumers.

(12) Deregulating Japan's economy and spurring economic growth would ultimately benefit the Japanese people with a higher standard of living and a more secure future.

(13) Japan's economic recession is slowing the growth of the United States gross domestic product and job creation in the United States.

(14) Japan has made significant efforts to restore economic growth with a 16,000,000,000,000 yen stimulus package that includes 4,500,000,000,000 yen in tax cuts and 11,500,000,000,000 yen in government spending, a Total Plan to restore stability to the private banking sector, and joint intervention with the United States to strengthen the value of the yen in international currency markets.

(15) The people of Japan expressed deep concern about economic conditions and government leadership in the Upper House elections held on July 12, 1998.

(16) The Prime Minister of Japan tendered his resignation on July 13, 1998, to take responsibility for the Liberal Democratic Party's poor election results and to acknowledge the desire of the people of Japan for new leadership to restore economic stability.

(17) Japan's economic recession is having an adverse effect on the economy of the United States and is now seriously threatening the 9 years of unprecedented economic expansion in the United States.

(18) Japan's economic recession is having an adverse effect on the recovery of the East and Southeast Asian economies.

(19) The American people and the countries of East and Southeast Asia are looking for a demonstration of Japanese leadership and

close United States-Japanese cooperation in resolving Japan's economic crisis.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the President, the Secretary of the Treasury, and the United States Trade Representative should emphasize the importance of financial deregulation, including banking reform, market deregulation, and restructuring bad bank debt as fundamental to Japan's economic recovery; and

(2) the President, the Secretary of the Treasury, the United States Trade Representative, the Secretary of Commerce, and the Secretary of State should communicate to the Japanese Government that the first priority of the new Prime Minister of Japan and his Cabinet should be to restore economic growth in Japan and promote stability in international financial markets.

Mr. LIEBERMAN. Mr. President, I rise today to offer this bipartisan amendment, a sense-of-the-Senate resolution expressing our concern about the impact of Japan's recession on the economies of East Asia, Southeast Asia and the United States, and particularly appealing to the members—our colleagues and friends—of the Liberal Democratic Party in Japan, which is meeting tomorrow to choose their new president, who will in turn become the next Prime Minister of Japan—to be mindful of the very profound and friendly concern that we have in the U.S. Senate about the condition of the Japanese economy, about its impact on the people of Japan, of Asia, and indeed, of the United States.

I am privileged to offer this bipartisan amendment on behalf of Senators THOMAS, GRAHAM, LUGAR, BINGAMAN, BROWNBACK, DURBIN, KOHL, REID, MACK, BREAUX and INHOFE.

For almost a half century, the United States has worked with Japan for the common goals of peace, stability, democracy and prosperity in East Asia and the world. However, in the face of the deepening Asian economic crisis, this alliance currently faces what may be its toughest challenge yet.

So far, the United States has survived the Asian crisis relatively unscathed, thanks to our long-lived boom economy. But I fear that good fortune may now be ending. By some estimates, worldwide GDP growth will drop from 3.7 percent this year to 2.4 percent next year. Analysts have attributed plummeting commodity prices to the Asian crisis in this country and throughout the world. A major dropoff in demand for U.S. products in Asia has pushed the trade deficit well beyond expectations to a record $15.75 billion—15 and three-quarters billion—this May. Industrial production in OECD countries like the United States has fallen from 5 percent to 2 percent and is expected to fall further again to 1 percent.

The slide of Asian currencies against the dollar has put serious competitive pressures on our exports and another round of competitive devaluations would have devastating consequences on our industries and our workers.

Unquestionably, Mr. President, if the Asian recession continues, its impact on our economy will worsen and millions of Americans will feel what is happening in Japan and Asia.

This bipartisan resolution emphasizes that the strong recovery of the Japanese economy, which remains by far the largest in Asia, comprising fully two-thirds of the Asian economy, will make or break the region. With every subsequent analysis, the economic picture in Japan darkens.

Japan's financial system has fundamental flaws which have only recently been brought to light, but which most everyone now acknowledges, and the wide scope of their ramifications continues to unsettle and surprise economists. Bad bank loans in Japan account for $574 billion in debt in banks in Japan which claimed to be solvent only recently, a problem which is perpetuated by a weak auditing system. Formal and informal barriers severely restrict free competition, often holding foreign market share in certain sectors down below 5 percent. The yen continues to fall, down 45 percent against the dollar since 1995. Further devaluation of the yen could lead to a devaluation of the Chinese yuan, an event which would have significant ramifications, and bad ones, for the entire global economy, particularly for us in the United States.

All of these factors have led to substantial and understandable dissatisfaction among the Japanese people which they expressed earlier this month, with surprising clarity to many people, in a historic election for the Upper House of Parliament. The ruling Liberal Democratic Party lost 17 of its 61 seats and the primary opposition party, the Democratic Party of Japan, picked up nine members to reach a total of 47 seats in the Upper House. These election results should be taken very seriously in the United States. The situation is bad in Japan, the people of Japan know it, and without change, it will get worse.

It is today axiomatic that we live and work in a global economy. When an economic crisis of this magnitude hits a country as large and significant as Japan, the entire world feels the impact; particularly we feel it. Japan is, after all, our second largest trading partner. Japan imported almost $66 billion of American goods last year. That is more than four times the import of American goods into China, in spite of its much larger population. With 40 percent of American total agricultural product going abroad, the Asian economic crisis is, of course, having a very negative impact on American farmers.

It is no surprise that we are suffering along with East Asia. Without a rally by the Asian economies, American growth will fall off. By all accounts, a stable Japan is the first significant step to a broader Asian recovery.

Mr. President, I do want to indicate to my colleagues and the managers of the bill, I am prepared to yield the floor at any point if anyone wishes to proceed. If the managers have other business they want to do at this time, I am prepared to put the rest of my statement in the RECORD. If not, I will be equally prepared to proceed. I thank the managers, noting the nod from the Democratic floor manager.

Japan has taken steps to address its economic troubles. Economic stimulus packages and structural reform committees have been set in place. However, both the vast extent of the reforms necessary and the current political turnover including the resignation of Prime Minister Hashimoto after the election returns, which I have just described, make it imperative that we in the United States place our full support behind the forces of change, bold change, in Japan, lest they lose momentum.

Swift reform hopefully will be a priority in relations between our two nations. We know, of course, the President has been in touch with the leadership of Japan. Secretary Rubin has done the same.

And it seems only proper, and in some sense is necessary, that the Congress of the United States make clear its broad-based concern for the current economic condition of Japan—and here on the eve of the Liberal Democratic Party elections tomorrow, it is our deep hope, our plea, that change be implemented.

So today, along with the distinguished group of Members of both parties, whose names I mentioned earlier, I am pleased to offer this resolution to express to our President and to the Government of Japan that the Senate of the United States is following Japan's economic performance with increasing anxiety and is very concerned about the pressure that Japan's current economic crisis is putting on our overall bilateral relationship.

While we applaud efforts in Japan in assessing the damage and beginning the reform, we need to maintain a strong position supporting the implementation of those reforms, even though we know they will be painful. The resolution that we submit today cites a number of fundamental reforms crucial to recovery in Japan and Asia, including deregulation of the Japanese economy, liberating the creative, innovative forces that are there, improvement of market access for foreign entities wishing to do business in Japan, enforcement of fair trade, and particularly bold and substantial banking reform.

These are all actions which will increase the competitiveness of the Japanese market and of Japanese companies, providing greater opportunities for foreign investment in Japan and for the success of individual Japanese and foreign entrepreneurs.

Mr. President, a more open and healthy Japanese economy is fundamental to the recovery of the entire Asian region.

Seeing no one else on the floor, Mr. President, I ask unanimous consent for 1 more minute to complete this statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. I thank the Chair.

Long into the foreseeable future, Japan will remain one of our most important economic trading partners and strategic allies in the world, sharing our common goals of regional and worldwide prosperity and peace. The importance of our alliance, though, compels us to speak out and place our support behind the most innovative reform efforts in Japan and push for a swift resolution of the economic crisis there.

Earlier this week, the House passed a similar resolution with the overwhelming support of 391 Members—only 2 opposed. Given the urgency of the issue and the value of a unified congressional position, I urge my colleagues to support this bipartisan resolution.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The time of the Senator from Connecticut has expired.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. We yield back all time. Does the Senator wish a vote?

Mr. LIEBERMAN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. GREGG. I suggest the absence of a quorum.

The PRESIDING OFFICER. Under the previous order, the amendment is now set aside.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GREGG. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Mr. President, at this time I ask unanimous consent that we now proceed with the four previously ordered votes, two minutes to debate prior to each vote, and that the three succeeding votes be limited to 10 minutes in duration.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. I thank the Chair.

AMENDMENT NO. 3272

The PRESIDING OFFICER. The order of business is the Nickles amendment numbered 3272. There are 2 minutes of debate equally divided.

Who yields time?

Mr. GREGG. Mr. President, I ask unanimous consent that all time on the Nickles amendment be yielded back.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the Nickles amendment No. 3272.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 53, nays 47, as follows:

[Rollcall Vote No. 230 Leg.]

YEAS—53

Abraham	Faircloth	McCain
Allard	Frist	McConnell
Ashcroft	Gramm	Murkowski
Bennett	Grams	Nickles
Bond	Grassley	Roberts
Boxer	Gregg	Roth
Breaux	Hagel	Santorum
Burns	Helms	Sessions
Byrd	Hollings	Shelby
Campbell	Hutchinson	Smith (NH)
Chafee	Hutchison	Smith (OR)
Cochran	Inhofe	Snowe
Conrad	Inouye	Stevens
Coverdell	Jeffords	Thomas
Craig	Kempthorne	Thurmond
Domenici	Kyl	Warner
Dorgan	Lott	Wyden
Enzi	Lugar	

NAYS—47

Akaka	Feinstein	Lieberman
Baucus	Ford	Mack
Biden	Glenn	Mikulski
Bingaman	Gorton	Moseley-Braun
Brownback	Graham	Moynihan
Bryan	Harkin	Murray
Bumpers	Hatch	Reed
Cleland	Johnson	Reid
Coats	Kennedy	Robb
Collins	Kerrey	Rockefeller
D'Amato	Kerry	Sarbanes
Daschle	Kohl	Specter
DeWine	Landrieu	Thompson
Dodd	Lautenberg	Torricelli
Durbin	Leahy	Wellstone
Feingold	Levin	

The amendment (No. 3272) was agreed to.

Mr. NICKLES. Mr. President, I move to reconsider the vote.

Mr. GREGG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. I ask unanimous consent the next vote on the Bingaman amendment, No. 3273, be passed over and put at the end of the list.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3276

Mr. GREGG. Mr. President, I believe the next vote will be on my motion to table.

The PRESIDING OFFICER. The pending question is now the Kerry amendment, numbered 3276. Under the previous order, there will now be 2 minutes of debate equally divided.

Who yields time?

Mr. KERRY. I yield 30 seconds to the Senator from Arizona.

Mr. MCCAIN. Who goes first, proponents or opponents?

The PRESIDING OFFICER. The Senator from Arizona has been given 30 seconds.

Mr. MCCAIN. All right. Mr. President, this would prevent the opening of a consulate in South Vietnam. At least once a year, sometimes more often, we have to vote on whether we want to make progress on relations with Vietnam or whether we want to go back to a situation which existed for many years after the war. This would prevent the opening of a consulate in South Vietnam. It would basically prohibit us from being able to make progress on the resolution of the POW/MIA issue, which every objective observer in the Pentagon says has been going along well, and it would, frankly, inhibit our ability to reach a full accounting.

I recommend we vote for the Kerry amendment.

The PRESIDING OFFICER. Who yields time?

Mr. KERRY. I yield myself the remainder of the time.

We have the most extensive effort to account for our service people in the history of human warfare, and that effort would be significantly set back by the language the Senator from New Hampshire has put in place because the cooperation of the Vietnamese would be affected by the judgments he asks the President to make.

We keep in place the current law. The current law has worked effectively. Of 196 people we last knew to be alive in Vietnam, we have received information that has told the families of what happened to all but 43 of them. We want the answers for those other 43. The way to do that is by continuing with the current law, not the new language of the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire has 1 minute.

Mr. SMITH of New Hampshire. Mr. President, there is nothing inappropriate at all about continuing the updating of the certification process. The President of the United States still must certify. This does not change that. This does not, as the Senator from Arizona said, close down the consulate at all. It simply says the process, ongoing, is to continue to have the Vietnamese participate fully and cooperate fully with accounting for MIAs. That is all it is.

We have had correspondence from Mr. Berger on this matter. We have had comments from Senator KERRY himself, and Senator MCCAIN, on the floor, indicating this is a process that should work—forward. So there is absolutely no reason to oppose it.

I point out, 70 former POWs have supported what I am doing in a letter, as does the American Legion, as does the League of Families, the Alliance of Families, and VVA, and many others.

I think the evidence is there to say this does not interrupt certification and the amendment of the Senator from Massachusetts should be tabled.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the motion to lay on the table amendment No. 3276. The yeas and nays have been ordered.

The Senators are advised this will be a 10-minute vote.

The clerk will call the roll.

The bill clerk called the roll.

The result was announced, yeas 34, nays 66, as follows:

[Rollcall Vote No. 231 Leg.]

YEAS—34

Ashcroft	Feingold	Lott
Bennett	Frist	Moseley-Braun
Bond	Gramm	Nickles
Brownback	Grams	Reid
Byrd	Grassley	Roberts
Campbell	Gregg	Santorum
Collins	Hatch	Sessions
Coverdell	Helms	Smith (NH)
Craig	Hutchinson	Snowe
D'Amato	Hutchison	Thurmond
Enzi	Inhofe	
Faircloth	Kempthorne	

NAYS—66

Abraham	Feinstein	Mack
Akaka	Ford	McCain
Allard	Glenn	McConnell
Baucus	Gorton	Mikulski
Biden	Graham	Moynihan
Bingaman	Hagel	Murkowski
Boxer	Harkin	Murray
Breaux	Hollings	Reed
Bryan	Inouye	Robb
Bumpers	Jeffords	Rockefeller
Burns	Johnson	Roth
Chafee	Kennedy	Sarbanes
Cleland	Kerrey	Shelby
Coats	Kerry	Smith (OR)
Cochran	Kohl	Specter
Conrad	Kyl	Stevens
Daschle	Landrieu	Thomas
DeWine	Lautenberg	Thompson
Dodd	Leahy	Torricelli
Domenici	Levin	Warner
Dorgan	Lieberman	Wellstone
Durbin	Lugar	Wyden

The motion to lay on the table the amendment (No. 3276) was rejected.

CHANGE OF VOTE

Mr. COVERDELL. On rollcall vote 231, I voted no. It was my intention to vote yea. Therefore, I ask unanimous consent that I be permitted to change my vote. This will in no way change the outcome of the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

Mr. GREGG. I ask unanimous consent to vitiate the yeas and nays on the underlying amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Mr. President, I ask unanimous consent that the underlying amendment be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3276) was agreed to.

Mr. KERRY. I move to reconsider the vote.

The PRESIDING OFFICER. Without objection, motion to lay on the table is agreed to.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3280

The PRESIDING OFFICER. The pending question is now the Lieberman amendment No. 3280. Under the previous order, there will be 2 minutes of debate equally divided.

Mr. LIEBERMAN. Mr. President, little more than 24 hours from now, the members of the Liberal Democratic Party will be meeting in Japan to choose their new head, who will in turn become the next Prime Minister of Japan. In that sense, this resolution, which I have been privileged to introduce with a bipartisan group of cosponsors, the principal cosponsor being Senator THOMAS of Wyoming, the chairman of the Asian Subcommittee of Foreign Relations, this resolution could not come at a better time. It recognizes the importance of our bilateral relationship with Japan, perhaps the most important bilateral relationship we have. It notes the economic crisis in Japan and the way in which it is beginning to affect our economy. Commodity prices are dropping; our import-export balance is being affected; our trade deficit is going up.

It appeals to the leadership of our great ally, Japan, as the Liberal Democratic Party meets tomorrow, to not just choose a new leader but to choose a new bold course which will directly address the economic crisis in that country which is now affecting us. I urge a strong bipartisan vote on this as a message to our friends in Japan.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I don't doubt the sincerity of our dear colleague, who is one of our more respected Members, in offering a sense-of-the-Senate resolution that the Japanese ought to promote economic growth. However, I have to say, having been here to almost midnight last night, it makes little sense to me that we are going to have a 100–0—if everybody is here—rollcall vote on this sense-of-the-Senate resolution when nobody is opposed to Japan having economic growth.

I don't know how we are going to pass the appropriations and adjourn and keep the Government running if we are going to continue to do this. It is not just Democrats, it is Republicans as well.

We are for the amendment, but why we have to have a rollcall vote on it, I don't understand.

I yield the floor.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment numbered 3280. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 2, as follows:

[Rollcall Vote No. 232 Leg.]

YEAS—98

Abraham	Cleland	Ford
Akaka	Coats	Frist
Allard	Cochran	Glenn
Ashcroft	Collins	Gorton
Baucus	Conrad	Graham
Bennett	Coverdell	Gramm
Biden	Craig	Grams
Bingaman	D'Amato	Grassley
Bond	Daschle	Gregg
Boxer	DeWine	Hagel
Breaux	Dodd	Harkin
Brownback	Domenici	Hatch
Bryan	Dorgan	Helms
Bumpers	Durbin	Hollings
Burns	Enzi	Hutchinson
Byrd	Faircloth	Hutchison
Campbell	Feingold	Inhofe
Chafee	Feinstein	Inouye
Jeffords	McCain	Sarbanes
Johnson	McConnell	Sessions
Kempthorne	Mikulski	Shelby
Kennedy	Moseley-Braun	Smith (NH)
Kerry	Moynihan	Smith (OR)
Kohl	Murkowski	Snowe
Kyl	Murray	Specter
Landrieu	Nickles	Stevens
Lautenberg	Reed	Thomas
Leahy	Reid	Thompson
Levin	Robb	Thurmond
Lieberman	Roberts	Torricelli
Lott	Rockefeller	Warner
Lugar	Roth	Wyden
Mack	Santorum	

NAYS—2

Kerrey	Wellstone

The amendment (No. 3280) was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote.

Mr. GREGG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3273

Mr. GREGG. Mr. President, I ask unanimous consent to vitiate the vote on No. 3273, the Bingaman amendment.

The PRESIDING OFFICER (Mr. INHOFE). Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 3273, AS MODIFIED

Mr. HOLLINGS. Mr. President, on behalf of the distinguished Senator from New Mexico, I send a modification to the desk.

The PRESIDING OFFICER. The amendment is modified.

The amendment (No. 3273), as modified, is as follows:

At the appropriate place, insert:

No funds may be used under this Act to process or register any application filed or submitted with the Patent and Trademark Office under the Act entitled ''An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes,'' approved July 5, 1946, commonly referred to as the Trademark Act of 1946, as amended, after the date of enactment of this Act for a mark identical to the official tribal insignia of any federally recognized Indian tribe for a period of one year from the date of enactment of this Act.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment (No. 3273), as modified, was agreed to.

Mr. GREGG. Mr. President, I move to reconsider the vote.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3281

(Purpose: To eliminate the potential for fraud in the investor visa program)

Mr. GREGG. Mr. President, I send an amendment to the desk on behalf of Mr. BUMPERS.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. GREGG], for Mr. BUMPERS, proposes an amendment numbered 3281.

Mr. GREGG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place add the following:

SEC. .

(a) Add the following at the end of 8 U.S.C. 1153(b)(5)(C):

(iv) Definition:

(A) As used in this subsection the term ''capital'' means cash, equipment, inventory, other tangible property, and cash equivalents, but shall not include indebtedness. Nothing in this subsection shall be construed to exclude documents, such as binding contracts, as evidence that a petitioner is in the process of investing capital as long as the capital is not in the form of indebtedness with a payback period that exceeds 21 months;

(B) Assets acquired, directly or indirectly, by unlawful means (such as criminal activities) shall not be considered capital for the purposes of this subsection. A petitioner's sworn declaration concerning lawful sources of capital shall constitute presumptive proof of lawful sources for the purposes of this subsection, although nothing herein shall preclude further inquiry, prior to approval of conditional lawful permanent resident status.

(b) This section shall not apply to any application filed prior to July 23, 1998.

Mr. GREGG. I ask unanimous consent that the amendment be agreed to.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3281) was agreed to.

Mr. GREGG. Mr. President, I move to reconsider the vote.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GREGG. Mr. President, for the information of our colleagues, we now turn to the Smith amendment. Under the terms of the agreement, there will be 40 minutes of debate on this amendment. I expect we will begin voting on final passage and on the Smith amendment no earlier than 3 o'clock and no later than 3:15.

Mr. SMITH of Oregon addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. SMITH of Oregon. Is the Chair prepared to receive an amendment?

The PRESIDING OFFICER. We are prepared. Under the previous order, there will be 20 minutes equally divided and then 20 minutes on the second-degree amendment.

Mr. GREGG. Will the Senator from Oregon yield?

Mr. SMITH of Oregon. Yes.

Mr. GREGG. As I understand, there has been an agreement reached between the parties here that there will be 40 minutes of debate equally divided between the Senator from Oregon, who will control half of that time, and the Senator from Massachusetts, who will control half of that time. Is that correct?

Mr. SMITH of Oregon. That is correct.

Mr. GREGG. I ask unanimous consent that be the procedure under which we function.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 3258

(Purpose: To establish a system of registries of temporary agricultural workers to provide for a sufficient supply of such workers and to amend the Immigration and Nationality Act to streamline procedures for the admission and extension of stay of nonimmigrant agricultural workers, and for other purposes)

Mr. SMITH of Oregon. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oregon [Mr. SMITH], for himself, Mr. WYDEN, Mr. CRAIG, Mr. GRAHAM, Mr. GORTON, Mr. BUMPERS, Mr. HATCH, Mr. MCCONNELL, Mr. MACK, Mr. KEMPTHORNE, Mr. SANTORUM, Mr. FAIRCLOTH, and Mr. THURMOND, proposes an amendment numbered 3258.

Mr. SMITH of Oregon. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. SMITH of Oregon. Mr. President, I rise today along with Senators WYDEN, CRAIG, GRAHAM of Florida, BUMPERS, GORTON, HATCH, MCCONNELL, MACK, KEMPTHORNE, SANTORUM, FAIRCLOTH, and THURMOND to offer the Agricultural Jobs, Opportunity, Benefits and Security Act of 1999, also known as AgJOBS. Our bill will create a streamlined guest worker program to allow a reliable supply of legal, temporary, agricultural workers.

Why is this necessary? Currently, in this country, we have a process for guest workers that is terribly broken. The H–2A program, if I could show you graphically, has a 6-page application for each worker, with 325 pages of instructions as to how to fill it out. As a consequence, all of the foreign workers who are in this country are here either illegally or having been grandfathered in through earlier amnesties.

It is estimated by the GAO that 40 percent of those who are here are illegal. As a consequence of that, the GAO has said there is not a farm labor supply problem because we have all these illegal aliens here. I am simply saying, and I am doing it on a bipartisan basis, we owe this country something better than a system that relies upon illegal immigration. We ought to give these foreign workers the dignity of being here under law, with some basic human standards and some benefits to which they ought to be entitled when they are here. It is for that reason that Senator WYDEN and I have approached the farm community and asked them to give as much as they can, to help economically to fix this program. I believe they have responded. It is for that reason there are so many Republicans and Democrats on this bill.

I know there are still some misgivings. I know my friend from Massachusetts has misgivings; the Senators from California do. But what we want to do is get this bill to a conference committee with some place markers so we can provide a forum where this can be further refined. Let me tell you the kinds of features Senator WYDEN and I share in a common desire to ultimately change American law in a very fundamental way in order to avoid a very large crisis for consumers, for farm employers, and for farm workers.

We are proposing in this bill the establishment of a national registry which will replace the current system that so few are able to use, even if they could afford to use it. This is going to be a registry for domestic workers only, in a way that will allow farmers to know where they can go for workers and where they can have legal status. In exchange for this, there will be added to the current system—we are going to preserve all the basic rights that are guaranteed; all the labor guarantees that are there will remain there. We are going to have a prevailing wage rate, something that reflects a level that the agricultural community can afford, and also one that gives probably in excess of 1.5 million farm workers a pay raise. We are not talking about the minimum wage, we are talking about a prevailing wage plus 5 percent.

In addition to that, we are talking about a transportation allowance and a housing allowance. These are things that we owe those who come here to this country to do agricultural work. These are things which my friends on the left have been asking for, for a long, long time. I am here to say the time is now to say yes. We are saying yes to that. We are doing it on a basis, though, that recognizes the economics of the farmer also, because the truth is, most of the agricultural employers in this country are not big corporate farms, they are mom and pop who are trying to make a bottom line. They do not even control, in most cases, the price that they get for their commodities.

We believe—Senator WYDEN and I and Senator GRAHAM of Florida, who has been so helpful on this, and others on the Democrat side—that we have found the middle ground here that wins for consumers but, more important, wins for agricultural workers and also for farmers.

With that, I yield time to my colleague from Oregon, whose help I appreciate very much, Senator WYDEN.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I hope this amendment is just the beginning of the debate on agricultural labor. But I believe that the legislation before the Senate is based on three principles that can last well into the 21st century and be in the interests of both farm workers and farm employers.

The first principle on which this amendment is based is that the U.S. worker must come first—that U.S. workers, for example, when they participate in the registry, will have the right of first refusal to any available farm job in our country, and that the Federal Government is required to notify those workers about available positions.

Second, this amendment brings before the Senate specific changes proposed over the years by the Farm Worker Justice Fund to improve working conditions for the farm workers in our country.

Third, it will replace the current dysfunctional system for administering this program with one that is modern and is based on the use of computer technology.

At every step along the way, this package tries to address specific concerns raised by worker advocates, as well as those advocating for the growers. My colleague, Senator SMITH, talked about the registry. If a U.S. worker participates in the registry, that worker is entitled to benefits that U.S. workers are not entitled to today, such as housing and transportation. And the registry also seeks to address the concerns of growers, specifically, by saying that when a grower utilizes this registry, the grower can then be certain that there is a presumption that their workers are legal.

The last point I would like to raise, because I know many of my colleagues want to speak and have important questions, deals with exactly the number of people involved in farm labor in our country. This is the centerpiece of the question. We have heard a lot of talk on the floor of the Senate about a guest worker program. There are very few legal guest workers. There are 1.6 million farm workers in our country and perhaps 25,000 guest workers who are here legally under the current program. The 1.6 million farm workers, who work on those farms, have virtually no legal entitlements other than to the minimum wage. So what this legislation does is it potentially extends basic worker protections to a far greater share of that 1.6 million pool of workers, save 25,000. It will create a circumstance in which hundreds of thousands more farm workers get access to housing and transportation and other benefits that they do not have today.

I know this is a new concept, but it is an important one because what this amendment seeks to do is to change the nature of the system so we can make sure the bulk of our workers are legal in America. The General Accounting Office made the judgment that there was no shortage of workers in America, but they concluded that way because they counted illegal workers. Right now, any grower can tell you that their workers may appear to be legal, but that the Social Security Administration often rejects more than half of the Social Security numbers filed. So what we have is a situation with growers caught between being penalized because they cannot find legal workers or being felons because their workers are not legal.

I believe workers deserve better and growers deserve better. That is what this amendment does. I appreciate Senator SMITH giving me this time from the allotment that he has.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I join with my colleagues from Oregon, both of my colleagues from Oregon, and certainly the Senator from Florida, who have worked with us to craft the legislation that is now before you.

For several years, I have tried to deal with the H–2A problem, only to be unsuccessful. I must tell you, Mr. President, I have watched the problem grow across America in a most inhumane way because the workforce is needed and the workers come. They come across our borders illegally, they are subjected to inhumane environments, in many instances, and, as a result, a great problem has grown, not only for a workforce seeking work, but also for the individual or individuals who provide the work, American agriculture. We have here a rare opportunity. It is an opportunity to fix a problem before it truly becomes a crisis on both sides. And in fixing that problem, my colleagues from Oregon and Florida, and myself involved, have attempted to approach it in a very commonsense way. That is to avoid the conflicts for millions of Americans, and recognizes, as Senator WYDEN just said, that the American worker should come first, but in a state of near full employment where the unemployable, or those who choose not to work, are the only ones remaining. Clearly, we are at a point of crisis, and we must offer that opportunity to farm labor, to those who are willing to, and under a condition now that I think is much more presentable.

Growers want and need a stable and predictable workforce, a legal workforce. They don't like playing around the edges of illegality. Let us make this workforce legal under the conditions that have been spelled out in this legislation. I think that provides a good, fair, market-based compensation. Prevailing wage is the wage issue here, and that is as it should be.

Unemployed workers, and those hoping to move from welfare to work, want and need to be matched up with decent jobs. That is what our society ought to be directed toward. American citizens should have first claim, as I said, to American jobs, but all workers would rather be working legally and hope for protection of basic labor standards.

These goals are not always met. In fact, current Federal law and its bureaucratic implementation are hurting growers and workers which have created a system that has created a monstrous bureaucracy. The Senator from Oregon talks of the multitude of pages necessary and in an attempt to determine who is and who isn't legal, of course, the employer oftentimes being held liable.

This is why I am pleased I can join with my colleagues in proposing what I think is phenomenally constructive reform in the H–2A Agricultural Guest Worker Program. Failure to fix or replace this program means the Federal Government is completely ignoring the needs of a significantly changed agricultural labor market.

Many employers who meet legal standards of diligence when they hire a worker really have no idea if the next raid by the Immigration and Naturalization Service will scare off their workforce and their crops will rot in the field. That is not an exaggeration. Just a few weeks ago that happened in the State of Georgia, just to our south: One county, a raid; the rest of the county was cleared out of a workforce which left crops rotting in the fields. It is an issue in Georgia, in Florida, in Idaho, in Oregon, in New York, in Kentucky—all over the country where this particular type of work force is necessary.

California growers and local officials have made a real effort to address this shortfall with welfare-to-work efforts—which does not appear to be helping.

The GAO study that has helped prompt the kind of urgency that the Senators from Oregon spoke to estimated that as many as 600,000 farm workers, or 37 percent of the 1.6 million, are not legally authorized to work in the United States—600,000. That is a problem, a very big problem, a problem created by laws and by a Department of Labor, and I am pleased that they have worked with us to resolve this issue.

As workers disappear from U.S. fields—and crops stay there, instead of moving to stores and consumers—U.S. food will be replaced by foreign imported food.

This means a mainstay in our economy—the U.S. agriculture industry—is threatened with a major breakdown. And our families are threatened with an increased risk to their health and safety because of food-borne diseases.

Also, the current H–2A program has been a red-tape nightmare. Even when growers meet all deadlines, GAO found that DOL misses its statutory deadlines 40 percent of the time.

The current H–2A program has been completely ineffective as a means of obtaining temporary and seasonal workers—supplying only about 24,000 out of 1.6 million farm workers.

In the 1996 Immigration Law, and in appropriations over recent years, Congress has made it a priority to secure our borders and crack down on illegal immigration.

What is needed is a bipartisan effort to reform the current H–2A system, having the following components:

Creation of a new, voluntary national registry of migrant farmworkers to

which growers can turn for workers they know are legal.

If enough domestic workers cannot be supplied through the registry, growers could apply for legal guest workers through an expedited, reformed H–2A program.

The new program would resemble current H–2A, but it would have faster turnaround, less red tape, and greater certainty for employers.

It would also have continued protection for workers, and greater flexibility for employers, related to conditions of employment, such as housing, transportation, and market-based wages.

I invite my colleagues to support me in this important endeavor.

Mr. President, again, I appreciate the bipartisan work that has gone into this initiative and that we were able to bring it promptly to the floor. I hope there is a strong majority, a bipartisan vote in the Senate to move it to conference.

I yield the floor.

Mr. KENNEDY. Mr. President, I see my friend and colleague from California. How much time does she need?

Mrs. BOXER. Sixty seconds.

Mr. KENNEDY. I yield a minute to the Senator from California.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Thank you, Mr. President. I rise today to say that what we have in front of us is a major rewrite of the Guest Worker Program. This particular proposal has had no hearings.

I have talked with my colleagues, of whom I am very fond, on both sides of the issue, and I am getting different responses. One says it will vastly increase illegal immigration; the other says it will control it.

One says it will depress agricultural workers' wages; and the other one says, no, it is going to get better.

One says it will take away housing from farm workers; the other says it will get better.

What is the impact on American workers? We don't know. I say to my good friends on both sides, something like this ought not be rushed away. I have 60 seconds to talk. My colleague from California, who has been a leader on this issue, is going to have 4 minutes or 5 minutes. This is wrong. We really ought to do this in the right way: send it to the committee and have a full hearing.

I yield back my time to my colleague. I thank him.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I request up to 10 minutes of time from the Senator from Oregon.

The PRESIDING OFFICER. The Senator from Oregon has 3½ minutes remaining.

Mr. SMITH of Oregon. I have been informed by the managers of the bill that we have now available on both sides until 3 o'clock. Senator KENNEDY and I have agreed we will split it evenly. I believe there is more time.

The PRESIDING OFFICER. Is there objection to the request?

Mr. KENNEDY. Reserving the right to object, and I will not. As I understand it, what we were going to do is divide the total time evenly, from the time the amendment was laid down until the time of the vote; am I correct?

Mr. SMITH of Oregon. The Senator is correct.

The PRESIDING OFFICER. That is correct. We are treating it as a unanimous consent request, and there is no objection.

Mr. SMITH of Oregon. Mr. President, before Senator GRAHAM speaks, I ask unanimous consent that the amendment that we intended to send actually be sent, and that the amendment we will be voting on will be the one with the changes which we all understand are there.

The PRESIDING OFFICER. The Senate will be properly informed. There are an extra 5 minutes to each side. The Senator from Oregon has 8 minutes 39 seconds remaining. The Senator from Florida.

Mr. GRAHAM. Thank you, Mr. President.

Mr. President, the current system is broken. Let me just give a few examples of that collapse. According to the General Accounting Office report issued the end of 1997, there were 600,000 illegal agricultural workers in the United States—600,000. In my State of Florida, a major agricultural production State, in 1997 the number of H–2A visas, the visas that would create a legal status for an alien agricultural worker, were four; not 400 or 4,000, but four.

Third, the American worker is disadvantaged under the current system. As an example, if an American agricultural worker is employed by an American farmer, the American farmer must pay Social Security and other employment taxes on the wages earned by that American farm worker. But if the American farmer employs a non-U.S. farm worker, those taxes do not have to be collected and, thus, there is an incentive to employ the foreign worker before employing the American worker.

Farmers are in a sea of complexity. There is a process under the current law in which a farmer can make an application for an H–2A worker. Supposedly, that application is to be processed within 20 days. In 1996, more than one-third of the applications failed to meet that 20-day processing period, and so the farmer was not able to get a signal as to whether his request for legal foreign workers would be met.

This fails the foreign worker. It fails the foreign workers by forcing most of them into an illegal status where they lack the respect and protection that a legal program would provide.

If I could give one example: In August of 1992, after Hurricane Andrew hit south Dade County, FL—a major agricultural production area—there was concern about a public health epidemic and therefore there was the desire to have people immunized against a variety of potential diseases.

The public health officials found it extremely difficult to get the agricultural workers to come forward to be immunized for their own protection and the protection of the general public because they knew they were illegal and were afraid that, by presenting themselves for an immunization shot, they would be making themselves subject to deportation. That is the kind of fear and terror in which we have over 600,000 human beings in the United States, who are harvesting our food, live on a daily basis.

Finally, the current system fails the American consumer. We have the opportunity in this country and have had historically access to the best food produced under the most sanitary conditions and the most affordable food in the world. But if we have many more instances, as the Senator from Idaho talked about occurred recently in Georgia, where a major crop rots on the field because of the inability to secure a legal workforce, we will be denying the American consumer what we have traditionally assumed is an American birthright.

Mr. President, the current system is broken. The Senator from Oregon and others, who have joined together in this bipartisan effort, have attempted to understand what those problems are that contributed to the brokenness of the current system and to present a series of prescriptions to correct that.

We look forward to working with our colleagues in a process of refining the proposal that we have made, but we believe this represents a significant step forward in terms of protecting the rights of American workers, of creating a legal workforce for the American farmer, and particularly the interest of the American consumer.

Thank you.

AMENDMENT NO. 3258, AS MODIFIED

Mr. SMITH of Oregon. Mr. President, I could not hear the rule on my unanimous consent request. And I send a modified amendment to the desk.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Just reserving the right to—is that the modification that we talked about before?

Mr. SMITH of Oregon. It is, I say to the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the amendment (No. 3258), as modified, follows:

At the appropriate place, insert the following new title:

TITLE ___—TEMPORARY AGRICULTURAL WORKERS

SEC. ___01. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the ''Agricultural Job Opportunity Benefits and Security Act of 1998''.

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

SEC. ___02. DEFINITIONS.

In this title:

(1) ADVERSE EFFECT WAGE RATE.—The term ''adverse effect wage rate'' means the rate of pay for an agricultural occupation that is 5-percent above the prevailing rate of pay for that agricultural occupation in an area of intended employment, if the average hourly equivalent of the prevailing rate of pay for the occupation is less than the prior year's average hourly earnings of field and livestock workers for the State (or region that includes the State), as determined by the Secretary of Agriculture. No adverse effect wage rate shall be more than the prior year's average hourly earnings of field and livestock workers for the State (or region that includes the State), as determined by the Secretary of Agriculture.

(2) AGRICULTURAL EMPLOYMENT.—The term ''agricultural employment'' means any service or activity included within the provisions of section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or section 3121(g) of the Internal Revenue Code of 1986 and the handling, planting, drying, packing, packaging, processing, freezing, or grading prior to delivery for storage of any agricultural or horticultural commodity in its unmanufactured state.

(3) ELIGIBLE.—The term ''eligible'' as used with respect to workers or individuals, means individuals authorized to be employed in the United States as provided for in section 274A(h)(3) of the Immigration and Nationality Act (8 U.S.C. 1188).

(4) EMPLOYER.—The term ''employer'' means any person or entity, including any independent contractor and any agricultural association, that employs workers.

(5) JOB OPPORTUNITY.—The term ''job opportunity'' means a specific period of employment for a worker in one or more specified agricultural activities.

(6) PREVAILING WAGE.—The term ''prevailing wage'' means with respect to an agricultural activity in an area of intended employment, the rate of wages that includes the 51st percentile of employees in that agricultural activity in the area of intended employment, expressed in terms of the prevailing method of pay for the agricultural activity in the area of intended employment.

(7) REGISTERED WORKER.—The term ''registered worker'' means an individual whose name appears in a registry.

(8) REGISTRY.—The term ''registry'' means an agricultural worker registry established under section ___03(a).

(9) SECRETARY.—The term ''Secretary'' means the Secretary of Labor.

(10) UNITED STATES WORKER.—The term ''United States worker'' means any worker, whether a United States citizen, a United States national, or an alien who is authorized to work in the job opportunity within the United States other than an alien admitted pursuant to section 101(a)(15)(H)(ii)(a) or 218 of the Immigration and Nationality Act, as in effect on the effective date of this title.

SEC. ___03. AGRICULTURAL WORKER REGISTRIES.

(a) ESTABLISHMENT OF REGISTRIES.—

(1) IN GENERAL.—The Secretary of Labor shall establish and maintain a system of registries containing a current database of eligible United States workers who seek to perform temporary or seasonal agricultural work and the employment status of such workers—

(A) to ensure that eligible United States workers are informed about available agricultural job opportunities;

(B) to maximize the work period for eligible United States workers; and

(C) to provide timely referral of such workers to temporary and seasonal agricultural job opportunities in the United States.

(2) COVERAGE.—

(A) SINGLE STATE OR GROUP OF STATES.—Each registry established under paragraph (1) shall include the job opportunities in a single State, or a group of contiguous States that traditionally share a common pool of seasonal agricultural workers.

(B) REQUESTS FOR INCLUSION.—Each State requesting inclusion in a registry, or having any group of agricultural producers seeking to utilize the registry, shall be represented by a registry or by a registry of contiguous States.

(b) REGISTRATION.—

(1) IN GENERAL.—An eligible individual who seeks employment in temporary or seasonal agricultural work may apply to be included in the registry for the State or States in which the individual seeks employment. Such application shall include—

(A) the name and address of the individual;

(B) the period or periods of time (including beginning and ending dates) during which the individual will be available for temporary or seasonal agricultural work;

(C) the registry or registries on which the individual desires to be included;

(D) the specific qualifications and work experience possessed by the applicant;

(E) the type or types of temporary or seasonal agricultural work the applicant is willing to perform;

(F) such other information as the applicant wishes to be taken into account in referring the applicant to temporary or seasonal agricultural job opportunities; and

(G) such other information as may be required by the Secretary.

(2) VALIDATION OF EMPLOYMENT AUTHORIZATION.—No person may be included on any registry unless the Attorney General has certified to the Secretary of Labor that the person is authorized to be employed in the United States.

(3) WORKERS REFERRED TO JOB OPPORTUNITIES.—The name of each registered worker who is referred and accepts employment with an employer pursuant to section ___05 shall be classified as inactive on each registry on which the worker is included during the period of employment involved in the job to which the worker was referred, unless the worker reports to the Secretary that the worker is no longer employed and is available for referral to another job opportunity. A registered worker classified as inactive shall not be referred pursuant to section ___05.

(4) REMOVAL OF NAMES FROM A REGISTRY.—The Secretary shall remove from all registries the name of any registered worker who, on 3 separate occasions within a 3-month period, is referred to a job opportunity pursuant to this section, and who declines such referral or fails to report to work in a timely manner.

(5) VOLUNTARY REMOVAL.—A registered worker may request that the worker's name be removed from a registry or from all registries.

(6) REMOVAL BY EXPIRATION.—The application of a registered worker shall expire, and the Secretary shall remove the name of such worker from all registries if the worker has not accepted a job opportunity pursuant to this section within the preceding 12-month period.

(7) REINSTATEMENT.—A worker whose name is removed from a registry pursuant to paragraph (4), (5), or (6) may apply to the Secretary for reinstatement to such registry at any time.

(c) CONFIDENTIALITY OF REGISTRIES.—The Secretary shall maintain the confidentiality of the registries established pursuant to this section, and the information in such registries shall not be used for any purposes other than those authorized in this title.

(d) ADVERTISING OF REGISTRIES.—The Secretary shall widely disseminate, through advertising and other means, the existence of the registries for the purpose of encouraging eligible United States workers seeking temporary or seasonal agricultural job opportunities to register.

SEC. ___04. EMPLOYER APPLICATIONS AND ASSURANCES.

(a) APPLICATIONS TO THE SECRETARY.—

(1) IN GENERAL.—Not later than 21 days prior to the date on which an agricultural employer desires to employ a registered worker in a temporary or seasonal agricultural job opportunity, the employer shall apply to the Secretary for the referral of a United States worker through a search of the appropriate registry, in accordance with section ___05. Such application shall—

(A) describe the nature and location of the work to be performed;

(B) list the anticipated period (expected beginning and ending dates) for which workers will be needed;

(C) indicate the number of job opportunities in which the employer seeks to employ workers from the registry;

(D) describe the bona fide occupational qualifications that must be possessed by a worker to be employed in the job opportunity in question;

(E) describe the wages and other terms and conditions of employment the employer will offer, which shall not be less (and are not required to be more) than those required by this section;

(F) contain the assurances required by subsection (c); and

(G) specify the foreign country or region thereof from which alien workers should be admitted in the case of a failure to refer United States workers under this title.

(2) APPLICATIONS BY ASSOCIATIONS ON BEHALF OF EMPLOYER MEMBERS.—

(A) IN GENERAL.—An agricultural association may file an application under paragraph (1) for registered workers on behalf of its employer members.

(B) EMPLOYERS.—An application under subparagraph (A) shall cover those employer members of the association that the association certifies in its application have agreed in writing to comply with the requirements of this title.

(b) AMENDMENT OF APPLICATIONS.—Prior to receiving a referral of workers from a registry, an employer may amend an application under this subsection if the employer's need for workers changes. If an employer amends an application on a date which is later than 21 days prior to the date on which the workers on the amended application are sought to be employed, the Secretary may

delay issuance of the report described in section ___05(b) by the number of days by which the filing of the amended application is later than 21 days before the date on which the employer desires to employ workers.

(c) ASSURANCES.—The assurances referred to in subsection (a)(1)(F) are the following:

(1) ASSURANCE THAT THE JOB OPPORTUNITY IS NOT A RESULT OF A LABOR DISPUTE.—The employer shall assure that the job opportunity for which the employer requests a registered worker is not vacant because a worker is involved in a strike, lockout, or work stoppage in the course of a labor dispute involving the job opportunity at the place of employment.

(2) ASSURANCE THAT THE JOB OPPORTUNITY IS TEMPORARY OR SEASONAL.—

(A) REQUIRED ASSURANCE.—The employer shall assure that the job opportunity for which the employer requests a registered worker is temporary or seasonal.

(B) SEASONAL BASIS.—For purposes of this title, labor is performed on a seasonal basis where, ordinarily, the employment pertains to or is of the kind exclusively performed at certain seasons or periods of the year and which, from its nature, may not be continuous or carried on throughout the year.

(C) TEMPORARY BASIS.—For purposes of this title, a worker is employed on a temporary basis where the employment is intended not to exceed 10 months.

(3) ASSURANCE OF PROVISION OF REQUIRED WAGES AND BENEFITS.—The employer shall assure that the employer will provide the wages and benefits required by subsections (a), (b), and (c) of section ___07 to all workers employed in job opportunities for which the employer has applied under subsection (a) and to all other workers in the same occupation at the place of employment.

(4) ASSURANCE OF EMPLOYMENT.—The employer shall assure that the employer will refuse to employ individuals referred under section ___05, or terminate individuals employed pursuant to this title, only for lawful job-related reasons, including lack of work.

(5) ASSURANCE OF COMPLIANCE WITH LABOR LAWS.—

(A) IN GENERAL.—An employer who requests registered workers shall assure that, except as otherwise provided in this title, the employer will comply with all applicable Federal, State, and local labor laws, including laws affecting migrant and seasonal agricultural workers, with respect to all United States workers and alien workers employed by the employer.

(B) LIMITATIONS.—The disclosure required under section 201(a) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1821(a)) may be made at any time prior to the time the alien is issued a visa permitting entry into the United States.

(6) ASSURANCE OF ADVERTISING OF THE REGISTRY.—The employer shall assure that the employer will, from the day an application for workers is submitted under subsection (a), and continuing throughout the period of employment of any job opportunity for which the employer has applied for a worker from the registry, post in a conspicuous place a poster to be provided by the Secretary advertising the availability of the registry.

(7) ASSURANCE OF CONTACTING FORMER WORKERS.—The employer shall assure that the employer has made reasonable efforts through the sending of a letter by United States Postal Service mail, or otherwise, to contact any eligible worker the employer employed during the previous season in the occupation at the place of intended employment for which the employer is applying for registered workers, and has made the availability of the employer's job opportunities in the occupation at the place of intended employment known to such previous worker, unless the worker was terminated from employment by the employer for a lawful job-related reason or abandoned the job before the worker completed the period of employment of the job opportunity for which the worker was hired.

(8) ASSURANCE OF PROVISION OF WORKERS COMPENSATION.—The employer shall assure that if the job opportunity is not covered by the State workers' compensation law, that the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of and in the course of the worker's employment which will provide benefits at least equal to those provided under the State workers' compensation law for comparable employment.

(d) WITHDRAWAL OF APPLICATIONS.—

(1) IN GENERAL.—An employer may withdraw an application under subsection (a), except that, if the employer is an agricultural association, the association may withdraw an application under subsection (a) with respect to one or more of its members. To withdraw an application, the employer shall notify the Secretary in writing, and the Secretary shall acknowledge in writing the receipt of such withdrawal notice. An employer who withdraws an application under subsection (a), or on whose behalf an application is withdrawn, is relieved of the obligations undertaken in the application.

(2) LIMITATION.—An application may not be withdrawn while any alien provided status under this title pursuant to such application is employed by the employer.

(3) OBLIGATIONS UNDER OTHER STATUTES.—Any obligation incurred by an employer under any other law or regulation as a result of recruitment of United States workers under an offer of terms and conditions of employment required as a result of making an application under subsection (a) is unaffected by withdrawal of such application.

(e) REVIEW OF APPLICATION.—

(1) IN GENERAL.—Promptly upon receipt of an application by an employer under subsection (a), the Secretary shall review the application for compliance with the requirements of such subsection.

(2) APPROVAL OF APPLICATIONS.—If the Secretary determines that an application meets the requirements of subsection (a), and the employer is not ineligible to apply under paragraph (2), (3), or (4) of section ___08(b), the Secretary shall, not later than 7 days after the receipt of such application, approve the application and so notify the employer.

(3) REJECTION OF APPLICATIONS.—If the Secretary determines that an application fails to meet 1 or more of the requirements of subsection (a), the Secretary, as expeditiously as possible, but in no case later than 7 days after the receipt of such application, shall—

(A) notify the employer of the rejection of the application and the reasons for such rejection, and provide the opportunity for the prompt resubmission of an amended application; and

(B) offer the applicant an opportunity to request an expedited administrative review or a de novo administrative hearing before an administrative law judge of the rejection of the application.

(4) REJECTION FOR PROGRAM VIOLATIONS.—The Secretary shall reject the application of an employer under this section if the employer has been determined to be ineligible to employ workers under section ___08(b) or subsection (b)(2) of section 218 of the Immigration and Nationality Act (8 U.S.C. 1188).

SEC. ___05. SEARCH OF REGISTRY.

(a) SEARCH PROCESS AND REFERRAL TO THE EMPLOYER.—Upon the approval of an application under section ___04(e), the Secretary shall promptly begin a search of the registry of the State (or States) in which the work is to be performed to identify registered workers with the qualifications requested by the employer. The Secretary shall contact such qualified registered workers and determine, in each instance, whether the worker is ready, willing, and able to accept the employer's job opportunity and will commit to work for the employer at the time and place needed. The Secretary shall provide to each worker who commits to work for the employer the employer's name, address, telephone number, the location where the employer has requested that employees report for employment, and a statement disclosing the terms and conditions of employment.

(b) DEADLINE FOR COMPLETING SEARCH PROCESS; REFERRAL OF WORKERS.—As expeditiously as possible, but not later than 7 days before the date on which an employer desires work to begin, the Secretary shall complete the search under subsection (a) and shall transmit to the employer a report containing the name, address, and social security account number of each registered worker who has committed to work for the employer on the date needed, together with sufficient information to enable the employer to establish contact with the worker. The identification of such registered workers in a report shall constitute a referral of workers under this section.

(c) NOTICE OF INSUFFICIENT WORKERS.—If the report provided to the employer under subsection (b) does not include referral of a sufficient number of registered workers to fill all of the employer's job opportunities in the occupation for which the employer applied under section ___04(a), the Secretary shall indicate in the report the number of job opportunities for which registered workers could not be referred, and promptly transmit a copy of the report to the Attorney General and the Secretary of State, by electronic or other means ensuring next day delivery.

SEC. ___06. ISSUANCE OF VISAS AND ADMISSION OF ALIENS.

(a) IN GENERAL.—

(1) NUMBER OF ADMISSIONS.—The Secretary of State shall promptly issue visas to, and the Attorney General shall admit, a sufficient number of eligible aliens designated by the employer to fill the job opportunities of the employer—

(A) upon receipt of a copy of the report described in section ___05(c);

(B) upon receipt of an application (or copy of an application under subsection (b));

(C) upon receipt of the report required by subsection (c)(1)(B); or

(D) upon receipt of a report under subsection (d).

(2) PROCEDURES.—The admission of aliens under paragraph (1) shall be subject to the procedures of section 218A of the Immigration and Nationality Act, as added by this title.

(3) AGRICULTURAL ASSOCIATIONS.—Aliens admitted pursuant to a report described in paragraph (1) may be employed by any member of the agricultural association that has made the certification required by section ___04(a)(2)(B).

(b) DIRECT APPLICATION UPON FAILURE TO ACT.—

(1) APPLICATION TO THE SECRETARY OF STATE.—If the employer has not received a referral of sufficient workers pursuant to section ___05(b) or a report of insufficient workers pursuant to section ___05(c), by the date that is 7 days before the date on which the work is anticipated to begin, the employer may submit an application for alien workers directly to the Secretary of State, with a copy of the application provided to the Attorney General, seeking the issuance of visas to and the admission of aliens for employment in the job opportunities for

which the employer has not received referral of registered workers. Such an application shall include a copy of the employer's application under section ___04(a), together with evidence of its timely submission. The Secretary of State may consult with the Secretary of Labor in carrying out this paragraph.

(2) EXPEDITED CONSIDERATION BY SECRETARY OF STATE.—The Secretary of State shall, as expeditiously as possible, but not later than 5 days after the employer files an application under paragraph (1), issue visas to, and the Attorney General shall admit, a sufficient number of eligible aliens designated by the employer to fill the job opportunities for which the employer has applied under that paragraph.

(c) REDETERMINATION OF NEED.—

(1) REQUESTS FOR REDETERMINATION.—

(A) IN GENERAL.—An employer may file a request for a redetermination by the Secretary of the needs of the employer if—

(i) a worker referred from the registry is not at the place of employment on the date of need shown on the application, or the date the work for which the worker is needed has begun, whichever is later;

(ii) the worker is not ready, willing, able, or qualified to perform the work required; or

(iii) the worker abandons the employment or is terminated for a lawful job-related reason.

(B) ADDITIONAL AUTHORIZATION OF ADMISSIONS.—The Secretary shall expeditiously, but in no case later than 72 hours after a redetermination is requested under subparagraph (A), submit a report to the Secretary of State and the Attorney General providing notice of a need for workers under this subsection.

(2) JOB-RELATED REQUIREMENTS.—An employer shall not be required to initially employ a worker who fails to meet lawful job-related employment criteria, nor to continue the employment of a worker who fails to meet lawful, job-related standards of conduct and performance, including failure to meet minimum production standards after a 3-day break-in period.

(d) EMERGENCY APPLICATIONS.—Notwithstanding subsections (b) and (c), the Secretary may promptly transmit a report to the Attorney General and Secretary of State providing notice of a need for workers under this subsection for an employer—

(1) who has not employed aliens under this title in the occupation in question in the prior year's agricultural season;

(2) who faces an unforeseen need for workers (as determined by the Secretary); and

(3) with respect to whom the Secretary cannot refer able, willing, and qualified workers from the registry who will commit to be at the employer's place of employment and ready for work within 72 hours or on the date the work for which the worker is needed has begun, whichever is later.

(e) REGULATIONS.—The Secretary of State shall prescribe regulations to provide for the designation of aliens under this section.

SEC. ___07. EMPLOYMENT REQUIREMENTS.

(a) REQUIRED WAGES.—

(1) IN GENERAL.—An employer applying under section ___04(a) for workers shall offer to pay, and shall pay, all workers in the occupation or occupations for which the employer has applied for workers from the registry, not less (and is not required to pay more) than the greater of the prevailing wage in the occupation in the area of intended employment or the adverse effect wage rate.

(2) PAYMENT OF PREVAILING WAGE DETERMINED BY A STATE EMPLOYMENT SECURITY AGENCY SUFFICIENT.—In complying with paragraph (1), an employer may request and obtain a prevailing wage determination from the State employment security agency. If the employer requests such a determination, and pays the wage required by paragraph (1) based upon such a determination, such payment shall be considered sufficient to meet the requirement of paragraph (1).

(3) RELIANCE ON WAGE SURVEY.—In lieu of the procedure of paragraph (2), an employer may rely on other information, such as an employer-generated prevailing wage survey and determination that meets criteria specified by the Secretary.

(4) ALTERNATIVE METHODS OF PAYMENT PERMITTED.—

(A) IN GENERAL.—A prevailing wage may be expressed as an hourly wage, a piece rate, a task rate, or other incentive payment method, including a group rate. The requirement to pay at least the prevailing wage in the occupation and area of intended employment does not require an employer to pay by the method of pay in which the prevailing rate is expressed, except that, if the employer adopts a method of pay other than the prevailing rate, the burden of proof is on the employer to demonstrate that the employer's method of pay is designed to produce earnings equivalent to the earnings that would result from payment of the prevailing rate.

(B) COMPLIANCE WHEN PAYING AN INCENTIVE RATE.—In the case of an employer that pays a piece rate or task rate or uses any other incentive payment method, including a group rate, the employer shall be considered to be in compliance with any applicable hourly wage requirement if the average of the hourly earnings of the workers, taken as a group, the activity for which a piece rate, task rate, or other incentive payment, including a group rate, is paid, for the pay period, is at least equal to the required hourly wage.

(C) TASK RATE.—For purposes of this paragraph, the term ''task rate'' means an incentive payment method based on a unit of work performed such that the incentive rate varies with the level of effort required to perform individual units of work.

(D) GROUP RATE.—For purposes of this paragraph, the term ''group rate'' means an incentive payment method in which the payment is shared among a group of workers working together to perform the task.

(b) REQUIREMENT TO PROVIDE HOUSING.—

(1) IN GENERAL.—An employer applying under section ___04(a) for registered workers shall offer to provide housing at no cost (except for charges permitted by paragraph (5)) to all workers employed in job opportunities to which the employer has applied under that section, and to all other workers in the same occupation at the place of employment, whose permanent place of residence is beyond normal commuting distance.

(2) TYPE OF HOUSING.—In complying with paragraph (1), an employer may, at the employer's election, provide housing that meets applicable Federal standards for temporary labor camps or secure housing that meets applicable local standards for rental or public accommodation housing or other substantially similar class of habitation, or, in the absence of applicable local standards, State standards for rental or public accommodation housing or other substantially similar class of habitation.

(3) WORKERS ENGAGED IN THE RANGE PRODUCTION OF LIVESTOCK.—The Secretary shall issue regulations that address the specific requirements for the provision of housing to workers engaged in the range production of livestock.

(4) LIMITATION.—Nothing in this subsection shall be construed to require an employer to provide or secure housing for persons who were not entitled to such housing under the temporary labor certification regulations in effect on June 1, 1986.

(5) CHARGES FOR HOUSING.—

(A) UTILITIES AND MAINTENANCE.—An employer who provides housing to a worker pursuant to paragraph (1) may charge an amount equal to the fair market value (but not greater than the employer's actual cost) for maintenance and utilities, or such lesser amount as permitted by law.

(B) SECURITY DEPOSIT.—An employer who provides housing to workers pursuant to paragraph (1) may require, as a condition for providing such housing, a deposit not to exceed $50 from workers occupying such housing to protect against gross negligence or willful destruction of property.

(C) DAMAGES.—An employer who provides housing to workers pursuant to paragraph (1) may require a worker found to have been responsible for damage to such housing which is not the result of normal wear and tear related to habitation to reimburse the employer for the reasonable cost of repair of such damage.

(6) HOUSING ALLOWANCE AS ALTERNATIVE.—

(A) IN GENERAL.—In lieu of offering housing pursuant to paragraph (1), subject to subparagraphs (B) through (D), the employer may on a case-by-case basis provide a reasonable housing allowance. An employer who offers a housing allowance to a worker pursuant to this subparagraph shall not be deemed to be a housing provider under section 203 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1823) solely by virtue of providing such housing allowance.

(B) LIMITATION.—At any time after the date that is 3 years after the effective date of this title, the governor of the State may certify to the Secretary that there is not sufficient housing available in an area of intended employment of migrant farm workers or aliens provided status pursuant to this title who are seeking temporary housing while employed at farm work. Such certification may be canceled by the governor of the State at any time, and shall expire after 5 years unless renewed by the governor of the State.

(C) EFFECT OF CERTIFICATION.—If the governor of the State makes the certification of insufficient housing described in subparagraph (A) with respect to an area of employment, employers of workers in that area of employment may not offer the housing allowance described in subparagraph (A) after the date that is 5 years after such certification of insufficient housing for such area, unless the certification has expired or been canceled pursuant to subparagraph (B).

(D) AMOUNT OF ALLOWANCE.—The amount of a housing allowance under this paragraph shall be equal to the statewide average fair market rental for existing housing for nonmetropolitan counties for the State in which the employment occurs, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2-bedroom dwelling unit and an assumption of 2 persons per bedroom.

(c) REIMBURSEMENT OF TRANSPORTATION.—

(1) TO PLACE OF EMPLOYMENT.—A worker who is referred to a job opportunity under section ___05(a), or an alien employed pursuant to this title, who completes 50 percent of the period of employment of the job opportunity for which the worker was hired, may apply to the employer for reimbursement of the cost of the worker's transportation and subsistence from the worker's permanent place of residence (or place of last employment, if the worker traveled from such place) to the place of employment to which the worker was referred under section ___05(a).

(2) FROM PLACE OF EMPLOYMENT.—A worker who is referred to a job opportunity under section ___05(a), or an alien employed pursuant to this title, who completes the period of employment for the job opportunity involved, may apply to the employer for reimbursement of the cost of the worker's transportation and subsistence from the place of employment to the worker's permanent place of residence.

(3) LIMITATION.—

(A) AMOUNT OF REIMBURSEMENT.—Except as provided in subparagraph (B), the amount of reimbursement provided under paragraph (1) or (2) to a worker or alien shall not exceed the lesser of—

(i) the actual cost to the worker or alien of the transportation and subsistence involved; or

(ii) the most economical and reasonable transportation and subsistence costs that would have been incurred had the worker or alien used an appropriate common carrier, as determined by the Secretary.

(B) DISTANCE TRAVELED.—No reimbursement under paragraph (1) or (2) shall be required if the distance traveled is 100 miles or less.

(d) CONTINUING OBLIGATION TO EMPLOY UNITED STATES WORKERS.—

(1) IN GENERAL.—An employer that applies for registered workers under section ___04(a) shall, as a condition for the approval of such application, continue to offer employment to qualified, eligible United States workers who are referred under section ___05(b) after the employer receives the report described in section ___05(b).

(2) LIMITATION.—An employer shall not be obligated to comply with paragraph (1)—

(A) after 50 percent of the anticipated period of employment shown on the employer's application under section ___04(a) has elapsed; or

(B) during any period in which the employer is employing no aliens in the occupation for which the United States worker was referred; or

(C) during any period when the Secretary is conducting a search of a registry for job opportunities in the occupation and area of intended employment to which the worker has been referred, or other occupations in the area of intended employment for which the worker is qualified that offer substantially similar terms and conditions of employment.

(3) LIMITATION ON REQUIREMENT TO PROVIDE HOUSING.—Notwithstanding any other provision of this title, an employer to whom a registered worker is referred pursuant to paragraph (1) may provide a reasonable housing allowance to such referred worker in lieu of providing housing if the employer does not have sufficient housing to accommodate the referred worker and all other workers for whom the employer is providing housing or has committed to provide housing.

(4) REFERRAL OF WORKERS DURING 50-PERCENT PERIOD.—The Secretary shall make all reasonable efforts to place a registered worker in an open job acceptable to the worker, including available jobs not listed on the registry, before referring such worker to an employer for a job opportunity already filled by, or committed to, an alien admitted pursuant to this title.

SEC. ___08. ENFORCEMENT AND PENALTIES.

(a) ENFORCEMENT AUTHORITY.—

(1) INVESTIGATION OF COMPLAINTS.—

(A) IN GENERAL.—The Secretary shall establish a process for the receipt, investigation, and disposition of complaints respecting an employer's failure to meet a condition specified in section ___04 or an employer's misrepresentation of material facts in an application under that section. Complaints may be filed by any aggrieved person or any organization (including bargaining representatives). No investigation or hearing shall be conducted on a complaint concerning such a failure or misrepresentation unless the complaint was filed not later than 12 months after the date of the failure or misrepresentation, as the case may be. The Secretary shall conduct an investigation under this paragraph if there is reasonable cause to believe that such a failure or misrepresentation has occurred.

(B) STATUTORY CONSTRUCTION.—Nothing in this title limits the authority of the Secretary of Labor to conduct any compliance investigation under any other labor law, including any law affecting migrant and seasonal agricultural workers or, in the absence of a complaint under this paragraph, under this title.

(2) WRITTEN NOTICE OF FINDING AND OPPORTUNITY FOR APPEAL.—After an investigation has been conducted, the Secretary shall issue a written determination as to whether or not any violation described in subsection (b) has been committed. The Secretary's determination shall be served on the complainant and the employer, and shall provide an opportunity for an appeal of the Secretary's decision to an administrative law judge, who may conduct a de novo hearing.

(b) REMEDIES.—

(1) BACK WAGES.—Upon a final determination that the employer has failed to pay wages as required under this section, the Secretary may assess payment of back wages due to any United States worker or alien described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act employed by the employer in the specific employment in question. The back wages shall be equal to the difference between the amount that should have been paid and the amount that actually was paid to such worker.

(2) FAILURE TO PAY WAGES.—Upon a final determination that the employer has failed to pay the wages required under this title, the Secretary may assess a civil money penalty up to $1,000 for each failure, and may recommend to the Attorney General the disqualification of the employer from the employment of aliens described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act for a period of time determined by the Secretary not to exceed 1 year.

(3) OTHER VIOLATIONS.—If the Secretary, as a result of an investigation pursuant to a complaint, determines that an employer covered by an application under section ___04(a) has—

(A) filed an application that misrepresents a material fact; or

(B) failed to meet a condition specified in section ___04,

the Secretary may assess a civil money penalty not to exceed $1,000 for each violation and may recommend to the Attorney General the disqualification of the employer for substantial violations in the employment of any United States workers or aliens described in section 101(a)(15)(ii)(a) of the Immigration and Nationality Act for a period of time determined by the Secretary not to exceed 1 year. In determining the amount of civil money penalty to be assessed or whether to recommend disqualification of the employer, the Secretary shall consider the seriousness of the violation, the good faith of the employer, the size of the business of the employer being charged, the history of previous violations by the employer, whether the employer obtained a financial gain from the violation, whether the violation was willful, and other relevant factors.

(4) PROGRAM DISQUALIFICATION.—

(A) 3 YEARS FOR SECOND VIOLATION.—Upon a second final determination that an employer has failed to pay the wages required under this title or committed other substantial violations under paragraph (3), the Secretary shall report such determination to the Attorney General and the Attorney General shall disqualify the employer from the employment of aliens described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act for a period of 3 years.

(B) PERMANENT FOR THIRD VIOLATION.—Upon a third final determination that an employer has failed to pay the wages required under this section or committed other substantial violations under paragraph (3), the Secretary shall report such determination to the Attorney General, and the Attorney General shall disqualify the employer from any subsequent employment of aliens described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act.

(c) ROLE OF ASSOCIATIONS.—

(1) VIOLATION BY A MEMBER OF AN ASSOCIATION.—An employer on whose behalf an application is filed by an association acting as its agent is fully responsible for such application, and for complying with the terms and conditions of this title, as though the employer had filed the application itself. If such an employer is determined to have violated a requirement of this section, the penalty for such violation shall be assessed against the employer who committed the violation and not against the association or other members of the association.

(2) VIOLATION BY AN ASSOCIATION ACTING AS AN EMPLOYER.—If an association filing an application on its own behalf as an employer is determined to have committed a violation under this subsection which results in disqualification from the program under subsection (b), no individual member of such association may be the beneficiary of the services of an alien described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act in an occupation in which such alien was employed by the association during the period such disqualification is in effect, unless such member files an application as an individual employer or such application is filed on the employer's behalf by an association with which the employer has an agreement that the employer will comply with the requirements of this title.

SEC. ___09. ALTERNATIVE PROGRAM FOR THE ADMISSION OF TEMPORARY H–2A WORKERS.

(a) AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT.—

(1) ELECTION OF PROCEDURES.—Section 214(c)(1) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(1)) is amended—

(A) by striking the fifth and sixth sentences;

(B) by striking ''(c)(1) The'' and inserting ''(c)(1)(A) Except as provided in subparagraph (B), the''; and

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

''(B) Notwithstanding subparagraph (A), in the case of the importing of any nonimmigrant alien described in section 101(a)(15)(H)(ii)(a), the importing employer may elect to import the alien under the procedures of section 218 or section 218A, except that any employer that applies for registered workers under section ___04(a) of the Agricultural Job Opportunity Benefits and Security Act of 1998 shall import nonimmigrants described in section 101(a)(15)(H)(ii)(a) only in accordance with section 218A. For purposes of subparagraph (A), with respect to the importing of nonimmigrants under section 218, the term 'appropriate agencies of Government' means the Department of Labor and includes the Department of Agriculture.''.

(2) ALTERNATIVE PROGRAM.—The Immigration and Nationality Act is amended by inserting after section 218 (8 U.S.C. 1188) the following new section:

''ALTERNATIVE PROGRAM FOR THE ADMISSION OF TEMPORARY H–2A WORKERS

''SEC. 218A. (a) PROCEDURE FOR ADMISSION OR EXTENSION OF ALIENS.—

''(1) ALIENS WHO ARE OUTSIDE THE UNITED STATES.—

''(A) CRITERIA FOR ADMISSIBILITY.—

''(i) IN GENERAL.—An alien described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act shall be admissible under this section if the alien is designated pursuant to section ___06 of the Agricultural Job Opportunity Benefits and Security Act of 1998, otherwise admissible under this Act, and the alien is not ineligible under clause (ii).

''(ii) DISQUALIFICATION.—An alien shall be ineligible for admission to the United States or being provided status under this section if the alien has, at any time during the past 5 years—

''(I) violated a material provision of this section, including the requirement to promptly depart the United States when the alien's authorized period of admission under this section has expired; or

''(II) otherwise violated a term or condition of admission to the United States as a nonimmigrant, including overstaying the period of authorized admission as such a nonimmigrant.

''(iii) INITIAL WAIVER OF INELIGIBILITY FOR UNLAWFUL PRESENCE.—An alien who has not previously been admitted to the United States pursuant to this section, and who is otherwise eligible for admission in accordance with clauses (i) and (ii), shall not be deemed inadmissible by virtue of section 212(a)(9)(B).

''(B) PERIOD OF ADMISSION.—The alien shall be admitted for the period requested by the employer not to exceed 10 months, or the ending date of the anticipated period of employment on the employer's application for registered workers, whichever is less, plus an additional period of 14 days, during which the alien shall seek authorized employment in the United States. During the 14-day period following the expiration of the alien's work authorization, the alien is not authorized to be employed unless an employer who is authorized to employ such worker has filed an extension of stay on behalf of the alien pursuant to paragraph (2).

''(C) ABANDONMENT OF EMPLOYMENT.—

''(i) IN GENERAL.—An alien admitted or provided status under this section who abandons the employment which was the basis for such admission or providing status shall be considered to have failed to maintain nonimmigrant status as an alien described in section 101(a)(15)(H)(ii)(a) and shall depart the United States or be subject to removal under section 237(a)(1)(C)(i).

''(ii) REPORT BY EMPLOYER.—The employer (or association acting as agent for the employer) shall notify the Attorney General within 7 days of an alien admitted or provided status under this Act pursuant to an application to the Secretary of Labor under section ___06 of the Agricultural Job Opportunity Benefits and Security Act of 1998 by the employer who prematurely abandons the alien's employment.

''(D) ISSUANCE OF IDENTIFICATION AND EMPLOYMENT ELIGIBILITY DOCUMENT.—

''(i) IN GENERAL.—The Attorney General shall cause to be issued to each alien admitted under this section a card in a form which is resistant to counterfeiting and tampering for the purpose of providing proof of identity and employment eligibility under section 274A.

''(ii) DESIGN OF CARD.—Each card issued pursuant to clause (i) shall be designed in such a manner and contain a photograph and other identifying information (such as date of birth, sex, and distinguishing marks) that would allow an employer to determine with reasonable certainty that the bearer is not claiming the identity of another individual, and shall—

''(I) specify the date of the alien's acquisition of status under this section;

''(II) specify the expiration date of the alien's work authorization; and

''(III) specify the alien's admission number or alien file number.

''(2) EXTENSION OF STAY OF ALIENS IN THE UNITED STATES.—

''(A) EXTENSION OF STAY.—If an employer with respect to whom a report or application described in section ___06(a)(1) of the Agricultural Job Opportunity Benefits and Security Act of 1998 has been submitted seeks to employ an alien who has acquired status under this section and who is present in the United States, the employer shall file with the Attorney General an application for an extension of the alien's stay or a change in the alien's authorized employment. The application shall be accompanied by a copy of the appropriate report or application described in section ___06 of the Agricultural Job Opportunity Benefits and Security Act of 1998.

''(B) LIMITATION ON FILING AN APPLICATION FOR EXTENSION OF STAY.—An application may not be filed for an extension of an alien's stay for a period of more than 10 months, or later than a date which is 3 years from the date of the alien's last admission to the United States under this section, whichever occurs first.

''(C) WORK AUTHORIZATION UPON FILING AN APPLICATION FOR EXTENSION OF STAY.—An employer may begin employing an alien who is present in the United States who has acquired status under this Act on the day the employer files an application for extension of stay. For the purpose of this requirement, the term 'filing' means sending the application by certified mail via the United States Postal Service, return receipt requested, or delivered by guaranteed commercial delivery which will provide the employer with a documented acknowledgment of the date of sending and receipt of the application. The employer shall provide a copy of the employer's application to the alien, who shall keep the application with the alien's identification and employment eligibility document as evidence that the application has been filed and that the alien is authorized to work in the United States. Upon approval of an application for an extension of stay or change in the alien's authorized employment, the Attorney General shall provide a new or updated employment eligibility document to the alien indicating the new validity date, after which the alien is not required to retain a copy of the application.

''(D) LIMITATION ON EMPLOYMENT AUTHORIZATION OF ALIENS WITHOUT VALID IDENTIFICATION AND EMPLOYMENT ELIGIBILITY CARD.—An expired identification and employment eligibility document, together with a copy of an application for extension of stay or change in the alien's authorized employment, shall constitute a valid work authorization document for a period of not more than 60 days from the date of application for the extension of stay, after which time only a currently valid identification and employment eligibility document shall be acceptable.

''(E) LIMITATION ON AN INDIVIDUAL'S STAY IN STATUS.—An alien having status under this section may not have the status extended for a continuous period longer than 3 years unless the alien remains outside the United States for an uninterrupted period of 6 months. An absence from the United States may break the continuity of the period for which a nonimmigrant visa issued under section 101(a)(15)(H)(ii)(a) is valid. If the alien has resided in the United States 10 months or less, an absence breaks the continuity of the period if its lasts for at least 2 months. If the alien has resided in the United States 10 months or more, an absence breaks the continuity of the period if it lasts for at least one-fifth the duration of the stay.

''(b) STUDY BY THE ATTORNEY GENERAL.—The Attorney General shall conduct a study to determine whether aliens under this section depart the United States in a timely manner upon the expiration of their period of authorized stay. If the Attorney General finds that a significant number of aliens do not so depart and that a financial inducement is necessary to assure such departure, then the Attorney General shall so report to Congress and make recommendations on appropriate courses of action.''

(b) NO FAMILY MEMBERS PERMITTED.—Section 101(a)(15)(H) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)) is amended by striking ''specified in this paragraph'' and inserting ''specified in this subparagraph (other than in clause (ii)(a))''.

(c) CONFORMING AMENDMENT.—The table of contents of the Immigration and Nationality Act is amended by inserting after the item relating to section 218 the following new item:

''Sec. 218A. Alternative program for the admission of H–2A workers.''.

(d) REPEAL AND ADDITIONAL CONFORMING AMENDMENTS.—

(1) REPEAL.—Section 218 of the Immigration and Nationality Act is repealed.

(2) TECHNICAL AMENDMENTS.—(A) Section 218A of the Immigration and Nationality Act is redesignated as section 218.

(B) The table of contents of that Act is amended by striking the item relating to section 218A.

(C) The section heading for section 218 of that Act is amended by striking ''ALTERNATIVE PROGRAM FOR''.

(3) TERMINATION OF EMPLOYER ELECTION.—Section 214(c)(1)(B) of the Immigration and Nationality Act is amended to read as follows:

''(B) Notwithstanding subparagraph (A), the procedures of section 218 shall apply to the importing of any nonimmigrant alien described in section 101(a)(15)(H)(ii)(a).''.

(4) MAINTENANCE OF CERTAIN SECTION 218 PROVISIONS.—Section 218 (as redesignated by paragraph (2) of this subsection) is amended by adding at the end the following:

''(d) MISCELLANEOUS PROVISIONS.—(1) The Attorney General shall provide for such endorsement of entry and exit documents of nonimmigrants described in section 101(a)(15)(H)(ii) as may be necessary to carry out this section and to provide notice for purposes of section 274A.

''(2) The provisions of subsections (a) and (c) of section 214 and the provisions of this section preempt any State or local law regulating admissibility of nonimmigrant workers.''.

(5) EFFECTIVE DATE.—The repeal and amendments made by this subsection shall take effect 5 years after the date of enactment of this title.

SEC. ___10. INCLUSION IN EMPLOYMENT-BASED IMMIGRATION PREFERENCE ALLOCATION.

(a) AMENDMENT OF THE IMMIGRATION AND NATIONALITY ACT.—Section 203(b)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(3)(A)) is amended—

(1) by redesignating clause (iii) as clause (iv); and

(2) by inserting after clause (ii) the following:

''(iii) AGRICULTURAL WORKERS.—Qualified immigrants who have completed at least 6 months of work in the United States in each of 4 consecutive calendar years under section 101(a)(15)(H)(ii)(a), and have complied with all terms and conditions applicable to that section.''.

(b) CONFORMING AMENDMENT.—Section 203(b)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(3)(A)) is amended by striking ''subparagraph (A)(iii)'' and inserting ''subparagraph (A)(iv)''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to aliens described in section 101(a)(15)(H)(ii)(a) admitted to the United States before, on, or after the effective date of this title.

SEC. ___11. MIGRANT AND SEASONAL HEAD START PROGRAM.

(a) IN GENERAL.—Section 637(12) of the Head Start Act (42 U.S.C. 9832(12)) is amended—

(1) by inserting ''and seasonal'' after ''migrant''; and

(2) by inserting before the period the following: '', or families whose incomes or labor is primarily dedicated to performing seasonal agricultural labor for hire but whose places of residency have not changed to another geographic location in the preceding 2-year period''.

(b) FUNDS SET-ASIDE.—Section 640(a) (42 U.S.C. 9835(a)) is amended—

(1) in paragraph (2), strike ''13'' and insert ''14'';

(2) in paragraph (2)(A), by striking ''1994'' and inserting ''1998''; and

(3) by adding at the end the following new paragraph:

''(8) In determining the need for migrant and seasonal Head Start programs and services, the Secretary shall consult with the Secretary of Labor, other public and private entities, and providers. Notwithstanding paragraph (2)(A), after conducting such consultation, the Secretary shall further adjust the amount available for such programs and services, taking into consideration the need and demand for such services.''.

SEC. ___12. REGULATIONS.

(a) REGULATIONS OF THE ATTORNEY GENERAL.—The Attorney General shall consult with the Secretary and the Secretary of Agriculture on all regulations to implement the duties of the Attorney General under this title.

(b) REGULATIONS OF THE SECRETARY OF STATE.—The Secretary of State shall consult with the Attorney General on all regulations to implement the duties of the Secretary of State under this title.

SEC. ___13. FUNDING.

If additional funds are necessary to pay the start-up costs of the registries established under section ___03(a), such costs may be paid out of amounts available to Federal or State governmental entities under the Wagner-Peyser Act (29 U.S.C. 49 et seq.). Except as provided for by subsequent appropriation, additional expenses incurred for administration by the Attorney General, the Secretary of Labor, and Secretary of State shall be paid for out of appropriations otherwise.

SEC. ___14. REPORT TO CONGRESS.

Not later than 3 years after the date of enactment of this Act and 5 years after the date of enactment of this Act, the Attorney General and the Secretaries of Agriculture and Labor shall jointly prepare and transmit to Congress a report describing the results of a review of the implementation of and compliance with this title. The report shall address—

(1) whether the program has ensured an adequate and timely supply of qualified, eligible workers at the time and place needed by employers;

(2) whether the program has ensured that aliens admitted under this program are employed only in authorized employment, and that they timely depart the United States when their authorized stay ends;

(3) whether the program has ensured that participating employers comply with the requirements of the program with respect to the employment of United States workers and aliens admitted under this program;

(4) whether the program has ensured that aliens admitted under this program are not displacing eligible, qualified United States workers or diminishing the wages and other terms and conditions of employment of eligible United States workers;

(5) whether the housing provisions of this program ensure that adequate housing is available to workers employed under this program who are required to be provided housing or a housing allowance; and

(6) recommendations for improving the operation of the program for the benefit of participating employers, eligible United States workers, participating aliens, and governmental agencies involved in administering the program.

SEC. ___15. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect 180 days after the date of enactment of this title.

Mr. SMITH of Oregon. How much time is remaining?

The PRESIDING OFFICER. The Senator from Oregon has 3 minutes remaining.

Mr. SMITH of Oregon. We are going to reserve that for the Senator from Washington.

Mr. KENNEDY. Mr. President, I yield myself 5 minutes.

Mr. President, in 1960, Edward R. Murrow shocked the Nation with his famous television documentary on the exploitation of farm workers in America. His report, ''Harvest of Shame,'' led to the repeal of the bracero program in 1964, under which 4.6 million Mexican workers had been brought to this country to harvest U.S. crops under harsh and abusive conditions.

I remember very clearly as a junior member on the Human Resources Committee the extensive hearings that we had and the travels that we took to many different parts of this country.

Yet here we are today considering an amendment that creates a new large-scale foreign agricultural worker program. Don't we ever learn? Have the special interests no shame.

A new bracero program would be harmful to American farmworkers, harmful to efforts to control illegal immigration, and harmful to the nation.

If the Senate votes for this amendment, it is voting for another ''harvest of shame.'' It is voting to let thousands of poor foreign farmworkers come here and stay permanently. This amendment opens the floodgates to foreign workers. It gives them permanent green cards if they work here for four consecutive harvests.

This amendment turns its back on years of efforts to improve conditions for America's farmworkers we admit under the current immigration laws.

A vast new guest worker program is completely unnecessary. As the General Accounting Office said in December: ''Ample supplies of farm labor appear to be available in most areas.''

I refer our colleagues to page 6 of the December publication of the GAO. It says:

> GAO's own analysis suggests, and many farm labor experts, government officials, and grower and farm labor advocates agree, that a widespread farm labor shortage has not occurred in recent years and does not now appear to exist. . . It found that 13 counties maintained annual double-digit unemployment rates, and 19 percent had rates above the national average.

The late Barbara Jordan and her Commission on Immigration Reform unanimously—unanimously—concluded that creating such a program would be a ''grievous mistake''. Every Federal immigration commission in modern times has concluded that agricultural guestworker programs should not be expanded. The Commission on Immigration Reform, the Commission on Agricultural Workers in 1992, and the Hesburgh Commission in 1981 all reached that conclusion.

The so-called protections in this amendment can be easily circumvented. The Department of Labor does not even have the authority to limit the issuance of visas if it finds that the employment of foreign labor is hurting U.S. workers. This bill strips all of the protections in the current program.

First, this amendment weakens the requirements to hire American farmworkers first. It requires the Department of Labor to set up a new high-tech registry in which growers post their jobs and American workers who register with the Labor Department can be matched with them. But all a company has to do is check the registry—if it can't get a worker right away, it can bring in a foreign worker. A check with the registry is the only recruitment an employer has to do, and we do not know if the registry will even work.

Most American farmworkers earn less than $12,000 a year. They don't have computers at home, where they can log onto the Internet and check the registry. In fact, many American farmworkers can't even afford telephones to call the registry. Until we know that a registry really can work, it is nothing but a gimmick that lets growers evade their responsibility to hire U.S. workers first.

This amendment also eliminates the requirement that growers must provide housing for the foreign workers they bring in. Even under the discredited bracero program, employers were required to provide housing.

But under this amendment, all growers have to provide is a housing voucher. What foreign worker can negotiate the American housing market? How can a farmworker from Mexico or the Caribbean find an apartment in rural America to rent for just a few weeks when he doesn't know his way around, can't speak English, and doesn't have a car? You can make the housing as generous as you want. But many of these workers are going to be homeless.

This amendment also weakens the wage standards and will depress the wages of American farmworkers already struggling to make ends meet. American farmworkers are the poorest of the working poor. I ask unanimous consent that an article from the New York Times be printed at this point in the RECORD.

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

[From the New York Times, July 19, 1998]

THE MIDDLE CLASS: WINNING IN POLITICS, LOSING IN LIFE

(By Louis Uchitelle)

The great American middle class, Politicians of the left and right court it. Policies, liberal and conservative, are proclaimed on its behalf. Health care reform was to have eased its cares. Tuition subsidies educate its children. President Clinton made a ''middle class tax cut'' a centerpiece of his election campaign.

Most voters see themselves as members of the middle class, so Newt Gingrich, the House Speaker, picked up the theme. When the Republican-controlled Congress finally passed a tax bill last year, he described it as the Republican ''fulfillment of what President Clinton promised—a middle class tax cut.''

But for all its mythic power, the middle class is finishing last in the race for improvement in the current economic boom. At the top and bottom of the economic ladder, wages are rising briskly. In the middle, they are rising slowly. This is unusual. While upper-income people often improve their lot faster than the middle class, lower-income workers hardly ever do.

The middle class of political exhortation and national myth isn't the same as the statistical middle of the wage scale, the place where progress is surprisingly slow. Half of the so-called middle class tax cuts enacted last year went to people earning more than $93,000. And while the median household earns almost $40,000 a year, the median individual wage is much lower: $11.13 an hour last month, or about $23,000 a year for a 40-hour work week.

It isn't that workers in this statistical middle—people earning roughly $23,000 to $32,000 a year for a 40-hour week—are visibly aggrieved because they are losing ground to their upper- and lower-earning fellow citizens. After all, their pay has gone up faster than the inflation rate over the last two years, even if the increase is not as great as the one experienced by lower- and upper-income workers.

''Everyone seems to be reacting to the favorable improvement in their pay,'' said Richard Curtin, director of consumer surveys at the University of Michigan. ''But the longer the expansion lasts, the more people will turn toward comparisons with other groups. That's when the grumbling and the wage demands begin. When you look across society, you are not really seeing that yet.''

THE MIDDLE-CLASS LIFE

Lots of things can help someone improve his lot in life, of course. A rising stock market, tax breaks, inheritance, government subsidies like Medicare and Social Security, extra hours on the job and overtime pay all pay roles, particularly for those at the top and bottom of the income ladder. The really wealthy often rely not on wages but on earnings from their investments. And many households put together the wages of two or three household members, bringing the median household income to nearly $40,000, which is enough to live a middle-class life in most of the United States.

By some estimates, a family of four must bring in at least $27,000 a year from one or more wage earners to maintain what John Schwarz, a political scientist at Arizona State University, describes as ''a minimally adequate standard of living.'' In pursuit of that goal, most people measure their standing in the work force by what they earn individually on the job.

The bottom 20 percent on the national wage scale, earning $14,500 a year or less for a 40-hour week, has gained the most ground over the last two years, once wages are adjusted for inflation. Upper-income Americans, those earning north of $75,000 a year, have gained almost us much as the low-income people in the same two-year stretch. The middle group has gained a little ground since 1996, but less than the others.

BREAKTHROUGH

Viewed over the full eight years of the current economic expansion, the middle has actually lost ground, while the top and the bottom have gained at roughly the same gradual pace. Once wages are adjusted for inflation, the low end, for the first time, has regained all the ground lost in the early 1990's and is now earning more than in 1989, when the last economic expansion ended and a recession set in, undercutting wages.

Workers earnings slightly more than the poorest group or, at the other extreme, somewhat less than the richest wage earners, also did better than those in the middle, although not as well as those at either extreme.

The breakthrough came this year. The low-end wage, a maximum of $6.99 an hour last month for the bottom 20 percent, was 20 cents higher than in 1989, adjusted for inflation, according to the Economic Policy Institute, which calculated the trends from data provided by the Labor Department's Bureau of Labor Statistics.

By comparison, the median wage, smack in the middle, was $11.13 an hour in June, or 17 cents lower than in 1989. The upper end, mostly peopled by well educated and skilled workers, seldom loses ground in any year. At the high end, the wage of $24.63 an hour today, adjusted for inflation, is 91 cents ahead of the comparable 1989 level.

There are reasons, of course, for the slide in the middle. Despite all the rhetorical emphasis on policies that favor the middle class, it is low-income workers who have gotten the extra nod from Washington in this economic expansion—particularly through a 90-cents-an-hour increase in the minimum wage since October 1996. It was an increase that the Democrats proposed and the Republicans in Congress finally favored.

The minimum reached $5.15 an hour last September, and the ripple effect has pushed up wages for workers earning as much as 50 cents an hour over the minimum. That is a big portion of the people in the lower 20 percent of the American work force.

''The higher minimum wage is the key factor that has lifted people at the bottom,'' said Edward Wolff, a labor economist at New York University, whose own earnings calculations produced roughly the same results as those of the Economic Policy Institute.

The economy has played a big role, too. A surge in growth over the last two years and a falling unemployment rate produced labor shortages that showed up first at the low end of the work force. Meanwhile, middle-level workers, while finding jobs easily enough, had more difficulty raising their wages. Mr. Wolff and other labor economists tick off the reasons.

Computers have diluted the demand for clerks, secretaries and other medium-skilled workers. Unions, once the powerful bargaining agents of middle Americans, are weak today. Rising imports have hurt workers who make the same goods in this country. Corporate downsizing spread in the 1990's through white-collar ranks, making middle-income people feel less secure in their jobs and more reluctant to push for raises. And a bigger percentage of the work force now has a college education or at least some college training, diluting the demand for them. The wages of people with only four years of college are no longer rising.

''While middle income people benefit from the tight labor market, they have a harder time digging themselves out of the wage hole,'' said Jared Bernstein, a labor economist at the Economic Policy Institute.

HARD TO HELP

They are also harder for government to help, says Edward Montgomery, the Labor Department's chief economist. A huge swath of people who earn roughly $23,000 to $55,000 a year—and pay more than 40 percent of all Federal income taxes—are much more on their own than lower-income workers. There are government-subsidized training programs, for example, to get unemployed people into the low end of the labor force. The minimum wage and the earned-income tax credit (a Republican initiative that rebates tax revenue to low-wage workers) put a floor under their income. But middle-level people depend much more on their own dealings with their employers to determine their situations.

''It is harder for government policies to reach these middle level people,'' Mr. Montgomery said. ''In a free enterprise society, we are hesitant to subsidize an employer for something he would do anyway.''

Mr. KENNEDY. This study shows that despite the extraordinary prosperity we have seen in the United States, the farmworkers are on the lowest rung—working the hardest—the lowest rung of the economic ladder and have moved backward in terms of their real purchasing power. They already suffer double-digit unemployment, and this amendment will make that crisis worse. It eliminates the requirement in current immigration law that foreign workers must be paid a wage that will not depress wages for American farmworkers.

Even if an American worker shows up early in a harvest, he will not be guaranteed the job if an employer has foreign workers. In fact, that is the way most American migrant farmworkers get their jobs—by just showing up. For years—for decades—they have travelled farm to farm at harvest time. They show up for the job, harvest after harvest.

Under current law, if an American worker shows up in the first half of a harvest, he gets the job, even if a foreign worker is already there. This is called the ''50 percent rule.'' Under this amendment, if that American worker is not on the new computer ''registry,'' he cannot get the job.

I am also concerned that this amendment will encourage illegal immigration. After spending billions of dollars to strengthen the Border Patrol to keep illegal immigrants out, it makes no sense to instruct the INS to cut a gaping hole in the border fence, and look the other way as illegal immigrants pour through.

We know from the hard lesson of past experiences that foreign agricultural

worker programs create patterns of illegal immigration that can't be stopped. The first workers to come here may be legal, have temporary work visas—but they create an endless chain of illegal immigration, as relatives, neighbors, and friends follow them into America.

In fact, under this amendment, if you work in this program for four years, you get a green card and can stay in America forever. An unlimited number of workers can enter under this reckless program. There is no cap. Hundreds of thousands of workers can come in, work four years, get green cards, and stay forever.

As Philip Martin, a leading agricultural labor economist at the University of California at Davis, has stated, when it comes to temporary foreign worker programs, ''There is nothing more permanent than a temporary worker.''

The original bracero program did not really end in 1964. It established a permanent, well-traveled path of illegal immigration. And three and a half decades later, we are still paying a price. A comprehensive joint study by the United States and Mexico, completed last year, put it this way:

History has shown that U.S.-sanctioned bracero recruitment in the 1950s oriented many Mexican workers toward the U.S. labor market instead of toward local jobs and development. This began a tradition of migration, raised expectations, and set into place a baseline of individuals and families who would eventually reside permanently in the U.S. Although meant to be a temporary supply of workers, an unintended consequence was to create a resident population.

This amendment adds to that problem, Mr. President. I think it will hurt America's vulnerable farmworkers and cause permanent damage to our immigration policies. I urge my colleagues to oppose it.

How much time remains?

The PRESIDING OFFICER. The Senator has 17 minutes remaining.

Mr. KENNEDY. I yield 7 minutes to the Senator from California.

Mrs. FEINSTEIN. I thank the Senator from Massachusetts.

Mr. President, I am really disappointed that this program is being ramrodded through on an appropriations bill. This program represents a huge new immigration program and no one should think to the contrary.

Fifty percent of all the people that are going to come in from other countries under this program will go to one State—California. California has not been afforded the time to do the analysis to see how this program would affect it. This program is a Trojan horse.

When I heard the testimony on a registry program on the Judiciary Committee I thought, ''Great idea; I want to support it.'' When the Senators made the announcement, I was a cosponsor. Then I saw that attached to the concept of the registry program was also a huge immigration program with no controls whatever, no way of asserting whether individuals go back, and as a matter of fact—and I will explain that shortly—setting up incentives for these people to remain in the country in a legal status. In California, this will mean literally tens of thousands of additional immigrants coming into the State. We currently have 2 million people in California in illegal status. This will only add to the number of illegal status.

Let me say how this will happen. Under the amendment, if the Department of Labor cannot find American workers—and there is no registry in place in California—this bill will go into play. The large agricultural associations will apply for 20,000, 30,000 permits at a time. The Department of Labor has 7 days to respond to that. If they don't respond to that huge number in that period of time, the permits are authorized and the foreign workers come in. There is no way of knowing who they are, whether they have any bona fide documents.

Additionally, once a worker is in this country for 10 months, they can apply for a 3-year extension. Therefore, you effectively are granting a stay of 3 years to someone who comes in. They then should return, and if they come back for one more year, they are here for all time. They gain legal status under this program. There are no caps on any numbers being brought in.

The major part of concern in this bill—and I want this in the RECORD, is section 6(b)1, the application to the Secretary of State that sets up this 7-day period when the employer submits the application for alien workers directly to the Secretary of State with a copy of the application provided to the Attorney General seeking the issuance of visas and the admission of aliens for employment in the job opportunities for which the employer has not received referral of registered workers.

Then there is an expedited consideration by the Secretary of 5 days.

It is physically impossible to consider 20 or 30,000 applications in 5 days. It is set up to permit the entry of large numbers of people about whom nothing will be known—whether they really will go home, whether they really will stay at the job, work at the job. I think this is going to make the Bracero Program look good in retrospect.

Now, what I object to is I would like to vote for something that would help what is becoming an increasing problem. That increasing problem is that increasingly farmers cannot find adequate labor to harvest their crops. In our State, you have these counties with 20 percent and 30 percent unemployment rates. It is amazing, but it is true. Unemployment rate is high, but the farmer cannot find the help. This is where the registry was supposed to help. But the registry and the importation program go into effect simultaneously. Consequently, if there is nobody on the registry, you have the opening to import 20, 30, 50, 75,000 workers with no limit. That is what I had hoped we would have the time to work out. We don't know whether the housing allowance will work in California. California isn't Oregon. Costs are much higher. Housing is unavailable.

AMENDMENT NO. 3282 TO AMENDMENT NO. 3258, AS MODIFIED

Mrs. FEINSTEIN. I send an amendment to the desk.

The PRESIDING OFFICER. The Chair would suggest that until the time has either been used or yielded back, an amendment is not in order.

Mrs. FEINSTEIN. All right.

Mr. KENNEDY. Mr. President, I think the proponent of the major amendment knew that this was going to be offered. I ask unanimous consent it be in order now to be able to offer the amendment.

Mr. SMITH of Oregon. We have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mrs. FEINSTEIN] proposes an amendment numbered 3282 to amendment No. 3258.

The amendment is as follows:

On page 20, line 19, after the period, insert: ''Independent contractors, agricultural associations and such similar entities shall be subject to a cap on the number of H2–A visas that they may sponsor at the discretion of the Secretary of Labor.''

Mrs. FEINSTEIN. What this does, and I quote from the amendment:

Independent contractors, agricultural associations and such similar entities shall be subject to a cap on the number of H2–A visas that they may sponsor at the discretion of the Secretary of Labor.

This would give the Secretary of Labor the opportunity to see that there is a reasonable number attached to this limited processing time because with the limited processing time, if you apply for 50,000 people, as could well be the case in California, you would not be able to meet the processing deadline.

The PRESIDING OFFICER. The time of the Senator has expired.

Mrs. FEINSTEIN. I thank the Chair. I yield the floor.

Mr. KENNEDY. How much time remains?

The PRESIDING OFFICER. The Senator has 10 minutes remaining; opposing has 3 minutes remaining.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, it is hard to do justice to the topic in 5 minutes.

Let me say I think something is happening on the floor of the Senate that takes us backward as a nation. There have been many people that have given their sweat and tears and even blood to try and improve conditions for farm workers. There have been Senators in the past that have done that. This amendment really undercuts some of this very important work.

What we are saying in this amendment is essentially this: We are saying

to the growers, listen, you don't have to really worry about the market. If the growers can't find the workers, pay better wages and have better working conditions. How many more reports do we have to have, from Harvest of Shame, to reports today of working conditions? The wages and uncivilized working conditions of farm workers are a national disgrace. If the growers want to have people working for them, then just have civilized working conditions and decent wages.

What this amendment essentially says is that what we are going to do is actually add to the exploitation by enabling you growers to essentially rely on a new guest worker program. Mr. President, we don't need a new guest worker program. Senator KENNEDY talked about the GAO report. I heard the farm worker justice fund mentioned earlier. They don't talk about this as reform; they talk about it as deform. We have a very strange situation here. We are saying that the growers can't get the workers, and now what we have is a program that cuts payments for guest workers. This cuts the payments for the guest workers. So in order to attract more workers, we enable growers to rely on people coming in from other countries, and we cut their wages.

I don't call this reform. I don't call this a change for the better. What we are essentially doing is putting the Federal Government at the service of a sector—in this particular case the growers—as a source of cheap labor. It is a huge mistake. Now, if we want to do better by way of working conditions for legal workers, I am all for it. If we want to reform the Guest Worker Program, I am all for it. But that is not what this is about. This is a huge step backward.

I hear about the vouchers. I mean, I did a lot of organizing in rural communities. The question is whether there is any housing. What good does it do to have vouchers if there isn't adequate housing there? We no longer deal with that protection. Then, in addition, the three-fourths minimum work guarantee is eliminated.

Workers who used to travel long distances are now promised wages for at least three-fourths of the season for which they are being hired. That guarantee is no longer there. This essentially takes the Guest Worker Program backwards. It adds to exploitation. It undercuts the working conditions of farm workers, which are already atrocious in this country. I say to the growers, with all due respect, if you want to have more people working for you, pay decent wages, have civilized working conditions. We ought not to be asking the Federal Government to essentially move in and supply these growers with a form of cheap labor, exploited labor. This isn't reform, this is deform. I hope there will be a strong vote against it.

Mr. SMITH of Oregon addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. SMITH of Oregon. Mr. President, I yield the balance of our time to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, these agricultural workers are already here. The Senator from California spoke of 2 million illegal workers already here. But we would think from the remarks of the opponents of this amendment that somehow or another we were spoiling a very good system that gave high wages, a wonderful set of attractions, and only needed to be strengthened. We aren't, Mr. President.

We have a situation that makes a violator of the law out of almost every agricultural employer in the United States of America who needs labor on a seasonal basis. What we propose to do is to say that many of these workers, whatever their conditions, are infinitely superior to the country from which they came, which is the reason they are willing to pay good money to be smuggled across our borders, several of whom die in the desert in the attempt to hide during the time that they are here, not to claim any of the rights they might otherwise have.

Our proposal would make many of them legally here, with very real rights, with the ability to go home legally and to come back again legally, rather than to have to stay because of the difficulty of crossing the border. Mr. President, tens of thousands of words have been uttered on the floor of this Senate in the last 3 weeks about the plight of our farmers, with collapsed Asian markets and lower prices. Here, for once, we have an opportunity to do something tangible for our farm community, to give them the labor that they cannot get in any legal fashion from citizens, or others, to allow them to be law-abiding, as they wish to do; and instead we have an argument that we better keep the present system; we better keep a system in which there are millions of illegal farm workers here because we don't care to try something that allows this labor to be provided legally. That is the difference.

Do we want the labor that is there now, and will be there tomorrow, to be legal labor? Or do we think the present situation with all these illegals is perfectly fine? Yes or no; up or down. Let's allow these people to be here legally, to help us to improve their own lives legally.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. KENNEDY. Mr. President, I understand we have 5 minutes.

The PRESIDING OFFICER. Five minutes remain.

Mr. KENNEDY. I yield a minute to Senator WYDEN.

Mr. WYDEN. I thank my colleague for his patience. It has been mentioned that this is in some way a bracero program. My friends, this is not. Under the Bracero Program, for example, there was no right of first refusal for U.S. workers to available jobs in our country. That is what is different here—U.S. workers first, first dibs on any available position.

Point No. 2: There has been discussion that this amendment would in some way increase illegal immigration. Right now, of the 1.6 million farm workers, perhaps a million of them are illegal. What we are advocating is an above-ground system that guarantees fundamental protections to legal workers. Some of our opponents, it seems to me, prefer an underground system that is going to keep thousands of those workers hidden in the back of a U-Haul trailer or the trunk of a car. That is not humane. We don't want those workers in the back of a U-Haul or in the trunk of a car. We want them participating in a legal, humane system that rewards both the workers and the growers. That is why this proposal makes sense. I hope it will receive strong support from our colleagues.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I have talked to the managers of the bill about the acceptance of an amendment.

I ask unanimous consent that the pending amendment be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3283 TO AMENDMENT NO. 3258

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment numbered 3283 to amendment No. 3258.

The amendment is as follows:

At the end of the amendment add the following:

SEC. . PRESIDENTIAL AUTHORITY.

In implementing this title, the President of the United States shall not implement any provision that he deems to be in violation of any of the following principles: where the procedures for using the program are simple and the least burdensome for growers; which assures an adequate labor supply for growers in a predictable and timely manner; that provides a clear and meaningful first preference for U.S. farm workers and a means for mitigating against the development of a structural dependency on foreign workers in an area or crop; which avoids the transfer of costs and risks from businesses to low wage workers; that encourages longer periods of employment for legal U.S. workers; and which assures decent wages and working conditions for domestic and foreign farm workers, and that normal market forces work to improve wages, benefits, and working conditions.

Mr. KENNEDY. Mr. President, I yield myself 2 minutes.

Mr. President, as I have expressed, I have serious concerns about the development of this program. Similar kinds of programs have been considered and rejected by the Hesburgh Commission.

The Barbara Jordan Commission, which really had many thoughtful men and women on it, reviewed these kinds of programs and expressed the same kinds of concerns that I have expressed here briefly this afternoon. For that reason, as well as the very important adverse impact that I think it will have on wages; and because of its impact in terms of opening up some unpredictable, unknown, and uncertain aspects of immigration policy that I oppose this.

Having said all that, I commend my friends, Senator SMITH and Senator WYDEN. They have appeared before our committees on this issue. They have been enormously constructive and positive and responsive to those that had differing views on this. They have, brought a very considerable amount of thought to this issue and they have impressed me, as I know they have all Members, about their willingness to try and work this thing through in a constructive way. I intend to vote in opposition for the reasons outlined. But I want to work with them and see if we cannot respond to these kinds of concerns. Both of them have expressed their deep-seated concerns about these issues as well. We do have differences, but they have demonstrated on this issue, as in other areas, a willingness to try and find common ground. I thank them for their courtesies to date and for their willingness to continue to develop something that is going to be effective. I and others who share this view will look forward to working with them.

Mr. President, I am prepared to yield whatever time I have to the Senator from Oregon.

Mr. SMITH of Oregon addressed the Chair.

The PRESIDING OFFICER. The Senator has 40 seconds.

Mr. SMITH of Oregon. Mr. President, I thank the Senator from Massachusetts.

I join in the spirit of trying to work on this issue to resolve a situation that I truly believe is broken. If we don't succeed in this, we are frankly not going to say that we are content with the status quo. The status quo is not acceptable. These people are here in this country illegally. There ought to be a way in which they can be here legally to do this work, which they want to do, and which we need them to do in order to avoid a serious crisis on the American farm.

I ask my colleagues to support this amendment. It is historic. It is important. But it is also a work in progress. This bill represents progress.

I thank the President, and I yield the floor.

The PRESIDING OFFICER. All time has expired.

The question is on the Kennedy second-degree amendment.

Mr. GREGG addressed the Chair.

Mr. KENNEDY. Mr. President, I ask that the underlying amendment be modified with our amendment. I ask unanimous consent that be done.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

The amendments (Nos. 3282 and 3283) were agreed to.

Mr. KENNEDY. As I understand it, Mr. President, the proposal of the Senators from California and Massachusetts has been included in the underlying amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. I thank the Chair.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. For the information of all of our Members, we will begin voting on this amendment and then proceed to final passage at approximately 3:30.

MODIFICATION TO AMENDMENT NO. 3261, AS MODIFIED, PREVIOUSLY AGREED TO

Mr. GREGG. Mr. President, I send to the desk on behalf of Senator SPECTER a technical modification to the Craig amendment numbered 3261.

''(2) Within funds appropriated in this Act for necessary expenses of the Offices of United States Attorneys, $1,500,000 shall be available for the Attorney General to hire additional assistant U.S. attorneys and investigators in the city of Philadelphia, Pennsylvania, for a demonstration project to identify and prosecute individuals in possession of firearms in violation of federal law.''

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is so modified.

Mr. GREGG. Mr. President, I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GREGG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Mr. President, while we are waiting, I would like to take a moment. We are, hopefully, about to move to final passage after the vote on the Smith amendment is taken care of.

I would like to take a moment to thank the staff for the extraordinarily hard work they put into this. Both the majority staff and the minority staff spent countless hours bringing this bill forward. It is a complicated bill. They spent the last 3 or 4 days, almost, working on it. We have seen a lot of amendments. More than a little bit of intricate thought has gone into it. It has a very complex matrix of issues. And it could not possibly have been managed without the strong and professional support that we have received from the staff.

I would like to also specifically thank former minority clerk Scott Gudes, who has moved on but whose work for 12 years on this committee was extraordinary, and whom I very much enjoyed working with. His replacement, Lila Helms, is a great addition and has carried on Scott's exceptional work. Emelie East and Dereck Orr have also been great assets, I am sure, to the minority and to the majority, as a result of their efforts.

On my own staff, countless hours have been put in, and I especially thank Jim Morhard, who is clerk of the committee. I don't think he has seen his family, or anyone else, other than the inside of these walls for days and weeks. I very much appreciate his efforts and the expertise he has brought to this.

Along with him, the professional staff of Paddy Link, Kevin Linskey, Carl Truscott, Dana Quam, and Vas Alexopoulos have been extraordinary; Kris Pickler, and Jackie Cooney of my personal staff, and Virginia Wilbert, who have been extraordinary also, have not only put their oars in but have aggressively rowed this boat toward the shore. We hope it will arrive very soon.

It is really a team effort. And we have an extremely strong team, a team made up of Cal Ripkens and Ken Griffeys. We are very lucky to have them, and we thank them for all their time and effort.

I have been advised that the Democratic leader is willing to proceed with a vote at 3:15. We will begin voting on the Smith amendment at 3:15.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, let me thank Chairman GREGG in the first instance. I have had the occasion to handle several bills myself. I have watched it for over 30 years. Several Senators on our side of the aisle have remarked along with me in the back of the cloakroom that they have never seen a bill that was better managed and that Senator GREGG has done an outstanding job, which I want to note for the RECORD.

As the distinguished Senator stated, the staffs on both sides have just done an outstanding job. They worked around the clock. I have never seen this many amendments actually move in this short a time. It couldn't have been done, of course, without the folks here right at the front desk on both sides of the aisle.

Let me thank Jim Morhard, Kevin Linskey, Paddy Link, Carl Truscott, Dan Quam, and Virginia Wilbert, of the majority staff; and Lila Helms, Emelie East, and Dereck Orr. Actually, as Senator GREGG has pointed out, Lila has come in now to replace Scott Gudes, which is next to impossible. He was as good as there ever was. But she has already brought that statement into contest. She, Emelie East, and Dereck Orr have been working around the clock and have been doing a great job.

I am glad that the Senator from New Hampshire notes this for the RECORD. Too often we forget that we couldn't handle these bills without Scott Gudes, and Dereck Orr on our side of the aisle. I can tell you that.

Mr. GREGG. Mr. President, I ask unanimous consent that the managers'

amendments be in order notwithstanding the fact that they amend language already amended.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NOS. 3284 THROUGH 3321, EN BLOC

Mr. GREGG. I now send to the desk a series of amendments cleared by both managers on behalf of myself and Senator HOLLINGS. I further ask they be considered and adopted en bloc and motion to reconsider these amendments be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

The Senator from New Hampshire [Mr. GREGG], for himself and Mr. HOLLINGS, proposes amendments numbered 3284 through 3321, en bloc.

Mr. GREGG. I renew my unanimous consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (Nos. 3284 through 3321) were agreed to, as follows:

AMENDMENT NO. 3284

TITLE I—DEPARTMENT OF JUSTICE

On page 2, line 24, insert ''forfeited'' after the first comma.

On page 45, line 17, strike ''13'' and insert ''286''.

On page 5 of the Bill, on lines 8 and 9, strike the following: ''National Consortium for First Responders'', and insert the following: ''National Domestic Preparedness Consortium''.

On page 27 of the Bill, on line 10, after the words ''unit of local government'', insert the words ''at the parish level''.

On page 29 of the Bill, on line 13 after ''Tribal Courts Initiative'', insert the following:

'', including $400,000 for the establishment of a Sioux Nation Tribal Supreme Court''

On page 51 of the Bill, after line 9, insert the following:

SEC. 121. Section 170102 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14072) is amended—

(1) in subsection (a)(2), by striking ''or'';

(2) in subsection (g)(3), by striking ''minimally sufficient'' and inserting ''State sexual offender''; and

(3) by amending subsection (1) to read as follows:

''(i) PENALTY.—A person who is—

''(1) required to register under paragraph (1), (2), or (3) of subsection (g) of this section and knowingly fails to comply with this section;

''(2) required to register under a sexual offender registration program in the person's State of residence and knowingly fails to register in any other State in which the person is employed, carries on a vocation, or is a student;

''(3) described in section 4042(c)(4) of title 18, United States Code and knowingly fails to register in any State in which the person resides, is employed, carries on a vocation, or is a student following release from prison or sentencing to probation; or

''(4) sentenced by a court martial for conduct in a category specified by the Secretary of Defense under section 115(a)(8)(C) of title I of Public Law No. 105–119, and knowingly fails to register in any State in which the person resides, is employed, carries on a vocation, or is a student following release from prison or sentencing to probation, shall, in the case of a first offense under this subsection, be imprisoned for not more than 1 year and, in the case of a second or subsequent offense under this subsection, be imprisoned for not more than 10 years.''.

On page 51 of the Bill, after line 9, insert the following:

SEC. 123. (a) IN GENERAL.—Section 200108 of the Police Corps Act (42 U.S.C. 14097) is amended by striking subsection (b) and inserting the following:

''(b) TRAINING SESSIONS.—A participant in a State Police Corps program shall attend up to 24 weeks, but no less than 16 weeks, of training at a residential training center. The Director may approve training conducted in not more than 3 separate sessions.''.

(b) CONFORMING AMENDMENT.—Section 200108(c) of the Police Corps Act (42 U.S.C. 14097(c)) is amended by striking ''16 weeks of''.

(c) REAUTHORIZATION.—Section 200112 of the Police Corps Act (42 U.S.C. 14101) is amended by striking ''$20,000'' and all that follows before the period and inserting ''$50,000,000 for fiscal year 1999, $70,000,000 for fiscal year 2000, $90,000,000 for fiscal year 2001, and $90,000,000 for fiscal year 2002''.

TITLE II—DEPARTMENT OF COMMERCE AND RELATED AGENCIES

On page 66, line 5, strike the proviso ''*Provided further,* That $587,992,000 shall be made available for the Procurement, acquisition and construction account in fiscal year 1999:'' and insert in lieu thereof ''*Provided further,* That of the $10,500,000 available for the estuarine research reserve system, $2,000,000 shall be made available for the Office of response and restoration and $1,160,000 shall be made available for Navigation services, mapping and charting: *Provided further,* That of funds made available for the National Marine Fisheries Service information collectin and analyses, $400,000 shall be made available to continue Atlantic Herring and Mackerel studies: *Provided further,* That of the $8,500,000 provided for the interstate fisheries commissions, $7,000,000 shall be provided to the Atlantic States Marine Fisheries Commission for the Atlantic Coastal Cooperative Fisheries Management Act, $750,000 shall be provided for the Atlantic Coastal Cooperative Statistics Program, and the remainder shall be provided to each of the three interstate fisheries commissions (including the ASMFC): *Provided further,* That within the Procurement, Acquisition and Construction account that $3,000,000 shall be made available for the National Estuarine Research Reserve construction, and $5,000,000 shall be made available for Great Bay land acquisition.''

On page 72, line 15, after ''(3)(L)'', replace the brackets with parentheses around the phrase ''as identified by the Governor'' and on line 16, before the period add a quotation mark.

TITLE V—INDEPENDENT AGENCIES

SMALL BUSINESS ADMINISTRATION

On page 116, line 17, change ''1998'' and ''1999'' to ''2000''.

On page 117, line 6, strike ''to this appropriation and used for necessary expenses of the agency'' and insert in lieu thereof ''to and merged with the appropriations for salaries and expenses:''

On page 117, line 12, strike ''20(n)(2)(B)'' and insert in lieu thereof ''20(d)(1)(B)(ii)''.

AMENDMENT NO. 3285

(Purpose: To prohibit the publication of identifying information relating to a minor for criminal sexual purposes)

On page 51, between lines 9 and 10, insert the following:

SEC. 121. INTERNET PREDATOR PREVENTION.

(a) PROHIBITION AND PENALTIES.—Chapter 110 of title 18, United States Code, is amended by adding at the end the following:

''§ 2261. Publication of identifying information relating to a minor for criminal sexual purposes

''(a) DEFINITION OF IDENTIFYING INFORMATION RELATING TO A MINOR.—In this section, the term 'identifying information relating to a minor' includes the name, address, telephone number, social security number, or e-mail address of a minor.

''(b) PROHIBITION AND PENALTIES.—Whoever, through the use of any facility in or affecting interstate or foreign commerce (including any interactive computer service) publishes, or causes to be published, any identifying information relating to a minor who has not attained the age of 17 years, for the purpose of soliciting any person to engage in any sexual activity for which the person can be charged with criminal offense under Federal or State law, shall be imprisoned not less than 1 and not more than 5 years, fined under this title, or both.''.

(b) TECHNICAL AMENDMENT.—The analysis for chapter 110 of title 18, United States Code, is amended by adding at the end the following:

''2261. Publication of identifying information relating to a minor for criminal sexual purposes.''.

AMENDMENT NO. 3286

(Purpose: To require Internet access providers to make available Internet screening software)

On page 135, between lines 11 and 12, insert the following:

SEC. 620. (a) REQUIREMENT.—Section 230 of the Communications Act of 1934 (47 U.S.C. 230) is amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

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

''(d) OBLIGATIONS OF INTERNET ACCESS PROVIDERS.—

''(1) IN GENERAL.—An Internet access provider shall, at the time of entering into an agreement with a customer for the provision of Internet access services, offer such customer (either for a fee or at no charge) screening software that is designed to permit the customer to limit access to material on the Internet that is harmful to minors.

''(2) DEFINITIONS.—As used in this subsection:

''(A) INTERNET ACCESS PROVIDER.—The term 'Internet access provider' means a person engaged in the business of providing a computer and communications facility through which a customer may obtain access to the Internet, but does not include a common carrier to the extent that it provides only telecommunications services.

''(B) INTERNET ACCESS SERVICES.—The term 'Internet access services' means the provision of computer and communications services through which a customer using a computer and a modem or other communications device may obtain access to the Internet, but does not include telecommunications services provided by a common carrier.''.

''(C) SCREENING SOFTWARE.—The term 'screening software' means software that is designed to permit a person to limit access to material on the Internet that is harmful to minors.''.

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply to agreements for the provision of Internet access services entered into on or after the date that is 6 months after the date of enactment of this Act.

Mr. DODD. Mr. President, I rise today to offer an amendment designed to give parents a tool to help protect their children from pornography and sexual predators on the Internet. According to Wired magazine, there are

currently some 28,000 web sites containing hard- and soft-core pornography. And that number is growing at an alarming rate, it is estimated that 50 pornographic sites are added to the Internet each day.

Sadly, many of out children are, out of curiosity or by accident, exposed to such sites while surfing the web. They type in search terms as innocuous as ''toys''—only to find graphic images and language on their display terminal.

Mr. President, the Internet is profoundly changing the way we learn and communicate with people. Today, our children have unprecedented access to educational material through the Internet. It provides children with vast opportunities to learn about art, culture and history—the possibilities are endless.

However, this advanced technology also brings with it a dark side for our children. Many children who are browsing the net—often unaccompanied by an adult—come across material that is unsuitable for them, and is oftentimes sexually explicit.

Mr. President, every parent worries about strangers approaching their children in their neighborhood or on the playground at school. And they teach their children how to avoid these strangers. But, today, these strangers are literally inside our homes. They are only a mouse click away from our children. In our libraries and bookstores, we store reading material that is harmful to minors in areas accessible only to adults. Yet, in cyberspace, these same materials are as accessible to a child as his or her favorite bedtime story.

Pornography and predators are now reaching our children, via the Internet, in the privacy and safety of their own homes and classrooms. This kind of access to our children is alarming, and this invasion of our children's privacy and innocence is unconscionable.

We, as a nation, have an obligation to ensure that surfing the web remains a safe and viable option for our children. We have a responsibility to make sure that they are able to learn and grow in an environment free of sexual predators and pornographic images. Clearly, there is no substitute for parental supervision. Yet, I think we can all agree that many parents know less about the Internet than their children. Parents are convinced of the Internet's educational value, but they feel anxious about their ability to supervise children while they use it.

In my view, it is important that we encourage parents and children to use the Internet together. But clearly, it is difficult for any adult to monitor children online all of the time.

Therefore, I believe we need to provide our parents with the tools to protect and guide our children. The amendment I offer today is a modest measure designed to provide one such tool. It would ensure that Internet access providers make screening software available to customers purchasing Internet access services.

The amendment would allow customers to have the opportunity to obtain—either for a fee or no charge, as determined by the provider—screening software that permits customers to limit access to material on the Internet that is harmful to minors. Like going to the pharmacy and being asked if you want a child-proof lid for a prescription medication, my bill would require that Internet access providers ask parents whether they would like to obtain screening software.

It is not a guarantee that children using the Internet would be protected from pornography and predators. And it is not a substitute for parental supervision. But it can be an extension of parental supervision—a tool we put in their hands to help protect their kids—much as we did when we voted to give parents the v-chip.

I hope my colleagues will endorse this amendment, and I urge its adoption.

AMENDMENT NO. 3287

(Purpose: To move Schuylkill County, PA from the Eastern District to the Middle District of Pennsylvania)

SEC. . TRANSFER OF COUNTY.

(a) Section 118 of title 28, United States Code, is amended—

(1) in subsection (a) by striking ''Philadelphia, and Schuylkill'' and inserting ''and Philadelphia''; and

(2) in subsection (b) by inserting ''Schuylkill,'' after ''Potter,''.

(b) EFFECTIVE DATE.

(1) IN GENERAL.—This section and the amendments made by this section shall take effect 180 days after the date of the enactment of this Act.

(2) PENDING CASES NOT AFFECTED.—This section and the amendments made by this section shall not affect any action commenced before the effective date of this section and pending on such date in the United States District Court for the Eastern District of Pennsylvania.

(3) JURIES NOT AFFECTED.—This section and the amendments made by this section shall not affect the composition, or preclude the service, of any grand or petit jury summoned, impaneled, or actually serving on the effective date of this section.

AMENDMENT NO. 3288

(Purpose: To require a report regarding the analysis of the United States Trade Representative with respect to any subsidies provided by the Government of the Republic of Korea to Hanbo Steel)

At the appropriate place in title VI, insert the following new section:

SEC. ___. REPORT ON KOREAN STEEL SUBSIDIES.

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the United States Trade Representative (in this section referred to as the ''Trade Representative'') shall report to Congress on the Trade Representative's analysis regarding—

(1) whether the Korean Government provided subsidies to Hanbo Steel;

(2) whether such subsidies had an adverse effect on United States companies;

(3) the status of the Trade Representative's contacts with the Korean Government with respect to industry concerns regarding Hanbo Steel and efforts to eliminate subsidies; and

(4) the status of the Trade Representative's contacts with other Asian trading partners regarding the adverse effect of Korean steel subsidies on such trading partners.

(b) STATUS OF INVESTIGATION.—The report described in subsection (a) shall also include information on the status of any investigations initiated as a result of press reports that the Korean Government ordered Pohang Iron and Steel Company, in which the Government owns a controlling interest, to sell steel in Korea at a price that is 30 percent lower than the international market prices.

Mr. BYRD. Mr. President, this amendment addresses the continued problem of trade-distorting subsidies given by the Korean Government to its domestic steel industry. Unfair trade practices by the Korean Government are causing the U.S. steel industry—including one of West Virginia's largest employers, Weirton Steel Corporation—to lose millions of dollars. These losses impact U.S. communities, which must carry the burden of Korea's unfair practices by contending with a lower tax and job base.

I joined my colleagues in the Senate Steel Caucus in signing letters to U.S. Trade Representative (USTR) Charlene Barshefsky and U.S. Department of Commerce Secretary William Daley regarding violations by the South Korean Government of the World Trade Organization (WTO) Subsidy Code. Regrettably, the responses to those letters were not satisfactory.

My amendment would simply require the United States Trade Representative to report on Korean steel subsidies. Accurate information on unfair trade practices is vital to the future of the U.S. steel industry and its workers. This amendment would send the Korean Government a clear message that we expect our trading partners to adhere to fair trading practices, but, more importantly, it would send a message to American workers that this Congress is prepared to defend our own commercial interests and take action against the Korean Government's infringement upon U.S. rights under the WTO agreement.

U.S. imports of steel from South Korea have increased by nearly forty-five percent during the first four months of 1998. These surging Korean steel imports are possible due to the Korean government's continued use of illegal subsidies—subsidies that unfairly disadvantage the U.S. steel industry. The negative impact of these Korean subsidies cannot be ignored. Illegal foreign steel sales are severely undermining the economic stability in regions throughout our country that rely upon steel for jobs—literally taking money out of the pockets of these workers as well as their neighbors, who depend upon this industry for their livelihood.

For the U.S. steelworkers in the Upper Ohio Valley and throughout our nation, we must continue to pursue efforts to end the entry of foreign products into this country that unfairly place our domestic industries at risk. We must restore confidence in our trade laws.

I appreciate Members' support of this initiative.

AMENDMENT NO. 3289

(Purpose: To prohibit the use of funds for the enforcement in fiscal year 1999 of certain regulations regarding the Global Maritime Distress and Safety System (GMDSS) with respects to United States fishing industry vessels)

On page 135, between lines 11 and 12, insert the following:

SEC. 620. Notwithstanding any other provision of law, no funds appropriated or otherwise made available for fiscal year 1999 by this Act or any other Act may be obligated or expended for purposes of enforcing any rule or regulation requiring the installation or operation aboard United States fishing industry vessels of the Global Maritime Distress and Safety System (GDDSS).

GLOBAL MARITIME DISTRESS AND SAFETY SYSTEM

Mr. MURKOWSKI. Mr. President, this amendment will delay for one year the application of the Global Maritime Distress and Safety System, abbreviated as GMDSS, to fishing industry vessels. The purpose of the delay is to allow the Federal Communications Commission (FCC) the time to address a number of serious concerns that have recently come to light involving GMDSS for fishing industry vessels. Also Mr. President, let me make clear that the delay will not affect any other type of vessel.

GMDSS is a system created by the International Maritime Organization (IMO) under the Convention on the Safety of Life at Sea (SOLAS). It was intended to improve safety for large cargo and passenger vessels on international voyages. It is scheduled to go into effect on February 1 of next year. There is no doubt that GMDSS will indeed improve safety for these types of vessels.

Fishing vessels are very specifically not covered by SOLAS, but the FCC regulation requiring GMDSS for international passenger and cargo vessels is also being applied to large domestic fishing industry vessels anyway.

Because these types of vessels operate very differently, there are serious questions as to whether the system should be applied in the same way.

The most important of the questions that has been raised for the fishing industry involves the safety and well-being not of the fishing vessels required to carry GMDSS equipment, but of the smaller vessels that work around them.

One of the things that makes GMDSS attractive to large vessels on international voyages is that it is automated, using a feature called Digital Selective Calling (DSC). Because of this, when the large vessels switch to GMDSS on February 1, they will no longer be required to maintain a continuous watch on the two emergency frequencies used under the current system.

In the United States, the watchstanding requirement has been extended to the year 2005 for VHF Channel 16, but will cease on February 1 for 2182 kilohertz. These are the two frequencies used by small vessels, including the small fishing vessels that operate in and around the larger vessels that will be required to convert to GMDSS.

When a fishing vessel is in distress, the vessels closest to it and in the best position to render aid are other fishing vessels working in the same area.

But, Mr. President, what will happen when the small vessel sends out a distress call, only to find that the larger and better-equipped fishing vessels around it are no longer listening?

This is—obviously, and with very good reason—a major concern. Under the theory of GMDSS, contact with other vessels is to be replaced by contact with a shore station. That's all well and good on an international voyage, where it may eliminate confusion and speed up response. But for fishing vessels, it may very well slow response time—and believe me, Mr. President, in the frigid waters of the Bering Sea in the winter, every second counts toward life—or toward death. Because of this, there is a very real danger that shifting the largest and most capable vessels of the fleet to GMDSS may actually degrade safety for smaller, but far more numerous vessels operating in the same areas.

In fact, although the GMDSS system is supposed to replace ship-to-ship emergency communications with a unified ship-to-shore system maintained by the Coast guard, the fact is that the Coast Guard itself is not ready to implement it fully.

With the system scheduled to go into effect in just a few months, there are still major shore-based components that have not yet been installed. In Alaska, for example, the Coast Guard is only this summer starting the installation of medium-frequency receivers. And throughout the country, installation of VHF receivers has been delayed indefinitely—it is ''on hold.'' According to the Coast Guard's own task force on GMDSS, the VHF system will probably not be in place before 2003 at the earliest.

The fact that GMDSS was not designed for the fishing fleet is an issue itself. Most every mariner of any sort is familiar with SOLAS, and knows that it does not apply to fishing vessels. As a result, when the FCC published the proposed GMDSS rule in 1990, and when it made the rule final in 1992, the fishing industry was not made aware that it would be applied to fishing industry vessels, which are generally treated as a separate class of vessels under U.S. law.

Indeed, when the proposed GMDSS regulation was printed in the Federal Register in 1990, it specified that fishing vessels would not be included: ''Small ships, such as private fishing vessels and recreational yachts, are not affected by the proposed changes.'' This same statement is still being repeated, in an informational document about GMDSS that is currently offered on the FCC's Internet site.

Given this confusion, it is no wonder that the fishing industry's concerns did not surface sooner; most of the industry was unaware of the need to comment. This alone is a huge flaw in the way the rulemaking was conducted, but one that can be corrected given a little more time to explore and address the fishing industry's concerns.

Mr. President, the affected fishing industry vessels already carry all but one feature of the GMDSS system. They have VHF radios and single-side-band radios, EPIRBS, radars, radar transponders and hand-held VHF radios for their life rafts, and so forth. Each vessel already carries—at a guess—$20,000 to $30,000 worth of sophisticated communications equipment. The only thing they are lacking is the Digital Selective Calling (DSC) feature.

In a recent meeting with the Coast Guard and the FCC, we learned that there is no reason DSC could not be added to the existing equipment for a very reasonable cost—perhaps $5,000. However, the industry has indicated that electronics vendors have so far either declined to sell DSC as a separate component, or if they do, to offer a component warranty on it. Instead, they are insisting that the fishing industry purchase large consoles where all of the GMDSS equipment is pre-installed—at a cost of $50,000 to $60,000 dollars each. Because of the confined nature of the wheelhouse on the average vessel, significant structural changes may have to be made to fit the console in place, and of course, the existing $30,000 of equipment would have to be scrapped. That means, Mr. President, that the cost of outfitting these vessels may reach as much as $100,000—all to get a $5,000 piece of equipment on board. That, Mr. President, is why people get upset at their government. That, Mr. President, is just plain wrong.

These are just a few of the very serious issues that justify a delay for fishing industry vessels so that the rule can be re-examined and improved with better input from the industry. No one wants to see safety degraded in any way—including by mandating ''improvements'' that may be no such thing.

It may be that GMDSS is the way to go for fishing industry vessels as well as the large international cargo vessels and passenger liners it was designed for. If so, it should be adopted, and I'm sure it will be. But if not, we must take the time to listen first.

Mr. GREGG. Will the Senator from Alaska yield for a question?

Mr. MURKOWSKI. Mr. President, I am very happy to yield for a question from the distinguished manager.

Mr. GREGG. It is my understanding that this amendment will delay for one year the application of the GMDSS requirements for fishing industry vessels, but not other types of vessels. Is that the understanding of the Senator from Alaska?

Mr. MURKOWSKI. Mr. President, the manager is quite correct. This amendment will apply only to fishing industry vessels such as catcher-boats,

catcher-processors, mothership processors and fish tender vessels. Other types of vessels to which the rule applies, such as cargo and passenger ships, will not be affected.

Mr. GREGG. Is it the Senator's intention that the federal agencies involved would then use this period of time to further examine the issue of applying GMDSS requirements to the fishing industry?

Mr. MURKOWSKI. Once again, Mr. President, the distinguished manager is correct. Based on discussions with the two agencies directly involved in this matter, and with the fishing industry, it is evident that the industry has legitimate concerns and questions that have not been answered. The moratorium will allow the agencies the time to revisit the issue in the detail that it deserves. I hope they will take the opportunity either to reopen the rulemaking with respect to fishing industry vessels or to open a new rulemaking that specifically deals with such vessels, so that the unique characteristics of the fishing industry are considered.

Mr. GREGG. I thank the Senator. In my view this is a very legitimate goal and I join the Senator from Alaska in expressing the hope that the agencies will revisit this matter.

AMENDMENT NO. 3290

(Purpose: To provide for the payment of special masters, and for other purposes)

At the appropriate place, insert the following:

SEC. ___. SPECIAL MASTERS FOR CIVIL ACTIONS CONCERNING PRISON CONDITIONS.

Section 3626(f) of title 18, United States Code, is amended—

(1) by striking the subsection heading and inserting the following:

''(f) SPECIAL MASTERS FOR CIVIL ACTIONS CONCERNING PRISON CONDITION.—''; and

(2) in paragraph (4)—

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

(B) in subparagraph (A), as so designated, by adding at the end the following: ''In no event shall a court require a party to a civil action under this subsection to pay the compensation, expenses, or costs of a special master. Notwithstanding any other provision of law (including section 306 of the Act entitled 'An Act making appropriations for the departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1997,' contained in section 101(a) of title I of division A of the Act entitled 'An Act making omnibus consolidated appropriations for the fiscal year ending September 30, 1997' (110 Stat. 3009–201)) and except as provided in subparagraph (B), the requirement under the preceding sentence shall apply to the compensation and payment of expenses or costs of a special master for any action that is commenced, before, on, or after the date of enactment of the Prison Litigation Reform Act of 1995.''; and

(C) by adding at the end the following:

''(B) The payment requirements under subparagraph (A) shall not apply to the payment to a special master who was appointed before the date of enactment of the Prison Litigation Reform Act of 1995 (110 Stat. 1321–165 et seq.) of compensation, expenses, or costs relating to activities of the special master under this subsection that were carried out during the period beginning on the date of enactment of the Prison Litigation Reform Act of 1995 and ending on the date of enactment of this subparagraph.''.

AMENDMENT NO. 3291

(Purpose: To provide for the waiver of fees for the processing of certain visas for certain Mexico citizens and to require the continuing processing of applications for visas in certain Mexico cities)

On page 100, between lines 18 and 19, insert the following:

SEC. 407. (a) WAIVER OF FEES FOR CERTAIN VISAS.—

(1) REQUIREMENT.—

(A) IN GENERAL.—Notwithstanding any other provision of law and subject to subparagraph (B), the Secretary of State and the Attorney General shall waive the fee for the processing of any application for the issuance of a machine readable combined border crossing card and nonimmigrant visa under section 101(a)(15)(B) of the Immigration and Nationality Act in the case of any alien under 15 years of age where the application for the machine readable combined border crossing card and nonimmigrant visa is made in Mexico by a citizen of Mexico who has at least one parent or guardian who has a visa under such section or is applying for a machine readable combined border crossing card and nonimmigrant visa under such section as well.

(B) DELAYED COMMENCEMENT.—The Secretary of State and the Attorney General may not commence implementation of the requirement in subparagraph (A) until the later of—

(i) the date that is 6 months after the date of enactment of this Act; or

(ii) the date on which the Secretary sets the amount of the fee or surcharge in accordance with paragraph (3).

(2) PERIOD OF VALIDITY OF VISAS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), if the fee for a machine readable combined border crossing card and nonimmigrant visa issued under section 101(a)(15)(B) of the Immigration and Nationality Act has been waived under paragraph (1) for a child under 15 years of age, the machine readable combined border crossing card and nonimmigrant visa shall be issued to expire on the earlier of—

(i) the date on which the child attains the age of 15; or

(ii) ten years after its date of issue.

(B) EXCEPTION.—At the request of the parent or guardian of any alien under 15 years of age otherwise covered by subparagraph (A), the Secretary of State and the Attorney General may charge a fee for the processing of an application for the issuance of a machine readable combined border crossing card and nonimmigrant visa under section 101(a)(15)(B) of the Immigration and Nationality Act provided that the machine readable combined border crossing card and nonimmigrant visa is issued to expire as of the same date as is usually provided for visas issued under that section.

(3) RECOUPMENT OF COSTS RESULTING FROM WAIVER.—Notwithstanding any other provision of law, the Secretary of State shall set the amount of the fee or surcharge authorized pursuant to section 140(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 8 U.S.C. 1351 note) for the processing of machine readable combined border crossing cards and nonimmigrant visas at a level that will ensure the full recovery by the Department of State of the costs of processing all such combined border crossing cards and nonimmigrant visas, including the costs of processing such combined border crossing cards and nonimmigrant visas for which the fee is waived pursuant to this subsection.

(b) PROCESSING IN MEXICAN BORDER CITIES.—The Secretary of State shall continue, until at least October 1, 2003, or until all border crossing identification cards in circulation have otherwise been required to be replaced under section 104(b)(3) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (as added by section 116(b)(2) of this Act), to process applications for visas under section 101(a)(15)(B) of the Immigration and Nationality Act at the following cities in Mexico located near the international border with the United States: Nogales, Nuevo Laredo, Ciudad Acuna, Piedras Negras, Agua Prieta, and Reynosa.

AMENDMENT NO. 3292

(Purpose: To require a study and report on the adequacy of processing nonimmigrant visas by United States consular posts)

On page 100, between lines 18 and 19, insert the following:

SEC. 407. (a) The purpose of this section is to protect the national security interests of the United States while studying the appropriate level of resources to improve the issuance of visas to legitimate foreign travelers.

(b) Congress recognizes the importance of maintaining quality service by consular officers in the processing of applications for nonimmigrant visas and finds that this requirement should be reflected in any timeliness standards or other regulations governing the issuance of visas.

(c) The Secretary of State shall conduct a study to determine, with respect to the processing of nonimmigrant visas within the Department of State—

(1) the adequacy of staffing at United States consular posts, particularly during peak travel periods;

(2) the adequacy of service to international tourism;

(3) the adequacy of computer and technical support to consular posts; and

(4) the appropriate standard to determine whether a country qualifies as a pilot program country under the visa waiver pilot program in section 217 of the Immigration and Nationality Act (8 U.S.C. 1187).

(d)(1) Not later than 120 days after the date of enactment of this Act, the Secretary of State shall submit a report to Congress setting forth—

(A) the results of the study conducted under subsection (c); and

(B) the steps the Secretary has taken to implement timeliness standards.

(2) Beginning one year after the date of submission of the report required by paragraph (1), and annually thereafter, the Secretary of State shall submit a report to Congress describing the implementation of timeliness standards during the preceding year.

(e) In this section—

(1) the term ''nonimmigrant visas'' means visas issued to aliens described in section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)); and

(2) the term ''timeliness standards'' means standards governing the timely processing of applications for nonimmigrant visas at United States consular posts.

Mr. GRAHAM. Mr. President, I am introducing an amendment to the Commerce/Justice/State Appropriations bill regarding the Consular Service and the issuing of tourist visas.

I strongly endorse tight immigration controls and strict visa policies to ensure that illegal aliens and criminal activity do not cross our nation's borders.

At the same time, we must recognize the economic importance of tourism in

this country and ensure that legitimate foreign travelers are not penalized by an overwhelmed consular service.

To that end, I am asking the State Department to report to Congress on a regular basis the status of visa backlogs at our embassies worldwide and to conduct a study on whether the appropriate resources are being dedicated to the consular service.

Tourism is a $473 billion dollar business in the United States and our country's second largest employer, behind the health care industry.

We bring in more tourists to the U.S. than we send overseas, creating a $26 billion dollar trade surplus, equal in size to the car and auto parts trade deficit with Japan.

By the year 2007, less than ten years away, the World Tourism Organization predicts the U.S. tourism market will double to nearly $885 billion dollars.

We must make certain our consular services and visa procedures are streamlined, improved, and protective of national security interests in order to capitalize on the growing international tourism market.

I hope you can support me in requiring the State Department to study consular resources and report back on what improvements or resources are needed to make it the best in the world, a secure system that can help promote U.S. as an international destination.

AMENDMENT NO. 3293

On page 86, line 8, insert the following after the colon: ''*Provided further,* That not to exceed $2,400,000 shall only be available to establish an international center for response to chemical, biological, and nuclear weapons;''.

At the end to title VII, insert the following:

DEPARTMENT OF STATE

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

(RESCISSION)

Of the total amount of appropriations provided in Acts enacted before this Act for the Interparliamentary Union, $400,000 is rescinded.

AMENDMENT NO. 3294

(Purpose: Relating to arrearage payments to the United Nations)

(The text of the amendment (No. 3294) is printed in today's RECORD under ''Amendments Submitted.'')

AMENDMENT NO. 3295

(Purpose: To provide for reviews of criminal records of applicants for employment in nursing facilities and home health care agencies)

At the appropriate place in the bill, insert the following:

CRIMINAL BACKGROUND CHECKS FOR APPLICANTS FOR EMPLOYMENT IN NURSING FACILITIES AND HOME HEALTH CARE AGENCIES

SEC. ___. (a) AUTHORITY TO CONDUCT BACKGROUND CHECKS.—

(1) IN GENERAL.—A nursing facility or home health care agency may submit a request to the Attorney General to conduct a search and exchange of records described in subsection (b) regarding an applicant for employment if the employment position is involved in direct patient care.

(2) SUBMISSION OF REQUESTS.—A nursing facility or home health care agency requesting a search and exchange of records under this section shall submit to the Attorney General a copy of an employment applicant's fingerprints, a statement signed by the applicant authorizing the nursing facility or home health care agency to request the search and exchange of records, and any other identification information not more than 7 days (excluding Saturdays, Sundays, and legal public holidays under section 6103(a) of title 5, United States Code) after acquiring the fingerprints, signed statement, and information.

(b) SEARCH AND EXCHANGE OF RECORDS.—Pursuant to any submission that complies with the requirements of subsection (a), the Attorney General shall search the records of the Criminal Justice Information Services Division of the Federal Bureau of Investigation for any criminal history records corresponding to the fingerprints or other identification information submitted. The Attorney General shall provide any corresponding information resulting from the search to the appropriate State or local governmental agency authorized to receive such information.

(c) USE OF INFORMATION.—Information regarding an applicant for employment in a nursing facility or home health care agency obtained pursuant to this section may be used only by the facility or agency requesting the information and only for the purpose of determining the suitability of the applicant for employment by the facility or agency in a position involved in direct patient care.

(d) FEES.—The Attorney General may charge a reasonable fee, not to exceed $50 per request, to any nursing facility or home health care agency requesting a search and exchange of records pursuant to this section to cover the cost of conducting the search and providing the records.

(e) REPORT.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit a report to Congress on the number of requests for searches and exchanges of records made under this section by nursing facilities and home health care agencies and the disposition of such requests.

(f) CRIMINAL PENALTY.—Whoever knowingly uses any information obtained pursuant to this section for a purpose other than as authorized under subsection (c) shall be fined in accordance with title 18, United States Code, imprisoned for not more than 2 years, or both.

(g) IMMUNITY FROM LIABILITY.—A nursing facility or home health care agency that, in denying employment for an applicant, reasonably relies upon information provided by the Attorney General pursuant to this section shall not be liable in any action brought by the applicant based on the employment determination resulting from the incompleteness or inaccuracy of the information.

(h) REGULATIONS.—The Attorney General may promulgate such regulations as are necessary to carry out this section, including regulations regarding the security, confidentiality, accuracy, use, destruction, and dissemination of information, audits and recordkeeping, the imposition of fees necessary for the recovery of costs, and any necessary modifications to the definitions contained in subsection (i).

(i) DEFINITIONS.—In this section:

(1) HOME HEALTH CARE AGENCY.—The term ''home health care agency'' means an agency that provides home health care or personal care services on a visiting basis in a place of residence.

(2) NURSING FACILITY.—The term ''nursing facility'' means a facility or institution (or a distinct part of an institution) that is primarily engaged in providing to residents of the facility or institution nursing care, including skilled nursing care, and related services for individuals who require medical or nursing care.

(j) APPLICABILITY.—This section shall apply without fiscal year limitation.

Mr. KOHL. Mr. President, I rise today to express my gratitude to the managers for including an amendment offered by myself and Senator HARRY REID. The managers have worked hard to reach consensus on this legislation, and I commend them for their efforts.

I believe that this amendment will take another important step toward protecting our nation's elderly and disabled patients from abuse and neglect. The vast majority of employees in nursing homes and home health agencies work hard under stressful conditions to provide the highest quality care. However, there has been too many instances where people with criminal backgrounds and abuse histories have gained employment in long-term care facilities and subsequently abused patients in their care. This is inexcusable; Congress should take every step necessary to make sure that these facilities have the tools they need to screen potential employees.

During consideration of the Senate Budget Resolution, the Senate unanimously adopted my Sense of the Senate amendment, which expressed strong support for the establishment of a national background check system to weed out known abusers and people with violent criminal backgrounds. The amendment that is included in the manager's package today takes this one step further. This amendment authorizes nursing facilities and home health care agencies to utilize the FBI fingerprint background check system to screen potential employees. It is important to note that this amendment does not mandate that these facilities conduct the checks. It simply allows them to access the FBI system if they choose to do so.

Many States, nursing facilities and home care agencies have already taken steps to better screen their long-term care employees. This amendment will give them another tool to use in their efforts to screen out known abusers. However, our job does not end here. I still believe that Congress must act to establish a national registry that will coordinate abuse information between States, and require that all long-term care facilities utilize both the registry and the FBI system. I have been working for passage of such legislation, and I am pleased that the President has recently endorsed my idea as well. I look forward to working with the President and all of my colleagues in the future on this important effort.

It is vital that we continue to take steps to protect our most vulnerable citizens from abuse, neglect and mistreatment, especially at the hands of those who are charged with their care. I believe that this amendment is another step in that direction. Again, I

thank the managers for working with me in this effort. I yield the floor.

AMENDMENT NO. 3296

(Purpose: To prohibit the use of funds for foreign travel or foreign communications by officers and employees of the Antitrust Division of the Department of Justice)

On page 51, between lines 9 and 10, insert the following:

SEC. 121. None of the funds made available to the Department of Justice under this Act may be used for any expense relating to, or as reimbursement for any expense incurred in connection with, any foreign travel by an officer or employee of the Antitrust Division of the Department of Justice, if that foreign travel is for the purpose, in whole or in part, of soliciting or otherwise encouraging any antitrust action by a foreign country against a United States company that is a defendant in any antitrust action pending in the United States in which the United States is a plaintiff. *Provided, however,* That this section shall not: (1) limit the ability of the Department to investigate potential violations of United States antitrust laws; or (2) prohibit assistance authorized pursuant to 15 U.S.C. sections 6201–6212, or pursuant to a ratified treaty between the United States and a foreign government, or other international agreement to which the United States is a party.

Mr. GORTON. Mr. President, the Justice Department is out of control, Mr. President. Evidence appears to be mounting that officials at the Department's Antitrust Division have been traveling around the world urging foreign governments to join them in their witch hunt against Microsoft.

As far as this Senator is concerned, such action should be prohibited.

It seems the Administration is reaching out a helping hand to U.S. competitors overseas. While foreign governments work hard to protect their most important industries, our Justice Department is assisting those foreign governments in their efforts to keep one of America's most vibrant, innovative, and successful companies out of their markets.

In a letter sent last week to Attorney General Janet Reno, my colleagues Senators SESSIONS, ABRAHAM, and KYL raised some provocative questions about the activities of Justice Department officials overseas. They have learned that Joel Klein and his staff at the Department's Antitrust Division are busily recruiting their foreign counterparts in their war against Microsoft.

First and foremost, Mr. President, I'd like to know what Justice Department officials, whose work focuses exclusively on issues here at home, are doing traveling overseas at the taxpayers' expense. According to the letter, in the last six months, Joel Klein has traveled to Japan, Russell Pittman, Chief of the Competition Policy Section of the Antitrust Division has visited Brazil, Dan Rubinfeld, chief economist for the Antitrust Division has gone to Israel, and Deputy Assistant Attorney General Douglas Melamed spent a week in Paris in June.

At a time when Joel Klein has been complaining that his division does not have enough money or people to do its job effectively, he and his staff are traveling around the world on the Justice Department's dime. And they are using those foreign visits as a bully pulpit to tout the merits of their case against Microsoft and encouraging foreign governments to join in the attack.

This kind of activity is reprehensible. It is even more egregious when one notes that it is being financed by the American people—many of whom may wind up losing their jobs and their livelihood if Joel Klein is successful.

Here is the evidence my colleagues have compiled to date:

Joel Klein visited Japan to meet with the Japanese Fair Trade Commission last December. A month later, the Trade Commission raided Microsoft's Tokyo offices, confiscating thousands of company documents.

When Russell Pittman went to Brazil in May, he spoke publicly to senior Brazilian government officials responsible for antitrust enforcement in that country, outlining the Justice Department's case against Microsoft in detail. Nine days later, The Brazilian government announced its intention to begin legal proceedings against the company.

A quote from Mr. Pittman at this event is particularly troubling, and, I might add, somewhat ironic. He accused Microsoft of behaving ''like an arrogant monopolist, even acting arrogantly in its relations with the antitrust authorities, it will receive from these agencies what it deserves.'' Who is calling whom arrogant? A government bureaucrat on a taxpayer funded jaunt to Brazil? If the situation were not so serious, I would find this quote to be quite amusing, Mr. President.

In Israel in May, Dan Rubinfeld gave a public speech on the Department's case against Microsoft to an audience that included Israeli officials responsible for antitrust enforcement. He later met privately along with his sidekicks from the Federal Trade Commission with a group of Israeli government officials to outline the DOJ's complaint against Microsoft.

Not surprisingly, the Israeli government is now in discussions with Microsoft concerning its business practices in that country.

And finally, on June 8th, Douglas Melamed briefed the OECD's Competition Law and Policy Committee in Paris on the strengths of the Department's case against Microsoft. The OECD Committee includes officials from Europe, Japan, Canada, and Brazil.

I applaud Senators SESSIONS, ABRAHAM, and KYL for bringing this issue to light, Mr. President. It is just one in a series of steps by the Administration to tie the hands of successful U.S. companies.

Thousands of jobs in my home state of Washington are being put on the line by a contemptuous group of bureaucrats over at the Justice Department.

That is why I have decided to offer an amendment today to prohibit the Justice Department from soliciting or encouraging foreign governments to engage in antitrust against U.S. companies defending themselves against antitrust suits filed by the U.S. government here at home. My amendment is narrow in scope. It was carefully drafted to ensure that it is not overreaching.

It will simply ensure that Joel Klein and his staff at the Antitrust Division do not travel abroad at the expense of U.S. taxpayers for the purpose of encouraging foreign governments to attack successful U.S. businesses.

I assure my colleagues that I am very disappointed that this amendment is necessary at all. That U.S. government officials in this Administration are engaged in practices that serve no other purpose than to harm U.S. companies, their employees, their families of their employees, and the small businesses whose livelihoods depend on the success of those companies is truly disheartening.

I urge my colleagues to join me in condemning the actions of Antitrust Division officials and to pass this important amendment today. Attorney General Reno and Assistant Attorney General Klein need to know that their actions will not go unnoticed and that they cannot continue down their current path of denouncing U.S. businesses overseas.

Mr. HATCH. Mr. President, at the outset, let me say that I don't support the Department of Justice divulging confidential information to foreign governments in an attempt to encourage them, in any way, to take or threaten legal action against any U.S. company. I don't think the Department has done that. They assure me that they have not done that.

I am aware of the letter that was sent to the Department inquiring whether the Department has encouraged any foreign antitrust authority to take action against Microsoft. I await the Department's formal response to the letter sent by my colleagues. If—and I emphasize if—the Department of Justice was encouraging foreign countries to bring a cause of action against Microsoft—or any other American company—I would do all I can to put a stop to it. The Department of Justice has a responsibility to enforce U.S. antitrust laws—not Japan's, Brazil's or the European Union's. But having said that, the Department assures me they have done no such thing.

I have to say, though, that, if Microsoft's charges prove groundless, one could reasonably conclude that this appears to be an assault, albeit a faint one, by Microsoft, on the Department of Justice's ongoing efforts to investigate potential violations of U.S. antitrust laws. When I first heard about this allegation, I was surprised that this is the best ''offensive'' more that their team of lobbyists and Washington lawyers could come up with. I was expecting a much more innovative strategy, given the reported offensive

Microsoft has threatened to launch against the Department of Justice. As I said before, I too oppose efforts by our government to encourage or solicit any foreign government to take hostile actions against a U.S. company.

However, I had a concern that any such amendment not hinder the ability of the Antitrust Division to investigate violations of our—United States'—antitrust laws. And also it does not prohibit mutual assistance that the Department and its foreign counterparts provide to each other under a ratified treaty or as authorized by the International Antitrust Enforcement Assistance Act of 1994.

Mr. President, I want to thank Senator GORTON and his staff for his cooperation and willingness to work with me and ensure that the amendment does not have any such adverse impact. With this modification I am happy to lend my support to this amendment.

The International Antitrust Enforcement Assistance Act passed the Senate unanimously in 1994. Let me also say that my friend and colleague, Senator GORTON, did not object to it then. This statute provides the important authority for the Attorney General when a mutual assistance agreement is in place, to cooperate with foreign agencies in assisting each other's efforts to prevent illegal antitrust activities. Given the increasingly international scope of the antitrust laws, it is crucial that the enforcement agencies have sufficient legal authority and the necessary tools to obtain information located abroad that would help them protect American consumers and businesses from antitrust abuses.

Finally, I again want to thank Senator GORTON for his cooperation and willingness to work with me and I am happy that we were able to work out our concerns with this amendment.

AMENDMENT NO. 3297

(Purpose: to exempt orphans adopted by United States citizens from grounds of removal)

At the appropriate place in the bill, insert the following:

SEC. . EXCEPTION TO GROUNDS OF REMOVAL.

Section 237 of the Immigration and Nationality Act (8 U.S.C. 1227) is amended by adding at the end the following new subsection:

''(d) This section shall not apply to any alien who was issued a visa or otherwise acquired the status of an alien lawfully admitted to the United States for permanent residence under section 201(b)(2)(A)(i) as an orphan described in section 101(b)(1)(F)'', unless that alien has knowingly declined U.S. citizenship.

AMENDMENT NO. 3298

(Purpose: To prevent disclosure of personal and financial information of corrections officers in certain civil actions until a verdict regarding liability has been rendered)

At the appropriate place in title I of the bill, insert the following:

SEC. 1___. PROTECTION OF PERSONAL AND FINANCIAL INFORMATION OF CORRECTIONS OFFICERS.

Notwithstanding any other provision of law, in any action brought by a prisoner under section 1979 of the Revised Statutes (42 U.S.C. 1983) against a Federal, State, or local jail, prison, or correctional facility, or any employee or former employee thereof, arising out of the incarceration of that prisoner—

(1) the financial records of a person employed or formerly employed by the Federal, State, or local jail, prison, or correctional facility, shall not be subject to disclosure without the written consent of that person or pursuant to a court order, unless a verdict of liability has been entered against that person; and

(2) the home address, home phone number, social security number, identity of family members, personal tax returns, and personal banking information of a person described in paragraph (1), and any other records or information of a similar nature relating to that person, shall not be subject to disclosure without the written consent of that person, or pursuant to a court order.

AMENDMENT NO. 3299

(Purpose: To allow continued helicopter procurement by Border Patrol)

In the appropriate place, insert the following:

''*Provided further,* That the Border Patrol is authorized to continue helicopter procurement while developing a report on the cost and capabilities of a mixed fleet of manned and unmanned aerial vehicles, helicopters, and fixed-winged aircraft.''

AMENDMENT NO. 3300

(Purpose: To extend temporary protected status for certain nationals of Liberia)

At the appropriate place in the bill insert the following:

SEC. . EXTENSION OF TEMPORARY PROTECTED STATUS FOR CERTAIN NATIONALS OF LIBERIA.

(a) CONTINUATION OF STATUS.—Notwithstanding any other provision of law, any alien described in subsection (b) who, as of the date of enactment of this Act, is registered for temporary protected status in the United States under section 244(c)(1)(A)(iv) of the Immigration and Nationality Act (8 U.S.C. 1254a(c)(1)(A)(iv)), or any predecessor law, order, or regulation, shall be entitled to maintain that status through September 30, 1999.

(b) COVERED ALIENS.—An alien referred to in subsection (a) is a national of Liberia or an alien who has no nationality and who last habitually resided in Liberia.

Mr. REED. Mr. President, I rise to commend my colleagues for including an extension of Temporary Protected Status for Liberians until September 30, 1999 in the Fiscal Year 1999 Commerce, Justice, State Appropriations bill.

The histories of Liberia and the United States have been intertwined since 1847 when our nation's founding fathers helped freed American slaves found the sovereign state of Liberia. The first Liberians adopted the U.S. Constitution as a model and named the capital of the new country Monrovia, after President James Madison. Diplomatic, military and trade relations flourished between the two countries until the late 1980's.

Then, in December 1989, Liberia was engulfed by a civil war that would last for seven years and continue to boil below the surface. Over 150,000 people died and more than one-half of the population fled the country or was internally displaced. During the conflict, food production was halted and the country's infrastructure was destroyed.

Several thousand Liberians who were forced from their homes because of the civil war sought refuge in the United States. In 1991, the Attorney General determined that Liberia was experiencing an ongoing armed conflict which prevented Liberian nationals from safely returning home. She granted Liberians who were present in the United States on March 27, 1991 temporary protected status (TPS), which provides temporary relief from deportation. Because the conflict in Liberia continued to rage, the Attorney General extended TPS each year for the next six years. Furthermore, conditions in Liberia deteriorated to such an extent in 1996, that the Attorney General ''redesignated'' TPS for Liberians who arrived after March 27, 1991 but were living in the United States on June 1, 1996. Never before in history had the Attorney General been compelled to redesignate a state for TPS.

Recently, however, the Attorney General declared that TPS would end for all Liberians on September 28, 1998. It is true that on July 19, 1997, Liberians elected former warlord Charles Taylor president and 300 international observers deemed the election free and fair. It is also true that this new government has pledged to rebuild the economy and reconcile the ethnic factions.

However, there are signs which indicate that Liberia is not as safe and stable as many would like to believe. In early December 1997, a prominent opposition leader was assassinated. Furthermore, a newspaper and two radio stations were temporarily shut down by the government.

A pastor of a church in my home state of Rhode Island had a conversation just yesterday with an individual who just returned from Liberia who stated that people in Liberia are afraid to criticize the government in any way. The secret police sweep neighborhoods at night, people disappear and bodies mingle with garbage under a bridge in Monrovia.

I would also like to relay the comments of Bishop Arthur Kulah to my colleagues who may wish to know why TPS is still needed. Bishop Kulah is a United Methodist leader who lost his parents and two brothers in the civil war. He recently spoke with Liberians living in Rhode Island and when they asked if it would be safe to return when TPS was terminated, he replied, ''People who have been fighting for ten years will not suddenly change. It may be quiet and then flare up overnight. The disarmament was not complete. People still have guns.''

This weekend the Liberian community in Rhode Island will celebrate the 151st anniversary of Liberia's independence. They will celebrate the history and culture of their country and look forward to the day when they can safely go home. But that time is not now, Mr. President. They came to this country seeking peace and security. We have an obligation to offer them refuge until it is truly safe to go back.

AMENDMENT NO. 3301

(Purpose: To provide for the adjustment of status of certain asylees in Guam)

At the appropriate place in the bill, insert the following:

SEC. ___. ADJUSTMENT OF STATUS OF CERTAIN ASYLEES IN GUAM.

(a) ADJUSTMENT OF STATUS

(1) EXEMPTION FROM NUMERICAL LIMITATIONS.—The numerical limitation set forth in section 209(b) of the Immigration and Nationality Act (8 U.S.C. 1159(b)) shall not apply to any alien described in subsection (b).

(2) LIMITATION ON FEES.—

(A) IN GENERAL.—Any alien described in subsection (b) who applies for adjustment of status to that of an alien lawfully admitted for permanent residence under section 209(b) of that Act shall not be required to pay any fee for employment authorization or for adjustment of status in excess of the fee imposed on a refugee admitted under section 207(a) of that Act for employment authorization or adjustment of status.

(B) EFFECTIVE DATE.—This paragraph shall apply to applications for employment authorization or adjustment of status filed before, on, or after the date of enactment of this Act.

(b) COVERED ALIENS.—An alien described in subsection (a) is an alien who was a United States Government employee, employee of a nongovernmental organization based in the United States, or other Iraqi national who was moved to Guam by the United States Government in 1996 or 1997 pursuant to an arrangement made by the United States Government, and who was granted asylum in the United States under section 208(a) of the Immigration and Nationality Act (8 U.S.C. 1158(a)).

AMENDMENT NO. 3302

(Purpose: To focus resources of the Department of Justice on prosecuting violations of federal gun laws)

On page 9, beginning on line 15, strike ''Attorneys.'' and insert the following: ''Attorneys: *Provided further,* That of the total amount appropriated, not to exceed $3,000,000 shall remain available to hire additional assistant U.S. Attorneys and investigators to enforce Federal laws designed to keep firearms out of the hands of criminals, and the Attorney General is directed to initiate a selection process to identify two (2) major metropolitan areas (which shall not be in the same geographic area of the United States) which have an unusually high incidence of gun-related crime, where the funds described in this subsection shall be expended.''

AMENDMENT NO. 3303

(Purpose: Relating to information infrastructure grants of the National Telecommunications and Information Administration)

On page 72, between lines 16 and 17, insert the following:

SEC. 209. (a)(1) Notwithstanding any other provision of this Act, the amount appropriated by this title under ''NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION'' under the heading ''INFORMATION INFRASTRUCTURE GRANTS'' is hereby increased by $9,000,000.

(2) The additional amount appropriated by paragraph (1) shall remain available until expended.

(b)(1) Notwithstanding any other provision of this Act, the aggregate amount appropriated by this title under ''DEPARTMENT OF COMMERCE'' is hereby reduced by $9,000,000 with the amount of such reduction achieved by reductions of equal amounts from amounts appropriated by each heading under ''DEPARTMENT OF COMMERCE'' except the headings referred to in paragraph (2).

(2) Reductions under paragraph (1) shall not apply to the following amounts:

(A) Amounts appropriated under ''NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION'' under the heading ''PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING AND CONSTRUCTION'' and under the heading ''INFORMATION INFRASTRUCTURE GRANTS''.

(B) Amounts appropriated under any heading under ''NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY''.

(C) Amounts appropriated under any heading under ''NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION''.

(c)(1) Notwithstanding any other provision of this Act, the second proviso under ''NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION'' under the heading ''INFORMATION INFRASTRUCTURE GRANTS'' shall have no force or effect.

(2) Notwithstanding any other provision of law, no entity that receives telecommunications services at preferential rates under section 254(h) of the Communications Act of 1934 (47 U.S.C. 254(h)) or receives assistance under the regional information sharing systems grant program of the Department of Justice under part M of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796h) may use funds under a grant under the heading referred to in paragraph (1) to cover any costs of the entity that would otherwise be covered by such preferential rates or such assistance, as the case may be.

AMENDMENT NO. 3304

(Purpose: To amend the International Emergency Economic Powers Act to clarify the conditions under which export controls may be imposed on agricultural products)

At the appropriate place, insert the following new section:

SEC. ___. AGRICULTURAL EXPORT CONTROLS.

The International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) is amended—

(1) by redesignating section 208 as section 209; and

(2) by inserting after section 207 the following new section:

''SEC. 208. AGRICULTURAL CONTROLS.

''(a) IN GENERAL.—

''(1) REPORT TO CONGRESS.—If the President imposes export controls on any agricultural commodity in order to carry out the provisions of this Act, the President shall immediately transmit a report on such action to Congress, setting forth the reasons for the controls in detail and specifying the period of time, which may not exceed 1 year, that the controls are proposed to be in effect. If Congress, within 60 days after the date of its receipt of the report, adopts a joint resolution pursuant to subsection (b), approving the imposition of the export controls, then such controls shall remain in effect for the period specified in the report, or until terminated by the President, whichever occurs first. If Congress, within 60 days after the date of its receipt of such report, fails to adopt a joint resolution approving such controls, then such controls shall cease to be effective upon the expiration of that 60-day period.

''(2) APPLICATION OF PARAGRAPH (1).—The provisions of paragraph (1) and subsection (b) shall not apply to export controls—

''(A) which are extended under this Act if the controls, when imposed, were approved by Congress under paragraph (1) and subsection (b); or

''(B) which are imposed with respect to a country as part of the prohibition or curtailment of all exports to that country.

''(b) JOINT RESOLUTION.—

''(1) IN GENERAL.—For purposes of this subsection, the term 'joint resolution' means only a joint resolution the matter after the resolving clause of which is as follows: 'That, pursuant to section 208 of the International Emergency Economic Powers Act, the President may impose export controls as specified in the report submitted to Congress on _____.', with the blank space being filled with the appropriate date.

''(2) INTRODUCTION.—On the day on which a report is submitted to the House of Representatives and the Senate under subsection (a), a joint resolution with respect to the export controls specified in such report shall be introduced (by request) in the House of Representatives by the chairman of the Committee on International Relations, for himself and the ranking minority member of the Committee, or by Members of the House designated by the chairman and ranking minority member; and shall be introduced (by request) in the Senate by the Majority Leader of the Senate, for himself and the Minority Leader of the Senate, or by Members of the Senate designated by the Majority Leader and Minority Leader of the Senate. If either House is not in session on the day on which such a report is submitted, the joint resolution shall be introduced in that House, as provided in the preceding sentence, on the first day thereafter on which that House is in session.

''(3) REFERRAL.—All joint resolutions introduced in the House of Representatives and in the Senate shall be referred to the appropriate committee.

''(4) DISCHARGE OF COMMITTEE.—If the committee of either House to which a joint resolution has been referred has not reported the joint resolution at the end of 30 days after its referral, the committee shall be discharged from further consideration of the joint resolution or of any other joint resolution introduced with respect to the same matter.

''(5) CONSIDERATION IN SENATE AND HOUSE OF REPRESENTATIVES.—A joint resolution under this subsection shall be considered in the Senate in accordance with the provisions of section 601(b)(4) of the International Security Assistance and Arms Export Control Act of 1976. For the purpose of expediting the consideration and passage of joint resolutions reported or discharged pursuant to the provisions of this subsection, it shall be in order for the Committee on Rules of the House of Representatives to present for consideration a resolution of the House of Representatives providing procedures for the immediate consideration of a joint resolution under this subsection which may be similar, if applicable, to the procedures set forth in section 601(b)(4) of the International Security Assistance and Arms Export Control Act of 1976.

''(6) PASSAGE BY 1 HOUSE.—In the case of a joint resolution described in paragraph (1), if, before the passage by 1 House of a joint resolution of that House, that House receives a resolution with respect to the same matter from the other House, then—

''(A) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

''(B) the vote on final passage shall be on the joint resolution of the other House.

''(c) COMPUTATION OF TIME.—In the computation of the period of 60 days referred to in subsection (a) and the period of 30 days referred to in paragraph (4) of subsection (b), there shall be excluded the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain or because of an adjournment of Congress sine die.''.

AMENDMENT NO. 3305

On page 101, line 17, insert after the period: ''*Provided,* That, of this amount, $1,400,000 shall be available for Student Incentive Payments.''

Mrs. HUTCHISON. Mr. President, I rise to explain a provision included in the Commerce, Justice, State appropriations bill manager's amendment and to convey my thanks to Senator GREGG and Senator HOLLINGS for including it. This provision directs funding for the Student Incentive Payment (SIP) program for FY99.

I am very concerned about language in the Administration's budget calling for a four-year phase-out of SIP, beginning in FY99. These payments are used to help students at state maritime schools defray the cost of their education. In exchange for an annual stipend while they are in school, these students incur a 6 year obligation in the Navy and Merchant Marine Reserve. They represent an important element of the Navy's professional mariners and a cadre of trained professionals available in the event of a national emergency when activation of the Ready Reserve Fleet is required.

I commend the subcommittee for sharing my concern. The subcommittee report reflects this concern by calling upon MARAD to report on the willingness of the Navy to pay for the program. However, I understand that discussions between the Navy and MARAD are still on-going which, while encouraging, may mean that the incoming class at state maritime academies may not be able to take advantage of SIP as their classmates ahead of them have, and those behind them hopefully will. If we are going to ensure continuity, we have to fund SIP for another year in this bill.

This provision restores SIP funding in the FY99 budget, preserving the program in order to allow the Navy to assume the funding responsibility beginning in FY2000. I am pleased that we have bought more time for MARAD and the Navy to negotiate the transfer of financial responsibility for this program. I am very hopeful that we will have a negotiated continuation of SIP under the Navy in FY2000 and beyond. I thank the Chairman for working with me to ensure this result.

AMENDMENT NO. 3306

(Purpose: To require certain new employees in the Office of the United States Trade Representative to work exclusively on investigating the acts, policies, and practices of the Canadian Wheat Board and whether the acts, policies, or practices cause material injury to the United States grain industry, and for other purposes)

At the appropriate place in title VI, insert the following new section:

SEC. ___. INVESTIGATION OF PRACTICES OF CANADIAN WHEAT BOARD.

(a) IN GENERAL.—Notwithstanding any other provision of law, not less than 4 of the new employees authorized in fiscal years 1998 and 1999 for the Office of the United States Trade Representative shall work on investigating pricing practices of the Canadian Wheat Board and determining whether the United States spring wheat, barley, or durum wheat industries have suffered injury as a result of those practices.

(b) SCOPE OF INVESTIGATION.—The purpose of the investigation described in subsection (a) shall be to determine whether the practices of the Canadian Wheat Board constitute violations of the antidumping or countervailing duty provisions of title VII of the Tariff Act of 1930 or the provisions of title II or III of the Trade Act of 1974. The investigation shall include—

(1) a determination as to whether the United States durum wheat industry, spring wheat industry, or barley industry is being materially injured or is threatened with material injury as a result of the practices of the Canadian Wheat Board;

(2) a determination as to whether the acts, policies, or practices of the Canadian Wheat Board—

(A) violate, or are inconsistent with, the provisions of, or otherwise deny benefits to the United States under, any trade agreement, or

(B) are unjustifiable or burden or restrict United States commerce;

(3) a review of home market price and cost of acquisition of Canadian grain;

(4) a determination as to whether Canadian grain is being imported into the United States in sufficient quantities to be a substantial cause of serious injury or threat of serious injury to the United States spring wheat, barley, or durum wheat industries; and

(5) a determination as to whether there is harmonization in the requirements for cross-border transportation of grain between Canada and the United States.

(c) ACTION BASED ON RESULTS OF THE INVESTIGATION.—

(1) IN GENERAL.—If, based on the investigation conducted pursuant to this section, there is an affirmative determination under subsection (b) with respect to any act, policy, or practice of the Canadian Wheat Board, appropriate action shall be initiated under title VII of the Tariff Act of 1930, or title II or III of the Trade Act of 1974.

(2) CORRECTION OF HARMONIZATION PROBLEMS.—If, based on the investigation conducted pursuant to this section, there is a determination that there is no harmonization for cross-border grain transportation between Canada and the United States, the United States Trade Representative shall report to Congress regarding what action should be taken in order to harmonize cross-border transportation requirements.

(d) REPORT.—Not later than 6 months after the date of enactment of this Act, the United States Trade Representative shall report to Congress on the results of the investigation conducted pursuant to this section.

(e) DEFINITION OF GRAIN.—For purposes of this section, the terms ''Canadian grain'' and ''grain'' include spring wheat, durum wheat, and barley.

AMENDMENT NO. 3307

(Purpose: To preserve and enhance local FM radio service for underserved counties)

On page 135, between lines 11 and 12, insert the following:

SEC. 620. (a) IN GENERAL.—Section 331 of the Communications Act of 1934 (47 U.S.C. 331) is amended by adding at the end the following:

''(c) FM TRANSLATOR STATIONS.—(1) It may be the policy of the Commission, in any case in which the licensee of an existing FM translator station operating in the commercial FM band is licensed to a county (or to a community in such county) that has a population of 700,000 or more persons, is not an integral part of a larger municipal entity, and lacks a commercial FM radio station licensed to the county (or to any community within such county), to extend to the licensee—

''(A) authority for the origination of unlimited local programming through the station on a primary basis but only if the licensee abides in such programming by all rules, regulations, and policies of the Commission regarding program material, content, schedule, and public service obligations otherwise applicable to commercial FM radio stations; and

''(B) authority to operate the station (either omindirectionally or directionally, with facilities equivalent to those of a station operating with maximum effective radiated power of less than 100 watts and maximum antenna height above average terrain of 100 meters) if—

''(i) the station is not located within 320 kilometers (approximately 199 miles) of the United States border with Canada or with Mexico;

''(ii) the station provides full service FM stations operating on co-channel and first adjacent channels protection from interference as required by rules and regulations of the Commission applicable to full service FM stations; and

''(iii) the station complies with any other rules, regulations, and policies of the Commission applicable to FM translator stations that are not inconsistent with the provisions of this subparagraph.

''(2) Notwithstanding any rules, regulations, or policies of the Commission applicable to FM translator stations, a station operated under the authority of paragraph (1)(B)—

''(A) may accept or receive any amount of theoretical interference from any full service FM station;

''(B) may be deemed to comply in such operation with any intermediate frequency (IF) protection requirements if the station's effective radiated power in the pertinent direction is less than 100 watts;

''(C) may not be required to provide protection in such operation to any other FM station operating on 2nd or 3rd adjacent channels;

''(D) may utilize transmission facilities located in the county to which the station is licensed or in which the station's community of license is located; and

''(E) may utilize a directional antennae in such operation to the extent that such use is necessary to assure provision of maximum possible service to the residents of the county in which the station is licensed or in which the station's community of license is located.

''(3)(A) A licensee may exercise the authority provided under paragraph (1)(A) immediately upon written notification to the Commission of its intent to exercise such authority.

''(B)(i) A licensee may submit to the Commission an application to exercise the authority provided under paragraph (1)(B). The Commission may treat the application as an application for a minor change to the license to which the application applies.

''(ii) A licensee may exercise the authority provided under paragraph (1)(B) upon the granting of the application to exercise the authority under clause (i).''.

(b) CONFORMING AMENDMENT.—The section heading of that section is amended to read as follows:

''SEC. 331. VERY HIGH FREQUENCY STATIONS AND AM AND FM RADIO STATIONS.''.

(c) RENEWAL OF CERTAIN LICENSES.—(1) Notwithstanding any other provision of law, the Federal Communications Commission may renew the license of an FM translator station the licensee of which is exercising authority under subparagraph (A) or (B) of section 331(c)(1) of the Communications Act

of 1934, as added by subsection (a), upon application for renewal of such license filed after the date of enactment of this Act, if the Commission determines that the public interest, convenience, and necessity would be served by the renewal of the license.

(2) If the Commission determines under paragraph (1) that the public interest, convenience, and necessity would not be served by the renewal of a license, the Commission shall, within 30 days of the date on which the decision not to renew the license becomes final, provide for the filing of applications for licenses for FM translator service to replace the FM translator service covered by the license not to be renewed.

AMENDMENT NO. 3308

(Purpose: To provide for a study of sediment control at Grand Marais, Michigan)

At the appropriate place in title II, insert the following:

SEC. 2___. SEDIMENT CONTROL STUDY.

Of the amounts made available under this Act to the National Oceanic and Atmospheric Administration for operations, research, and facilities that are used for ocean and Great Lakes programs, $50,000 shall be used for a study of sediment control at Grand Marais, Michigan.

AMENDMENT NO. 3309

(Purpose: To establish certain limitations with respect to build-out and moving costs of the Patent and Trademark Office)

On page 62, lines 3 through 16, strike ''That if the standard build-out'' and all that follows through ''covered by those costs.'' and insert the following: ''That the standard build-out costs of the Patent and Trademark Office shall not exceed $36.69 per occupiable square foot for office-type space (which constitutes the amount specified in the Advanced Acquisition program of the General Services Administration) and shall not exceed an aggregate amount equal to $88,000,000: *Provided further*, That the moving costs of the Patent and Trademark Office (which shall include the costs of moving furniture, telephone, and data installation) shall not exceed $135,000,000: *Provided further*, That the portion of the moving costs referred to in the preceding proviso that may be used for alterations that are above standard costs may not exceed $29,000,000.''.

AMENDMENT NO. 3310

(Purpose: To require that reports submitted to the Committee on Appropriations concerning matters within the jurisdiction of the Committee on the Judiciary also be submitted to the Committee on the Judiciary)

On page 51, line 9, add a new section 121:

''SEC. 121. For fiscal year 1999 and thereafter, for any report which is required or authorized by this act to be submitted or delivered to the Committee on Appropriations of the Senate or of the House of Representatives by the Department of Justice or any component, agency, or bureau thereof, or which concerns matters within the jurisdiction of the Committee on the Judiciary of the Senate or of the House of Representatives, a copy of such report shall be submitted to the Committees on the Judiciary of the Senate and of the House of Representatives concurrently as the report is submitted to the Committee on Appropriations of the Senate or of the House of Representatives.''

AMENDMENT NO. 3311

(Purpose: To amend the Immigration and Nationality Act to eliminate, for alien battered spouses and children, certain restrictions rendering them ineligible to apply for adjustment of status, suspension of deportation, and cancellation of removal, and for other purposes)

At the end of the bill, add the following:

TITLE ___—VAWA RESTORATION ACT

SEC. ___01. SHORT TITLE.

This title may be cited as the ''VAWA Restoration Act''.

SEC. ___02. REMOVING BARRIERS TO ADJUSTMENT OF STATUS FOR VICTIMS OF DOMESTIC VIOLENCE.

(a) IN GENERAL.—Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) is amended—

(1) in subsection (a), by inserting ''of an alien who qualifies for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1) or'' after ''The status'';

(2) in subsection (a), by adding at the end the following: ''An alien who qualifies for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1) who files for adjustment of status under this subsection shall pay a $1,000 fee, subject to the provisions of section 245(k).'';

(3) in subsection (c)(2), by striking ''201(b) or a special'' and inserting ''201(b), an alien who qualifies for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1), or a special'';

(4) in subsection (c)(4), by striking ''201(b))'' and inserting ''201(b) or an alien who qualifies for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1))'';

(5) in subsection (c)(5), by inserting ''(other than an alien who qualifies for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1))'' after ''an alien''; and

(6) in subsection (c)(8), by inserting ''(other than an alien who qualifies for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1)'' after ''any alien''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to applications for adjustment of status pending on or after the date of the enactment of this title.

SEC. ___03. REMOVING BARRIERS TO CANCELLATION OF REMOVAL AND SUSPENSION OF DEPORTATION FOR VICTIMS OF DOMESTIC VIOLENCE.

(a) IN GENERAL.—

(1) SPECIAL RULE FOR CALCULATING CONTINUOUS PERIOD FOR BATTERED SPOUSE OR CHILD.—Paragraph (1) of section 240A(d) of the Immigration and Nationality Act (8 U.S.C. 1229b(d)(1)) is amended to read as follows:

''(1) TERMINATION OF CONTINUOUS PERIOD.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), for purposes of this section, any period of continuous residence or continuous physical presence in the United States shall be deemed to end when the alien is served a notice to appear under section 239(a) or when the alien has committed an offense referred to in section 212(a)(2) that renders the alien inadmissible to the United States under section 212(a)(2) or removable from the United States under section 237(a)(2) or 237(a)(4), whichever is earliest.

''(B) SPECIAL RULE FOR BATTERED SPOUSE OR CHILD.—For purposes of subsection (b)(2), the service of a notice to appear referred to in subparagraph (A) shall not be deemed to end any period of continuous physical presence in the United States.''.

(2) EXEMPTION FROM ANNUAL LIMITATION ON CANCELLATION OF REMOVAL FOR BATTERED SPOUSE OR CHILD.—Section 240A(e)(3) of the Immigration and Nationality Act (8 U.S.C. 1229b(e)(3)) is amended by adding at the end the following:

''(C) Aliens whose removal is canceled under subsection (b)(2).''.

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall take effect as if included in the enactment of section 304 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208; 110 Stat. 587).

(b) MODIFICATION OF CERTAIN TRANSITION RULES FOR BATTERED SPOUSE OR CHILD.—

(1) IN GENERAL.—Subparagraph (C) of section 309(c)(5) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note) (as amended by section 203 of the Nicaraguan Adjustment and Central American Relief Act) is amended—

(A) by amending the subparagraph heading to read as follows:

''(C) SPECIAL RULE FOR CERTAIN ALIENS GRANTED TEMPORARY PROTECTION FROM DEPORTATION AND FOR BATTERED SPOUSES AND CHILDREN.—''; and

(B) in clause (i)—

(i) by striking ''or'' at the end of subclause (IV);

(ii) by striking the period at the end of subclause (V) and inserting ''; or''; and

(iii) by adding at the end the following:

''(VI) is an alien who was issued an order to show cause or was in deportation proceedings prior to April 1, 1997, and who applied for suspension of deportation under section 244(a)(3) of the Immigration and Nationality Act (as in effect before the date of the enactment of this Act).''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect as if included in the enactment of section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note).

SEC. ___04. ELIMINATING TIME LIMITATIONS ON MOTIONS TO REOPEN REMOVAL AND DEPORTATION PROCEEDINGS FOR VICTIMS OF DOMESTIC VIOLENCE.

(a) REMOVAL PROCEEDINGS.—

(1) IN GENERAL.—Section 240(c)(6)(C) of the Immigration and Nationality Act (8 U.S.C. 1229a(c)(6)(C)) is amended by adding at the end the following:

''(iv) SPECIAL RULE FOR BATTERED SPOUSES AND CHILDREN.—There is no time limit on the filing of a motion to reopen, and the deadline specified in subsection (b)(5)(C) does not apply, if the basis of the motion is to apply for adjustment of status based on a petition filed under clause (iii) or (iv) of section 204(a)(1)(A), clause (ii) or (iii) of section 204(a)(1)(B), or section 240A(b)(2) and if the motion to reopen is accompanied by a cancellation of removal application to be filed with the Attorney General or by a copy of the self-petition that will be filed with the Immigration and Naturalization Service upon the granting of the motion to reopen.''

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect as if included in the enactment of section 304 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208; 110 Stat. 587).

(b) DEPORTATION PROCEEDINGS.—

(1) IN GENERAL.—Notwithstanding any limitation imposed by law on motions to reopen deportation proceedings under the Immigration and Nationality Act (as in effect before the title III–A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note)), there is no time limit on the filing of a motion to reopen such proceedings, and the deadline specified in section 242B(c)(3) of the Immigration and Nationality Act (as so in effect) does not apply, if the basis of the motion is to apply for relief under clause (iii) or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act, clause (ii) or (iii) of section 204(a)(1)(B) of such Act, or section 244(a)(3) of such Act (as so in effect) and if the motion to reopen is accompanied by a cancellation of removal application to be filed with the Attorney General or by a copy of the self-petition that will be filed with the

Immigration and Naturalization Service upon the granting of the motion to reopen.

(2) APPLICABILITY.—Paragraph (1) shall apply to motions filed by aliens who—

(A) are, or were, in deportation proceedings under the Immigration and Nationality Act (as in effect before the title III–A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note)); and

(B) have become eligible to apply for relief under clause (iii) or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act, clause (ii) or (iii) of section 204(a)(1)(B) of such Act, or section 244(a)(3) of such Act (as in effect before the title III–A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note)) as a result of the amendments made by—

(i) subtitle G of title IV of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322; 108 Stat. 1953 et seq.); or

(ii) section ___03 of this title.

AMENDMENT NO. 3312

(Purpose: To amend the Violence Against Women Act of 1994 to ensure greater protection of elderly women)

On page ___, after line ___, insert the following:

SEC. ___. (a) IN GENERAL.—Part T of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in section 2001 (42 U.S.C. 3796gg)—

(A) in subsection (a)—

(i) by inserting ‘‘, including older women’’ after ‘‘combat violent crimes against women’’; and

(ii) by inserting ‘‘, including older women’’ before the period; and

(B) in subsection (b)—

(i) in the matter before subparagraph (A), by inserting ‘‘, including older women’’ after ‘‘against women’’;

(ii) in paragraph (6), by striking ‘‘and’ after the semicolon;

(iii) in paragraph (7), by striking the period and inserting ‘‘; and’’; and

(iv) by adding at the end the following:

‘‘(8) developing, through the oversight of the State administrator, a curriculum to train and assist law enforcement officers, prosecutors, and relevant officers of Federal, State, tribal, and local courts in recognizing, addressing, investigating, and prosecuting instances involving elder domestic abuse, including domestic violence and sexual assault against older individuals.’’;

(2) in section 2002(c)(2) (42 U.S.C. 3796gg-1), by inserting ‘‘and elder domestic abuse experts’’ after ‘‘victim services programs’’; and

(3) in section 2003 (42 U.S.C. 3796gg-2)—

(A) in paragraph (7), by striking ‘‘and’ after the semicolon;

(B) in paragraph (8), by striking the period and inserting ‘‘; and’’; and

(C) by adding at the end the following:

‘‘(9) the term ‘elder’ has the same meaning as the term ‘older individual’ in section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002); and

‘‘(10) the term ‘domestic abuse’ means an act or threat of violence, not including an act of self-defense, committed by—

‘‘(A) a current or former spouse of the victim;

‘‘(B) a person related by blood or marriage to the victim;

‘‘(C) a person who is cohabitating with or has cohabitated with the victim;

‘‘(D) a person with whom the victim shares a child in common;

‘‘(E) a person who is or has been in the social relationship of a romantic or intimate nature with the victim; and

‘‘(F) a person similarly situated to a spouse of the victim, or by any other person; if the domestic or family violence laws of the jurisdiction of the victim provide for legal protection of the victim from the person.’’.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to grants beginning with fiscal year 1999.

Mr. DURBIN. Mr. President, I rise today to introduce this amendment with my distinguished colleagues Senators COLLINS, JEFFORDS, REID, HARKIN, MIKULSKI, CLELAND, and GRAHAM.

Unfortunately for some, domestic violence is a life long experience. Those who perpetrate violence against their family members do not desist because the family member grows older. In fact, in some cases, the abuse may become more severe as the victim ages becoming more isolated from the community with their removal from the workforce. Other age-related factors such as increased frailty may increase a victim's vulnerability. it also is true that older victims' ability to report abuse is frequently confounded by their reliance on their abuser for care or housing.

Every seven minutes in Illinois, there is an incidence of elder abuse. Several research studies have shown that elder abuse is the most under reported familial crime. It is even more under reported than child abuse with only between one in eight and one in fourteen incidents estimated to be reported. Seniors who experience abuse worry they will be banished to a nursing home if they report abuse. They also must struggle with the ethical dilemma of reporting abuse by their children to the authorities and thus increasing their child's likelihood of going to jail. Shame and fear gag them so that they remain ‘‘silent victims.’’

The Commerce-Justice-State Appropriations bill funds the STOP law enforcement state grants program. This program provides funding for services and training for officers and prosecutors for dealing with domestic violence. This training needs to be sensitive to the needs of all victims, young and old. However, the images portrayed in the media of the victims of domestic violence generally depict a young woman, with small children. Consequently, may people including law enforcement officers may not readily identify older victims as suffering domestic abuse. The victims themselves may also be reluctant to report such abuse. Many older women were raised to believe that family business is a private matter. Problems within families were not to be discussed with anyone, especially strangers or counselors. Only a handful of domestic abuse programs throughout the country are reaching out to older women.

This amendment seeks to improve the STOP grants program by making it more sensitive to the needs of the nations seniors. We know that great improvements have taken place since the Violence Against Women Act was first passed. One of the most successful programs is the law enforcement and prosecutor training program, which received over $200 million in FY 1998. This bill would increase that level to $210 million. Improvement in this program can be made with respect to identifying abuse among all age groups especially seniors who are often overlooked. When the abuser is old, there may be a reticence on the part of law enforcement to deal with this person in the same way that they might deal with a younger person. Who wants to send an ‘‘old guy’’ to jail? However, lack of action jeopardizes the victim further because then the abuser has every reason to believe that there are no consequences for their actions. Another common problem is differentiating between injuries related to abuse and injuries arising from aging, frailty or illness. too many older women's broken bones have been attributed to disorientation, osteoporosis or other age-related vulnerabilities without any questions being asked to make sure that they are not the result of abuse.

With the greying of America, the problems of elder domestic abuse in all its many ugly manifestations, is likely to grow. I believe that we need to take a comprehensive look at our existing family violence programs and ensure that these programs serve seniors and are sensitive and knowledgeable of elder domestic abuse.

I am pleased to be joined by Senators REID, HARKIN, CLELAND, MIKULSKI, GRAHAM, JEFFORDS, and COLLINS in offering this amendment, which focuses attention on the needs of the ‘‘forgotten older victims of domestic violence.’’

Mr. BIDEN. Mr. President, the Violence Against Women Act of 1994 included vital provisions to protect abused immigrant women—so they wouldn't have to choose to stay in an abusive marriage or be deported from America

This has helped a relatively small number of battered women—a few thousand each year—but it was important that we—on a bipartisan basis—took this moral step.

Since 1994, we have found other ways in which we in effect force women to remain in abusive marriages and rely on their abusive husbands for their immigration status.

This amendment restores the protections of the original Violence Against Women Act in four key ways:

By ensuring that battered women are included in the narrow immigration provision already included in this bill.

By preventing the roughly 1500 women per year who complete the full process of proving that they are in fact battered from being deported solely because of some arbitrary limits.

By allowing the Immigration and Naturalization Service to permit a battered woman to remain in the U.S. even though she has left the country for a brief period—provided that she has an understandable reason (such as

in the case of a woman who was literally taken to Mexico against her will).

And by requiring the Immigration and Naturalization Service to give a battered woman an opportunity to prove that she was battered and eligible for Violence Against Women Act relief before deporting her under an order issued without her notice.

This is an important amendment—even though it will affect a modest number of battered women. I am pleased that this amendment is cosponsored by Senators ABRAHAM, KENNEDY, LEAHY, WELLSTONE and others. I am also pleased that this amendment has been accepted and will be adopted by the full Senate unanimously.

Ms. COLLINS. Mr. President, I rise today to support the amendment introduced by my distinguished colleague from Illinois, Senator DURBIN, to strengthen the capability of our law enforcement community to protect older women from violence.

There is no conduct less consistent with the precepts of a civilized society than the physical abuse of those unable to defend themselves. Our recognition of this has led to an aggressive and ongoing campaign against child abuse, and it must lead to an equally strong response to domestic violence directed at older Americans.

Mr. President, at a 1995 hearing in Portland, Maine, chaired by my predecessor, Senator Cohen, elder abuse was aptly described as ''society's secret shame.'' Family violence, particularly when directed at the elderly, was a major concern of Senator Cohen, and I welcome the opportunity to continue his efforts to combat this intolerable mistreatment of older Americans.

Mr. President, earlier this year my home state released its crime statistics for 1997. I was cheered by the wonderful news that crime fell by 8.7% from 1996, to the lowest rate in at least 20 years. Hidden behind this positive statistic, however, was one that was very disquieting, namely, that domestic violence increased by 7.8%. Ironically, at the same time as we are becoming less likely to be harmed by strangers, many of our neighbors face an increasing threat from members of their own households.

National data demonstrate that cases of domestic elder abuse, which includes neglect as well as physical abuse, are steadily increasing. From 1986 to 1996, the number of cases went from 117,000 to 293,000, an increase of 150%. Furthermore, there is widespread agreement that this type of abuse is greatly underreported. For example, although the number of reported cases in 1994 was 241,000, the National Center on Elder Abuse estimates that the true number of cases was 818,000.

Mr. President, while these numbers indicate a serious and growing problem, all of the statistics in the world do not describe the problem as eloquently as the words of a single victim. At the Maine hearing, one such victim told what happened to her at the hands of her husband after her children left home.

[T]hings got really bad. I had two broken wrists, cracked ribs, held down with his knee on my chest with a knife at my throat. I was made to crawl across the floor with a gun resting on my head, ready to fire. I've been choked until I was limp, and then he would drop me on the floor with a kick. I've been spit on, thrown through a window, dragged into the lake as he said he was going to drown me.

Astonishingly, but not atypically, the witness was married to her husband for 44 years.

Mr. President, this type of treatment cannot be tolerated. As a cosponsor of the Durbin amendment, I sincerely hope that my colleagues will take this modest step to enhance the ability of the law enforcement community to protect this vulnerable segment of our society.

AMENDMENT NO. 3313

(Purpose: To modify the membership of the Federal-State Joint Board on universal service)

On page 72, between lines 16 and 17, insert the following:

SEC. 209. (a) IN GENERAL.—Section 254(a) of the Communications Act of 1934 (47 U.S.C. 254(a)) is amended—

(1) by striking the second sentence in paragraph (1);

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following:

''(2) MEMBERSHIP OF JOINT BOARD.—

''(A) IN GENERAL.—The Joint Board required by paragraph (1) shall be composed of 9 members, as follows:

''(i) 3 shall be members of the Federal Communications Commission;

''(ii) 1 shall be a State-appointed utility consumer advocate nominated by a national organization of State utility consumer advocates; and

''(iii) 5 shall be State utility commissioners nominated by the national organization of State utility commissions, with at least 2 such commissioners being commissioners of commissions of rural States.

''(B) CO-CHAIRMEN.—The Joint Board shall have 2 co-chairmen of equal authority, one of whom shall be a member of the Federal Communications Commission, and the other of whom shall be one of the 5 members described in subparagraph (A)(iii). The Federal Communications Commission shall adopt rules and procedures under which the co-chairmen of the Joint Board will have equal authority and equal responsibility for the Joint Board.

''(C) RURAL STATE DEFINED.—In this paragraph, the term 'rural State' means any State in which the 1998 high-cost universal service support payments to local telephone companies exceeds 90 cents on a per loop per month basis.''.

(b) FCC TO ADOPT PROCEDURES PROMPTLY.—The Federal Communications Commission shall adopt rules under section 254(a)(2)(B) of the Communications Act of 1934 (47 U.S.C. 254(a)(2)(B)), as added by subsection (a) of this section, within 30 days after the date of enactment of this Act.

(c) RECONSTITUTED JOINT BOARD TO CONSIDER UNIVERSAL SERVICE.—The Federal-State Joint Board established under section 254(a)(1) of the Communications Act of 1934 (47 U.S.C. 254(a)(1)) shall not take action on the Commission's Order and Order on Reconsideration adopted July 13, 1998, (CC Docket No. 96–45; FCC 98–160) relating to universal service until—

(1) the Commission has adopted rules under section 254(a)(2)(B) of the Communications Act of 1934 (47 U.S.C. 254(a)(2)(B)); and

(2) the co-chairmen of the Joint Board have been chosen under that section.

Mr. BROWNBACK. Mr. President, I have offered an amendment that would provide rural States with a stronger representation on the Federal-State Joint Board on Universal Service (Joint Board).

Such a change is necessary because critical universal telephone service issues have been mishandled by the Joint Board since the passage of the Telecommunications Act of 1996.

The Joint Board was intended to provide the States with an opportunity to help craft national universal service policy because the States are more experienced in dealing with these issues than their national counterparts.

The Act created the Joint Board and required the Board to make recommendations concerning how the Federal Communications Commission (FCC) should implement the universal service provisions contained in the Act.

However, the Joint Board was chaired by former FCC Chairman Reed Hundt, and the Board made recommendations that undermine rural interests and put upward pressure on rural residential telephone rates.

The Joint Board needs greater representation from the States, especially rural States. My amendment would do the following:

Add an additional State Utility Commissioner to the Joint Board.

Require that two of the five State Utility Commissioners serving on the Board represent rural States.

Require that one of the State Commissioners and one of the FCC Commissioners serve as Co-Chairmen of the Joint Board.

Mr. President, this amendment would ensure that rural interests are adequately represented on the Joint Board, and that the recommendations made to the FCC are consistent with the universal service goals of the Act.

Mr. President, I have been very frustrated with the manner in which universal service issues have been addressed by the Joint Board and the FCC since the passage of the Act. Although it is the most important part of universal service, the high-cost piece has been getting the short shrift.

The FCC has just referred a number of critical high-cost issues back to the Joint Board for its consideration. This amendment is critical because rural communities across the country need to be effectively represented on the Board as it reviews these issues. The States, especially rural States, have the most experience dealing with the high-cost issues, and the recommendations of the Joint Board must adequately reflect their input and their expertise.

AMENDMENT NO. 3314

(Purpose: To provide for the nonpoint pollution control program of the Coastal Zone Management program of the National Oceanic and Atmospheric Administration)

At the appropriate place in title II, insert the following:

SEC. 2___. NONPOINT POLLUTION CONTROL.

(a) IN GENERAL.—In addition to the amounts made available to the National Oceanic and Atmospheric Administration under this Act, $3,000,000 shall be made available to the Administration for the nonpoint pollution control program of the Coastal Zone Management program of the Administration.

(b) PRO RATA REDUCTIONS.—Notwithstanding any other provision of law, a pro rata reduction shall be made to each program in the Department of Commerce funded under this Act in such manner as to result in an aggregate reduction in the amount of funds provided to those programs of $3,000,000.

NONPOINT POLLUTION CONTROL

Mr. TORRICELLI. Mr. President, I would like to thank Senators GREGG and HOLLINGS for accepting this amendment to the Commerce, Justice, State and Judiciary Appropriations Bill which directs $3 million to the implementation of nonpoint pollution control plans in the Coastal Zone Management Program.

I rise to draw this country's attention to the national significance of our coasts as an integral part of our national infrastructure. As we approach the next century, we must treat them like our roads, schools, and technology, as the foundation of economic development, job creation, and current prosperity. Our coasts are a central element of the tourism industry which nationally employs 14.4 million people and contributes over 10% to our GDP, making it the second-largest sector in the economy.

With more than 50% of the nation's population living within 50 miles of the shore, our coastal areas are heavily used resources under severe environmental pressures from land development and associated activities as well as seasonal pressures from summer vacationers. For example, over 400,000 people live in the immediate vicinity of the Barnegat Bay estuary in New Jersey; in the summer that number doubles to 800,000. The popularity of Barnegat Bay has caused non-point source pollution from runoff and storm water discharges resulting in blooms of brown tide algae in 1995, 1997, and as recently as last month. Polluted runoff is the major reason why pfiesteria and hazardous algal blooms frequently close rivers, kill fish and make people sick. Nationwide, 40% of our waters are not fit for fishing and swimming; 30% of our shellfish beds are closed or restricted for harvest; and 2500 beaches were declared unsafe for swimming in 1996.

Created in the 1970's, the Coastal Zone Management (CZM) Program is a voluntary partnership between the federal government and coastal states and territories to preserve and restore our coastal areas. The program encourages the wise use of land and water resources through the preparation of special area management plans to protect natural resources while providing for coastal dependent economic growth.

Section 6217 of the 1990 Coastal Zone Reauthorization Amendments requires states and territories with approved coastal zone management programs to develop and implement coastal nonpoint pollution plans. Through prior federal assistance, 29 plans (see attachment) have been conditionally approved and are ready for implementation. (In addition, Texas, Georgia, and Ohio, recently entered the CZM program and will also be working to develop nonpoint runoff plans.) The premise behind this amendment is simple: the federal government must continue to support those who have developed nonpoint pollution plans and are now ready to implement them. These funds are an investment in our future, an investment that will pay dividends not just for our towns and states, but for the entire country and for generations to come.

I ask unanimous consent that the list of states with approved plans be entered into the RECORD.

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

STATES AND TERRITORIES WITH APPROVED COASTAL NONPOINT POLLUTION PLANS

Alabama	New Hampshire
Alaska	New Jersey
American Samoa	New York
California	North Carolina
Connecticut	Northern Mariana Islands
Delaware	Oregon
Florida	Pennsylvania
Guam	Puerto Rico
Hawaii	Rhode Island
Louisiana	South Carolina
Maine	Virgin Islands
Maryland	Virginia
Massachusetts	Washington
Michigan	Wisconsin
Mississippi	

AMENDMENT NO. 3315

On page 34, line 20, insert the following: Strike ''65,960,000'' and insert ''66,960,000''.

On page 34, line 19, insert the following: Strike ''$119,960,000'' and insert ''$120,960,000''.

AMENDMENT NO. 3316

(Purpose: To provide for sentencing enhancements and amendments to the Federal Sentencing Guidelines for offenses relating to the abuse and exploitation of children, and for other purposes)

At the appropriate place, insert the following:

SEC. ___. CHILD EXPLOITATION SENTENCING ENHANCEMENT.

(a) DEFINITIONS.—In this section:

(1) CHILD; CHILDREN.—The term ''child'' or ''children'' means a minor or minors of an age specified in the applicable provision of title 18, United States Code, that is subject to review under this section.

(2) MINOR.—The term ''minor'' means any individual who has not attained the age of 18, except that, with respect to references to section 2243 of title 18, United States Code, the term means an individual described in subsection (a) of that section.

(b) INCREASED PENALTIES FOR USE OF A COMPUTER IN THE SEXUAL ABUSE OR EXPLOITATION OF A CHILD.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines on aggravated sexual abuse under section 2241 of title 18, United States Code, sexual abuse under section 2242 of title 18, United States Code, sexual abuse of a minor or ward under section 2243 of title 18, United States Code, coercion and enticement of a juvenile under section 2422(b) of title 18, United States Code, and transportation of minors under section 2423 of title 18, United States Code; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal sentencing guidelines to provide an appropriate sentencing enhancement if the defendant used a computer with the intent to persuade, induce, entice, or coerce a child of an age specified in the applicable provision referred to in paragraph (1) to engage in any prohibited sexual activity.

(c) INCREASED PENALTIES FOR KNOWING MISREPRESENTATION IN THE SEXUAL ABUSE OR EXPLOITATION OF A CHILD.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines on aggravated sexual abuse under section 2241 of title 18, United States Code, sexual abuse under section 2242 of title 18, United States Code, sexual abuse of a minor or ward under section 2243 of title 18, United States Code, coercion and enticement of a juvenile under section 2422(b) of title 18, United States Code, and transportation of minors under section 2423 of title 18, United States Code; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal sentencing guidelines to provide an appropriate sentencing enhancement if the defendant knowingly misrepresented the actual identity of the defendant with the intent to persuade, induce, entice, or coerce a child of an age specified in the applicable provision referred to in paragraph (1) to engage in a prohibited sexual activity.

(d) INCREASED PENALTIES FOR PATTERN OF ACTIVITY OF SEXUAL EXPLOITATION OF CHILDREN.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines on criminal sexual abuse, the production of sexually explicit material, the possession of materials depicting a child engaging in sexually explicit conduct, coercion and enticement of minors, and the transportation of minors; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal sentencing guidelines to provide an appropriate sentencing enhancement applicable to the offenses referred to in paragraph (1) in any case in which the defendant engaged in a pattern of activity involving the sexual abuse or exploitation of a minor.

(e) REPEAT OFFENDERS; INCREASED MAXIMUM PENALTIES FOR TRANSPORTATION FOR ILLEGAL SEXUAL ACTIVITY AND RELATED CRIMES.—

(1) REPEAT OFFENDERS.—

(A) CHAPTER 117.—

(i) IN GENERAL.—Chapter 117 of title 18, United States Code, is amended by adding at the end the following:

''§ 2425. Repeat offenders

''(a) IN GENERAL.—Any person described in this subsection shall be subject to the punishment under subsection (b). A person described in this subsection is a person who

violates a provision of this chapter, after one or more prior convictions—

''(1) for an offense punishable under this chapter, or chapter 109A or 110; or

''(2) under any applicable law of a State relating to conduct punishable under this chapter, or chapter 109A or 110.

''(b) PUNISHMENT.—A violation of a provision of this chapter by a person described in subsection (a) is punishable by a term of imprisonment of a period not to exceed twice the period that would otherwise apply under this chapter.''.

(ii) CONFORMING AMENDMENT.—The analysis for chapter 117 of title 18, United States Code, is amended by adding at the end the following:

''2425. Repeat offenders.''.

(B) CHAPTER 109A.—Section 2247 of title 18, United States Code, is amended to read as follows:

''§ 2247. Repeat offenders

''(a) IN GENERAL.—Any person described in this subsection shall be subject to the punishment under subsection (b). A person described in this subsection is a person who violates a provision of this chapter, after one or more prior convictions—

''(1) for an offense punishable under this chapter, or chapter 110 or 117; or

''(2) under any applicable law of a State relating to conduct punishable under this chapter, or chapter 110 or 117.

''(b) PUNISHMENT.—A violation of a provision of this chapter by a person described in subsection (a) is punishable by a term of imprisonment of a period not to exceed twice the period that would otherwise apply under this chapter.''.

(2) INCREASED MAXIMUM PENALTIES FOR TRANSPORTATION FOR ILLEGAL SEXUAL ACTIVITY AND RELATED CRIMES.—

(A) TRANSPORTATION GENERALLY.—Section 2421 of title 18, United States Code, is amended by striking ''five'' and inserting ''10''.

(B) COERCION AND ENTICEMENT OF MINORS.—Section 2422 of title 18, United States Code, is amended—

(i) in subsection (a), by striking ''five'' and inserting ''10''; and

(ii) in subsection (b), by striking ''10'' and inserting ''15''.

(C) TRANSPORTATION OF MINORS.—Section 2423 of title 18, United States Code, is amended—

(i) in subsection (a), by striking ''ten'' and inserting ''15''; and

(ii) in subsection (b), by striking ''10'' and inserting ''15''.

(3) AMENDMENT OF SENTENCING GUIDELINES.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(A) review the Federal sentencing guidelines relating to chapter 117 of title 18, United States Code; and

(B) upon completion of the review under subparagraph (A), promulgate such amendments to the Federal sentencing guidelines as are necessary to provide for the amendments made by this subsection.

(f) CLARIFICATION OF DEFINITION OF DISTRIBUTION OF PORNOGRAPHY.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines relating to the distribution of pornography covered under chapter 110 of title 18, United States Code, relating to the sexual exploitation and other abuse of children; and

(2) upon completion of the review under paragraph (1), promulgate such amendments to the Federal sentencing guidelines as are necessary to clarify that the term ''distribution of pornography'' applies to the distribution of pornography—

(A) for monetary remuneration; or

(B) for a nonpecuniary interest.

(g) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—In carrying out this section, the United States Sentencing Commission shall—

(1) with respect to any action relating to the Federal sentencing guidelines subject to this section, ensure reasonable consistency with other guidelines of the Federal sentencing guidelines; and

(2) with respect to an offense subject to the Federal sentencing guidelines, avoid duplicative punishment under the guidelines for substantially the same offense.

(h) AUTHORIZATION FOR GUARDIANS AD LITEM.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Justice, for the purpose specified in paragraph (2), such sums as may be necessary for each of fiscal years 1998 through 2001.

(2) PURPOSE.—The purpose specified in this paragraph is the procurement, in accordance with section 3509(h) of title 18, United States Code, of the services of individuals with sufficient professional training, experience, and familiarity with the criminal justice system, social service programs, and child abuse issues to serve as guardians ad litem for children who are the victims of, or witnesses to, a crime involving abuse or exploitation.

(i) APPLICABILITY.—This section and the amendments made by this section shall apply to any action that commences on or after the date of enactment of this Act.

AMENDMENT NO. 3317

On page 128, line 9, strike ''(1)'';

On page 129, line 3, strike ''(2)'' and insert in lieu thereof ''(b)''; on line 6, strike ''paragraph (1)'' and insert in lieu thereof ''subsection (a)''; on line 14, strike ''(3)'' and insert in lieu thereof ''(c)''; strike ''subsection'' and insert in lieu thereof ''section''.

On page 129, strike all of the subsection ''(b)'' beginning on line 18 to the end of the subsection on page 130.

AMENDMENT NO. 3318

(Purpose: To provide for funding for a firearm violation demonstration project)

On page 9, line 15, strike the period and insert the following: '':*Provided further,* That $2,300,000 shall be used to provide for additional assistant United States attorneys and investigators to serve in Philadelphia, Pennsylvania and Camden County, New Jersey, to enforce Federal laws designed to prevent the possession by criminals of firearms (as that term is defined in section 921(a) of title 18, United States Code), of which $1,500,000 shall be used to provide for those attorneys and investigators in Philadelphia, Pennsylvania and $800,000 shall be used to provide for those attorneys and investigators in Camden County, New Jersey.''.

AMENDMENT NO. 3319

(Purpose: To require the submission in advance of a certification to Congress before certain funds are disbursed for contributions to the United Nations)

On page 100, between lines 18 and 19, insert the following:

SEC. 407. Before any additional disbursement of funds may be made pursuant to the sixth proviso under the heading ''CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS'' in title IV of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998 (as contained in Public Law 105–119)—

(1) the Secretary of State shall, in lieu of the certification required under such sixth proviso, submit a certification to the committees described in paragraph (2) that the United Nations has taken no action during the preceding six months to increase funding for any United Nations program without identifying an offsetting decrease during the 6-month period elsewhere in the United Nations budget and cause the United Nations to exceed the reform budget of $2,533,000,000 for the biennium 1998–1999; and

(2) the certification under paragraph (1) is submitted to the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and International Relations of the House of Representatives at least 15 days in advance of any disbursement of funds.

AMENDMENT NO. 3320

At the appropriate place in Title IV, insert the following new section:

SEC. . BAN ON EXTRADITION OR TRANSFER OF U.S. CITIZENS TO THE INTERNATIONAL CRIMINAL COURT.

(a) None of the funds appropriated or otherwise made available by this or any other Act may be used to extradite a United States citizen to a foreign nation that is under an obligation to surrender persons to the International Criminal Court unless that foreign nation confirms to the United States that applicable prohibitions on reextradition apply to such surrender, or gives other satisfactory assurances to the United States that it will not extradite or otherwise transfer that citizen to the International Criminal Court.

(b) None of the funds appropriated or otherwise made available by this or any other Act may be used to provide consent to the extradition or transfer of a United States citizen by a foreign country that is under an obligation to surrender persons to the International Criminal Court to a third country, unless the third country confirms to the United States that applicable prohibitions on reextradition apply to such surrender, or gives other satisfactory assurances to the United States that it will not extradite or otherwise transfer that citizen to the International Criminal Court.

(c) DEFINITION.—As used in this section, the term ''International Criminal Court'' means the court established by agreement concluded in Rome on July 17, 1998.

AMENDMENT NO. 3321

(Purpose: To prohibit the availability of funds for the International Criminal Court unless the agreement establishing the Court is submitted to the Senate for its advice and consent to ratification as a treaty)

On page 100, between lines 18 and 19, insert the following new section:

SEC. 407. (a) None of the funds appropriated or otherwise made available by this or any other Act (including prior appropriations) may be used for—

(1) the payment of any representation in, or any contribution to (including any assessed contribution), or provision of funds, services, equipment, personnel, or other support to, the International Criminal Court established by agreement concluded in Rome on July 17, 1998, or

(2) the United States proportionate share of any assessed contribution to the United Nations or any other international organization that is used to provide support to the International Criminal Court described in paragraph (1),

unless the Senate has given its advice and consent to ratification of the agreement as a treaty under Article II, Section 2, Clause 2 of the Constitution of the United States.

Mr. GREGG. I very much appreciate the kind comments obviously of the

Senator from South Carolina. This bill has been a fairly complicated exercise, but its movement is entirely tied to the fact that the Senator from South Carolina brings to this floor extraordinary expertise and professionalism. It is a joy to work with him because his knowledge of how to move things around here is second to none and his history as to where some of the issues lie is equally dramatic, and so I greatly appreciate the chance to work with him. I thank him for all of his support and effort. This has been a bill that has moved forward as a result of the strong support of the Senator from South Carolina.

Mr. HOLLINGS. I thank our chairman. Has our managers' amendment been adopted?

Mr. GREGG. Yes.

Mr. HOLLINGS. I move to reconsider the vote.

Mr. GREGG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LAUTENBERG. Mr. President, the Manager's Amendment includes $800,000 to hire additional assistant U.S. attorneys and investigators in Camden County, New Jersey. This amendment builds on an initiative that was originally proposed by Senator SPECTER. At his request, the bill provides $1.5 million to hire additional assistant U.S. attorneys and investigators in Philadelphia to enforce federal laws designed to keep firearms out of the hands of criminals.

I appreciate Senator SPECTER's effort. I think that additional law enforcement funding will help stop the gun carnage on our streets. My amendment would expand this effort into Camden, which neighbors Philadelphia. I want to ensure that the crackdown in Philadelphia does not simply push gun criminals into Camden. Clearly, a cooperative effort will provide a more comprehensive solution for the entire region.

I want to thank Senator GREGG and Senator HOLLINGS for their help with this amendment.

Mr. MCCONNELL. Mr. President, will the distinguished manager of the bill, Senator GREGG, yield for a colloquy?

Mr. GREGG. I am happy to yield to the Senator from Kentucky for a colloguy.

Mr. MCCONNELL. Mr. President, the Communications Assistance for Law Enforcement Act of 1994 (CALEA) was intended to preserve the ability of law enforcement agencies to conduct court-approved wiretaps on new digital networks. Implementation of this important legislation is currently two-and-one-half years behind schedule because industry and law enforcement have not been able to reach agreement on technical standards required under CALEA. In March of this year, the Department of Justice, the FBI, industry, and privacy groups all agreed that the Federal Communications Commission (FCC) should resolve the technical capability standards dispute as envisioned under CALEA. The latest information I have from the FCC is that the Commission does not expect to issue a final electronic surveillance capability standard until late this year.

Does the Senator from New Hampshire agree that the FCC should make this decision?

Mr. GREGG. I believe that the FCC should move expeditiously to resolve this matter.

Mr. MCCONNELL. After the statutory compliance date—October 25, 1998—telecommunications carriers could be subject to fines of up to $10,000 per day for failure to deploy equipment to meet CALEA compliance standards that currently do not exist and will not exist until the FCC sets the standard. According to industry sources, telecommunications equipment manufacturers will need approximately two years after the FCC sets a final standard to develop technology to meet the new standard.

CALEA authorized the Attorney General to reimburse the industry up to $500 million for the costs directly associated with modifying equipment that was installed or deployed before January 1, 1995 (the statutory ''grandfather date''). Since January 1, 1995, a significant portion of all wireline switches, a majority of cellular switches, and virtually all personal communications services devices have been installed.

Mr. President, I am concerned that if the FCC sets a new CALEA technical capability standard and there is no change to the January 1, 1995 statutory grandfather date, industry may be required to retrofit that equipment at their own expense at a cost that could exceed hundreds of millions of dollars.

I do not think that the American people want to pay what could be considered an electronic surveillance tax running into the hundreds of millions of dollars. I know that the people in my state of Kentucky do not. I recognize that this is a complicated controversial issue, but I believe that Congress must act this year to adjust both the statutory compliance and grandfather dates contained in CALEA to allow the statute to work and avoid the prospect of an electronic surveillance tax on consumers.

I would like to work with the Chairman and the distinguished Ranking Member of the Subcommittee, Mr. HOLLINGS of South Carolina, to see if together, we can find a way to address this problem this year.

Mr. GREGG. I would be happy to work with the distinguished Senator and Senator HOLLINGS, the ranking member of the Subcommittee on Commerce, Justice, State, the Judiciary and Related Agencies on this issue.

Mr. MCCONNELL. I thank the Chairman, and I yield the floor.

REPEAL OF SECTION 110 IN CJS APPROPRIATIONS BILL

Mrs. MURRAY. Mr. President, I rise in strong support of the Commerce, State, Justice Appropriations measure. As a member of the Appropriations Committee, I can speak to the importance of this legislation and I commend Senator GREGG and Senator HOLLINGS for putting this bipartisan product together.

I could speak to many important provisions in this bill for my constituents. From fisheries to the cops on the street to export assistance, this bill is important to Washington state. But there is one provision in the bill that I wish to give special attention to today. And that's the language to repeal Section 110 of the 1996 Illegal Immigration Act.

The repeal of Section 110 is one of my highest priorities for the year. As a member of the Appropriations Committee, I do strongly support including the repeal in the Commerce, State, Justice Appropriations legislation.

Section 110 requires the Immigration and Naturalization Service to develop an automated entry and exit system for the purpose of documenting the entry and departure of ''every alien'' entering and leaving the United States. It was not until after Section 110 became law that Congress became aware of the full impact of this new language.

As currently written, Section 110 will have disastrous consequences for U.S. border communities whose economies are dependent on border travel, trade and tourism. For example, more than $1 billion dollars in economic activity is generated each day by legal crossings between the U.S. and Canada. More than 116 million people legally crossed the border from Canada in 1996. This travel and economic activity will be discouraged to the detriment of U.S. interests if we impose new restrictions and create additional bureaucratic delays along our shared borders.

Section 110 will have dire consequences for my entire state and particularly for the residents of Northwest Washington in Whatcom County. In my state, Section 110 will create an invisible barrier between neighbors, families and coworkers who happen to live on different sides of the border. More than $250 million dollars of annual economic activity in Washington state will be threatened. Border infrastructure which is already inadequate and overwhelmed at certain times of the year will be further burdened with new documentation requirements and traffic congestion certain to anger both American citizens and Canadian nationals. It is estimated that Section 110 will almost immediately create a 12 hour backup at the border in Blaine, Washington.

Section 110 is a ticking time bomb. It's really that simple. The INS does not have the technology, facilities or trained personnel to implement this language. The real explosive issue here is the cost to implement Section 110. The INS is silent on this issue. That's because it will cost billions of dollars to implement the Section 110 time bomb. Let's be very clear on this point, without changes this provision will cost billions of dollars not anticipated

by either the Congress or the American people.

Many of my constituents in Whatcom County will view the repeal of Section 110 as the most significant action taken by the Congress this year. Section 110 is the classic square peg solution for a round hole problem. That's why I've been fighting for more than a year to scrap the disastrous language.

Last year, I introduced the first Senate bill on this issue. My bill, S. 1205, the U.S.-Canada Economic Friendship Preservation Act of 1997 seeks to exempt Canadians from Section 110. The effort to fix the Section 110 problem has grown tremendously since the introduction of my bill. Communities across Washington state and virtually the entire Northern Border are working to preserve our close ties with our Canadian neighbors. Governors from Washington state, Michigan, Texas, Arizona and others are supporting the effort. Editorials endorsing the repeal of Section 110 have been written all across the country including The Bellingham Herald, The Seattle Post Intelligencer, The Los Angeles Times, The Washington Post, and The San Diego Union Tribune have all criticized Section 110. Numerous Chambers of Commerce and other business and community groups from all parts of the country are supporting the repeal Section 110 effort.

Various legislative efforts have garnered bipartisan and broad support. I am also an original cosponsor of Senator ABRAHAM's legislation addressing Section 110 and I compliment him for his leadership and advocacy on this issue. Senator ABRAHAM has been a champion in this effort; holding hearings along the border and in Washington, D.C. in his capacity as Chairman of the Immigration Subcommittee. I continue to believe the Senate in addition to passing the language in this bill should pass Senator ABRAHAM's stand alone bill on Section 110.

I commend my colleagues at the Appropriations Committee for taking this action to repeal Section 110. And I urge my colleagues to give this language strong and bipartisan support.

NOAA WEATHER RADIO COVERAGE IN SOUTH DAKOTA

Mr. JOHNSON. Mr. President, I rise today to update the Senate on my efforts to enhance statewide emergency warning systems in South Dakota. A person only has to open up a newspaper or watch the evening news to learn of the latest plight afflicting some region of the country. In recent years, our nation has been continuously ravaged by natural disasters, ranging from mudslides in California, massive flooding in the Midwest, as well as the annual hurricane and tornado seasons. These disasters have resulted in fatalities, enormous property damage, and has caused lingering disruptions of entire communities. This has never been more evident then this year, as our nation continues to feel the effects of the weather anomaly known as El Nino. Since August 1992, the National Oceanic and Atmospheric Administration (NOAA) has calculated that twenty-one weather-related disasters caused a staggering $90 billion in damages and resulted in over 900 fatalities.

South Dakota has by no means escaped Mother Nature's destructive path. Last year, South Dakota was plagued by severe weather conditions, beginning with record snowfalls in January and February, and the worst flooding in the state's history in April and May. Many residents were displaced from their homes, and the final cost for clean-up and assistance total in the millions of dollars. This year has been no different. Heavy rains have once again flooded homes and farmland in the northeast part of the state.

Recently, a tornado touched down with very little warning, completely destroying the town of Spencer, South Dakota. The Spencer disaster made me realize that additional efforts need to be made in order to provide citizens with the earliest possible warning of imminent danger. In my efforts to find new ways to update South Dakota's antiquated early warning system, it was brought to my attention that an immediate solution to upgrading the system would be the use of NOAA Weather Radios.

NOAA Weather Radios broadcast National Weather Service (NWS) warnings, watches, forecasts and other hazard information 24 hours a day. These NOAA Weather Radios automatically sound an alarm and turn themselves on when a severe weather warning or emergency information is issued for a specific county. These radios receive a signal that is broadcast from NWS transmitters located throughout the state. Seventy percent of South Dakota's population currently can receive these NOAA Weather Radio warnings. However, due to the rural nature and dispersed population of South Dakota, there are not enough NWS radio transmitters to provide total NOAA Weather Radio coverage. Many small towns who would be the beneficiaries of this warning system do not reside within range of one of the five NWS transmitters presently in South Dakota.

I have been working with NOAA and the South Dakota NWS to examine ways in which we can increase NOAA Weather Radio coverage so that 95 percent of South Dakota's population reside within range of a transmitter. I have met with Department of Commerce Under Secretary Dr. James Baker, who also is the Administrator of NOAA, to inquire about the requirements for attaining almost complete NOAA Weather Radio coverage for South Dakota. Following my discussions with Dr. Baker, I held several meetings throughout South Dakota with NWS representatives, emergency managers, and county officials to ascertain opportunities and resources already available in our state to augment our existing NOAA Weather Radio coverage.

The South Dakota NWS expects that eight additional transmitters would provide sufficient coverage. The South Dakota NWS currently is examining locations to position these additional transmitters, and they will be submitting their final report to NOAA and my office forthwith.

During consideration of the FY 1999 Commerce, Justice, State, and Judiciary Appropriations bill, I have worked with Senator GREGG and Senator HOLLINGS in examining all available options to acquire the funding necessary to purchase NOAA Weather Radio transmitters for counties that presently do not receive NOAA Weather Radio coverage, and to ensure that 95 percent of South Dakota's population is covered by NOAA Weather Radio.

Mr. President, I strongly believe that the modest funding necessary to complete this goal would go a long way in augmenting South Dakota's NOAA Weather Radio coverage. Although South Dakota is extremely well-prepared to deal with the impending tornado season, I believe it is my responsibility to use every resource available to address the consequences of weather-related events and work the losses associated with them.

I look forward to working with Senator GREGG, Senator HOLLINGS and the conferees to locate funding for additional NOAA Weather Radio transmitters for South Dakota, and I appreciate their willingness to work with me on this critically important issue.

Mr. WELLSTONE. Mr. President, I rise to discuss a provision contained in the Commerce/Justice/State Appropriations bill: ''Grants to Combat Violent Crime Against Women on Campuses,'' which provide $10 million a year to the Department of Justice for dissemination to colleges. I want to thank Senator GREGG, the Chairman of the Appropriations Subcommittee on Commerce, Justice, and State, for working with me to ensure that this provision becomes law.

In the 1980s, several high profile violent crimes on campuses raised concern about campus crime and security, resulting in the Student Right-to-Know and Campus Security Act (C.S.A.) in 1990. Though overall crime rates are declining, sexual assaults throughout the United States, including on college campuses, are on the rise. Studies tell us:

Twenty percent of college-aged women will be victims of sexual assault at some point during their college careers.

According to a 1995 study, 82 percent of rapes or sexual assaults in 1992–93 involved a person the victim knew.

Rape remains the most under reported violent crime in America, with approximately 1 in 6 rapes reported to police.

I am very concerned about sexual assault on college campuses. A 1991 survey of more than 6,000 college students

found that 42 percent of women students reported some form of sexual assault, including forcible sexual contact, attempted rape, and completed rape. This is simply unacceptable and we must do something to turn this around.

We have already taken an important step in addressing violence on campuses. Already included in the Higher Education Act are efforts to strengthen reporting so that we can get more accurate statistics and a national baseline study has been commissioned to look at the policies and procedures regarding sexual assault, and how effective they are.

That's a great start, but it's not enough. It's not enough to simply get better statistics. It's not enough to look at how sexual assaults are dealt with on campuses. We have to go further. We have to combat sexual assault on campuses. We have to end the violence. Even one victim of sexual assault is too many.

A critical component to addressing violence against women on campus is good collaboration among those who work with victims of sexual assault—campus police, local law enforcement, campus administrators, and victim services. We need to improve the coordinated response to violence on campuses. We need consistent enforcement and implementation of policies regarding sexual assault. We need enhanced communication between the campus and local community.

And in turn, this increased communication will result in more accurate statistics. According to a GAO report released last March, one of the reasons we don't have good statistics is that campuses have had trouble deciding how to include crimes reported to campus officials who are not campus police. It's not unusual for crimes on campus to be reported to local police and not reported in campus crime reports. Improving collaboration within and between campus and off-campus agencies will improve the statistics—and therefore give us a more realistic picture of violence on campuses. It will also improve services and care for victims.

The grant program we've created—Grants to Combat Violent Crime Against Women on Campuses—would make $10 million a year available to college campuses so that campus personnel and student organizations could work with campus administrators and police. The aim is to improve security and investigation methods to combat violence against women on campus and to improve victim services. These efforts may include partnerships with local criminal justice folks and community victim services organizations. Collaborating with community resources is especially critical when campuses have minimal victim support services and students are isolated from community support systems.

Some say, ''Why do this federally? Shouldn't schools do this themselves?'' But why should we be surprised that schools have yet to properly initiate these collaborations when communities haven't even started. We need to hold the line on violence everywhere, in schools and in communities. And the only way to overcome violence involves setting up collaborative programs, and that takes funds. That's what the federal government does when it is functioning best—get the ball rolling.

Campus safety is an educational access issue. Violence on campus is a huge barrier to education for many students who are in fear of being attacked because they feel unprotected on their own campuses. Without adequate prevention and protection services, many students—women in particular—continue to become victims of attacks, while others remain afraid to take night classes or to study late at the library. And victims of sexual assault may choose to leave school because they feel unprotected.

How are college women supposed to focus on their educations when one out of five college women will be a victim of sexual assault? And if it's not themselves personally, it will surely be their roommates, their classmates, their sorority sisters, or their friends. College is the time when many young people begin to break away from the protection of their families, a time of learning—both in the classroom and out—a time of freedom. But for many young women, it's also a time of trauma, a time of victimization, a time of violence. It's time to make campuses safe.

During the Higher Education Act Markup in the Senate, I reached a public agreement with Senator GREGG to work together to develop a Campus Safety Collaborative Grant Program. On May 6th, Senator GREGG agreed to the language I proposed, creating a $10 million grant program administered by the Department of Justice for collaborative grants to colleges in order to combat violence on campus. Consequently, the Senate Working Group—Senator JEFFORDS, KENNEDY, COATS, and DODD—adopted the language into the Manager's Substitute of the Higher Education Act. And I am very pleased that Senator GREGG has inserted funding for this program into the Commerce/State/Justice Appropriations Bill.

The Wellstone/Gregg Collaborative Grant Program states: ''enough is enough. It's time to end the violence.'' I thank Senator GREGG for all of his efforts, and I urge my colleagues to support this important provision.

IOWA COMMUNICATIONS NETWORK (ICN)

Mr. HARKIN. Mr. President, I understand that the intent of Section 254(h) of the Communications Act of 1934, commonly referred to as the Schools, Libraries and Rural Health Care Providers program or the ''E–Rate'' program, is to provide schools, libraries and health rural care providers with access to advanced telecommunications services. I believe that the Iowa Communications Network (ICN), a state run and owned communications network, as well as similarly situated entities, should be able to fully participate in the E–rate program. If the ICN is denied that opportunity by the Federal Communications Commission (FCC), Iowa schools will be unfairly and improperly placed at a disadvantage.

The FCC has said that an entity must be a common carrier to be a telecommunications carrier, as that term is used in Section 254(h) of the Communications Act of 1934, and to receive payments from the universal service fund for providing telecommunications service to schools, libraries and rural health care providers. The Universal Service Administrative Company is treating the ICN as a carrier for purposes of paying into the universal service fund, and ICN is, in fact, paying into the fund. The Iowa Utilities board, the local expert on this issue, has stated that the ICN functions as a common carrier under Iowa law, since the ICN serves all of its customers on equal terms and conditions. In light of these facts, does the center believe the ICN and other systems like it should be fully eligible to receive the benefits of the fund, including those available to telecommunications carriers?

Mr. MCCAIN. Given the statement of facts that the Senator has presented, it is my belief that it was clearly my intent and the intent of Congress that a State network organized and operated like the ICN is eligible to receive universal service fund support as a provider of telecommunications services under Section 254(h) of the Communications Act of 1934.

In addition to any action taken by the Federal Communications Commission, the Commerce Committee intends to further look into this issue. This program should treat all involved equally and not give any advantage to some while placing others at a disadvantage. Together, with the Ranking Member, we will do what is necessary and appropriate to deal with this matter.

Mr. HOLLINGS. I agree with Senator MCCAIN, the Chairman of the Commerce Committee, and Senator HARKIN that a State network organized and operated like the Iowa Communications Network is eligible to receive universal service fund support as a provider of telecommunications services under Section 254(h) of the Communications Act of 1934. I will certainly work with Senator MCCAIN and others if this issue arises in the Commerce Committee.

Mr. HARKIN. I appreciate your attention to this important issue.

ITC REGIONAL OFFICE

Ms. SNOWE. Mr. President, as the Senator from New Hampshire knows, I recently urged the Federal Trade Commission to reconsider their decision to close the Boston Regional Office and move all area activity for consumer protection and antitrust matters to New York City. The Boston office has

served the people of Maine—and the rest of New England—well for over 40 years and I am concerned that thee may be adverse consequences as the Boston office is uniquely situated in New England to focus on fraud and deception issues that target senior citizens, or for unsubstantiated advertising claims that affect consumers' pocketbooks.

The Boston office has been a leader in coordinating efforts to combat consumer fraud in the New England area, partnering with regional FBI and IRS officials in its efforts to detect fraud on the Internet. The office has also worked with Canadian officials on cross-border fraud. In addition, the office has been active in addressing false and unsubstantiated advertising claims that affect consumers' health and safety, for instance stopping a company from claiming that their calcium product prevented osteoporosis, or preventing misleading food safety claims for a food thawing tray, or stopping a company from selling water treatment devices that did not meet the claims made.

The Boston office has also worked with senior citizens to detect and avoid telemarketing fraud specifically targeted at them, and also spends a great deal of its time performing other consumer and business outreach and educational services, including educational outreach to the next generation of consumers—the schoolchildren throughout New England.

I hope that the FTC can be urged to first consider the findings of a GAO independent evaluation due out in September before they continue with their planned closure of the Boston Office in December.

Mr. GREGG. I understand your concern about the possible adverse effects the closure of the Boston Regional Office could have on the people of New England, and while we have not heard a groundswell of protest from the public for keeping the office open, the situation may well be that the office will not be missed until or if New Englanders can no longer get the response they expected when lodging consumer complaints. The GAO findings as to the effectiveness of the Boston office should certainly be considered by the FTC Commissioners as they plan their restructuring plan to maximize their resources to best serve the consumers of the U.S., and including the residents of New England. I thank the lady Senator from Maine for requesting the GAO Study so that the FTC can quantify the best use of their limited resources.

Ms. SNOWE. I thank the Senator from new Hampshire for all his assistance and fine work as Chairman of the Commerce, Justice, State and Judiciary Appropriations Subcommittee, and for his effectiveness in bringing about the passage of this legislation today.

PFIESTERIA

Mr. FAIRCLOTH. I wish to enter into a colloquy with Senator GREGG in order to emphasize the funding needs of North Carolina in regards to Pfiesteria and the expertise available to research this toxic microbe at N.C. State university.

Pfiesteria is a toxic microbe that kills fish and causes widespread fish disease. Its toxins are known to affect many species of commercially important finfish and shellfish.

Pfiesteria is also highly toxic to people—it causes subtle, but serious, impacts on human health. People who are exposed to toxic outbreaks of Pfiesteria, where fish are dead or filled with open bleeding sores from this creature's toxins, can be seriously hurt as well.

Medical studies have shown that fishermen and other people whom have been exposed to these toxic outbreaks have suffered profound memory loss and learning disabilities for months afterward. Laboratory workers exposed to airborne toxins from Pfiesteria have had other health impacts that have lingered for years, suggesting the potential for some long-term, lingering health problems for people in estuaries where toxic outbreaks occur.

Pfiesteria's toxins are extremely potent—People are hurt from these toxins if they have contact with the water, or even if they breathe the air over places where Pfiesteria is attacking fish. These toxins affect the human nervous system. They also strip the skin from fish, make deep bleeding sores, and suppress the immune system. Small amounts of the toxins can make fish very sick in three-five seconds and kill them in five minutes.

Pfiesteria was first discovered in 1991, as a major cause of fish kills in the Albemarle—Pamlico Estuary of North Carolina. This estuary is of great importance to the commercial fishing industry of this country. It is the second largest estuary on the U.S. mainland, and it supplies half of the total area used by fish from Maine to Florida as nursery ground. Recently, Pfiesteria also affected small numbers of fish in the largest estuary on the U.S. mainland, the Chesapeake Bay.

Pfiesteria, and its close relatives, have been confirmed in the mid-Atlantic and southeastern U.S. Toxic Pfiesteria and its close relatives are believed to be widely distributed in many warm temperate estuaries and coastal waters of the country and the world.

Pfiesteria thrives in polluted waters that are over-enriched in nutrients from sewage and other wastes. With exponential human population growth a reality for many coastal areas of our country, more of our people are living and working near waters where these toxic outbreaks occur.

Pfiesteria has affected the largest and second largest estuaries on the U.S. mainland with major economic impacts. Its toxic outbreaks have caused millions of dollars of damage to seafood, tourism, and other industries in coastal areas. Thus, Pfiesteria has become a high profile national issue for human health and the coastal economy. Its toxic outbreaks are expected to increase in coming years, associated with sewage and other wastes.

Pfiesteria can have potentially devastating impacts on our fish resources. Beyond easily detected fish kills, Pfiesteria affects fish at the population level by severely impairing their reproduction, the survival of their eggs and young, and their ability to fight disease.

Pfiesteria's impacts on human health are also serious: Imagine what it would be like to appear normal, but to have no idea of where you are, to be unable to put words into sentences, or to understand English. You have lucid moments in which you realize that something is terribly wrong; then you slide back down. As you begin to recover, you must take reading lessons to be able to read again. Imagine life style changes—that even after you are able to test normally for learning and memory, you must compensate because you have lost the ability to process information as quickly as you could before the illness occurred, and you do not recover it. Imagine not being able to strenuously exercise because when you try, you develop severe bronchitis or pneumonia. Consider what it would be like to be a fairly young, energetic person who must be on antibiotics more than a third of the year, five years after being affected . . . what it would be like to watch as increasingly potent antibiotics do not help you recover from the most recent, nearly constant illness, and to fear the prospect of reaching the point at which the most potent antibiotics no longer can help. This description characterizes the lives of several laboratory workers five to seven years following Pfiesteria toxin exposure.

In North Carolina, Pfiesteria has poisoned and killed millions of fish nearly every year from 1991, when scientists first discovered it, to the present. Last year, its toxic outbreaks also killed about 30,000 fish in Chesapeake waters.

Thus, the Albemarle-Pamlico, which is of such great importance to fisheries along the Atlantic Seaboard, has been hit hardest by Pfiesteria. North Carolina also has the world's foremost scientific expertise on Pfiesteria.

Dr. JoAnn M. Burkholder is a Professor of Aquatic Botany and Marine Sciences at North Carolina State University, and a Pew Fellow. She obtained a Bachelor of Science degree in zoology from Iowa State University, a Master of Science in aquatic botany from the University of Rhode Island, and a Ph.D. in botanical limnology from Michigan State University. Dr. Burkholder's research over the past 25 years has emphasized the nutritional ecology of algae, dinoflagellates, and seagrasses, especially the effects of cultural eutrophication on algal blooms and seagrass disappearance. Since co-discovering the toxic dinoflagellate,

Pfiesteria piscidia, in 1991, she has worked to characterize its complex life cycle and behavior, its stimulation by nutrient over-enrichment, and its chronic/sublethal as well as lethal impacts on commercially important finfish and shellfish in estuaries and aquaculture facilities.

Howard Glasgow is the Director of North Carolina State University Acquatic Botany Laboratories. He obtained a Bachelor of Science degree in Chemistry and a Bachelor of Arts degree in Marine Biology from the University of North Carolina at Wilmington. Mr. Glasgow is now finishing a Ph.D. degree in Marine Sciences from North Carolina State University. Before joining the Aquatic Botany Program at NCSU in 1990 Mr. Glasgow was President and CEO of Glasgow Electronics (North Carolina's 2nd largest electronics servicing and engineering organization) were in 1989 he was nominated Businessman of the year and appointed as a member of Who's Who In U.S. Executives. His scientific interests compliment Dr. Burkholder's, and together they have characterize Pfiesteria's complex life cycle and behavior. Including research describing Pfiesteria's responses to stimulation by nutrient over-enrichment, and its chronic/sublethal as well as lethal impacts on commercially valuable finfish and shellfish in estuaries and aquaculture facilities.

The researchers who discovered it as a major cause of fish kills in estuaries have been working with Pfiesteria at North Carolina State University for the past decade. Nearly all of the science articles that have been published on Pfiesteria—that is, nearly all of the information available about it—has been contributed by that laboratory.

Armed with this formidable expertise, these researchers are poised to make the most rapid and significant progress to understand and control Pfiesteria, so that our people, and our fisheries, do not continue to be seriously hurt by it.

Despite the demonstrated expertise of this laboratory on the Pfiesteria issue, very little federal funding support has reached it.

These researchers are well-known for their leadership role in providing information about Pfiesteria that is critically needed by coastal resource managers, policy makers, and fishermen and many other folk who utilize our estuaries. Their research laboratory is located in the heart of the area where toxic Pfiesteria outbreaks have been most severe.

The funding would also make it possible for the most experienced researchers to determine the environmental conditions that promote toxic activity by Pfiesteria, so that its toxic production can be significantly reduced, and so that we can develop effective management strategies to discourage Pfiesteria's growth.

This funding would make it possible to achieve rapid progress in identifying the suite of toxins that produced by Pfiesteria, so that improved tools can be developed to diagnose Pfiesteria toxin exposure in people, to ensure that seafood is safe for human consumption, and to develop medicines to reduce the impacts of Pfiesteria's toxins in people and help them recover.

Mr. GREGG. I appreciate you bringing this funding issue to my attention, and I will work with you on this matter. I agree with you that scientific talent available at N.C. State University should be funded.

Mr. HOLLINGS. I appreciate the dedication of researchers at the N.C. State University. Howevr, this dedication is not limited to that institution, and we also must recognize the expertise and important contribution of government and academic scientists throughout the Eastern United States in dealing with this problem. For example, researchers at the National Ocean Service laboratory at Charleston are playing a critical role in developing methods for detecting Pfiesteria toxins. The reduction of toxin outbreaks must rely on bringing our combined federal, state and academic resources to bear on the problem in a cooperative and cost effective manner.

JEFFERSON PARISH COMMUNICATIONS SYSTEM

Mr. BREAUX. Mr. President, I would like to engage in a colloquy with Senator GREGG, the distinguished Chairman of the Appropriations Subcommittee on Commerce, Justice, and State, the Judiciary and Related Agencies, Senator HOLLINGS, the Subcommittee's distinguished Ranking Member, and Senator LANDRIEU, my distinguished colleague from Louisiana, concerning an important public safety matter in Jefferson Parish, Louisiana.

As my colleagues know, the Jefferson Parish Sheriff's Office has gained attention as one of our nation's most innovative and accomplished law enforcement agencies. Unfortunately, the Sheriff's Office's has been stymied in the past by a grossly inadequate and outdated conventional 450 MHz UHF radio system that has threatened public safety. It simply cannot provide the secure and varied communications capabilities needed by the Jefferson Parish Sheriff's Office in order for it to communicate with various state and federal law enforcement agencies.

To meet its operational needs, the Sheriff's Department has pursued the purchase of a new 800 MHz communications system. This new system will enable the Sheriff's Office to maintain a high and secure level of communication with district personnel and others. Through better communication, each officer can patrol his or her reporting areas more effectively. The new system will also enable the Sheriff's Office to successfully communicate with residents and other public safety officials during emergency situations, such as natural disasters, which require coordination of state and federal efforts.

I would like to thank the Subcommittee for recognizing the importance of this project and for providing partial funding for this initiative in last year's appropriations bill. Unfortunately, Congress only provided half of what the Sheriff's Office needs to complete the new communications system. Now is the time for Congress to finish its commitment to fund this project.

Ms. LANDRIEU. Mr. President, I would like to join my colleague in thanking the Subcommittee for its action last year in providing funding for this vital initiative. I fully agree with my distinguished colleague that the completion of the new communications system for the Jefferson Parish Sheriff's Office is a high priority project that deserves funding under the FY 1999 COPS Technology Grant Program. The Sheriff's Department has committed to at least a 50-50 cost share with the federal government for this initiative which can serve as a national model. Further, the new communications system will help meet a clear public safety need by supporting interoperability and thus enhancing communication between the Jefferson Parish Sheriff's Department and a number of other local and national law enforcement and public safety agencies throughout the region. This interoperability will enhance the Sheriff's Department's effectiveness in combating crime and responding to area-wide public safety emergencies.

I would also like to add that funding is needed in order for the Sheriff's Office to meet FCC requirements and the procurement implementation schedule for the new system.

Mr. BREAUX. Given the importance of this project, I hope that the conferees will agree to provide funding for completion of the enhanced radio system for the Jefferson Parish Sheriff's Department.

Ms. LANDRIEU. I join my colleague from Louisiana in urging my distinguished colleagues to work in conference to finish the federal commitment we have made to this much-needed system.

Mr. GREGG. I would like to thank the Senators from Louisiana for understanding that the Subcommittee was unable to accommodate the entire request for funding in last year's appropriations bill. Funding for the completion of the new communications system for the Jefferson Parish Sheriff's Office in Jefferson Parish is a project worthy of attention in conference this year.

Mr. HOLLINGS. The Senators from Louisiana have highlighted an important issue. I agree with the distinguished Chairman that the completion of the communications system for the Jefferson Parish Sheriff's Office is a project that deserves consideration and I will give this matter my attention in conference.

Mr. BREAUX. The support from the distinguished Chairman and Ranking Member of the Subcommittee in this matter is greatly appreciated.

DATA SURVEY OF NARRAGANSETT BAY

Mr. CHAFEE. Mr. President, I want to engage in a colloquy with the chairman of the subcommittee, Senator GREGG.

On page 93 of the report accompanying the FY99 Commerce, Justice, State and the Judiciary Appropriations Act (S. Rept. 105–235) is a provision appropriating $1 million for a data survey of Narragansett Bay, to be conducted in conjunction with the Rhode Island Coastal Resources Management Council (CRMC). I would like to outline to the chairman my understanding of the purpose of these funds, and request his concurrence.

The $1 million appropriated for this project is to be used by CRMC for a Geographic Information System (GIS) software program to develop digital data on Narragansett Bay's resource conditions, availability and use. Advanced sonar technology would be employed to assess the Bay's bottom sediment types, habitat and use conflicts. A previous EPA study, the Narragansett Bay Critical Resource mapping project, was unable to collect data on bottom habitat, due to the limitations of research methods used at the time.

The data collected by this project would provide CRMC with information that, combined with input from other sources, would be helpful in determining appropriate sites for aquaculture leases, a function currently hindered by inadequate data and ongoing disputes over use. The data would also be useful in making several other decisions related to marine management issues. In addition, the project is intended to provide for studies relating to questions regarding environmentally sound and economically sustainable forms of aquaculture by the University of Rhode Island's Partnership for the Coastal Environment.

It is intended that the data collected and developed under this project not only be utilized by CRMC, but will also be made available to other Federal and State agencies as well as private fishery and conservation groups. I would like to briefly describe some of the entities that could potentially benefit from this data and ought to have access to it.

First, the National Marine Fisheries Service (NMFS) and the Rhode Island Department of Environmental Management (DEM) could use the data to identify existing essential fish habitats (EFH) not only in Narragansett Bay, but also in nearby Rhode Island and Block Island sounds. In addition, the Rhode Island Economic Development Corporation (RIEDC) ought to have access to the data in order to help establish suitable shipping lanes for larger vessels serving the cargo port at Quonset Point. Further, the data could be useful to NOAA's National Estuary Research Reserve NERR in selecting eelgrass restoration sites, identifying areas impacted by fishing gear, and areas suitable for habitat restoration. Finally, the data should be accessible to interested private fishery and conservation groups, such as the Rhode Island Shellfishermen's Association, the Ocean State Fisherman's Association and Save the Bay.

Let me also point out what this project is not intended for. This initiative is not aimed at giving preference to one group or interest over another in the use of, or issuance of permits in, Narragansett Bay and other marine resources in Rhode Island. Instead, it is simply intended to provide State and Federal authorities with the best possible information to assist them in making the most responsible public policy decisions not just on aquaculture permitting, but also on a variety of matters involving our precious natural resources.

I would ask Chairman GREGG if he concurs that the description I have provided on this funding is the Committee's intent?

Mr. GREGG. Yes, that is correct.

PATHOGEN RESEARCH RELATED TO BALLAST WATER

Mr. KOHL. I would like to thank the Senator from New Hampshire, the Chairman of the Subcommittee on Commerce, Justice, and State Appropriations, for his work on this bill. In particular, I appreciate his efforts to maintain funding for the Sea Grant College Program, which facilitates so much valuable research in the Great Lakes and other coastal areas of this country.

As this process moves forward, it is my hope that the conferees working on this bill will ultimately support and reiterate the language included in the House Committee report related to pathogen research and the Sea Grant College Program. Specifically, this language encourages the agency ''to conduct research related to the public health risks posed by pathogens released in ballast water discharges in ports around the country.''

While we know that pathogens from other regions of the world are sometimes present in the ballast tanks of ships that enter our ports, we have very little information about the public health risks posed by those pathogens. It is important that we improve our state of knowledge in this regard. The Sea Grant College Program and its network of about 300 universities are appropriately positioned to undertake this research. They are in this position due to their ongoing research on aquatic nuisance species and ballast water, as well as their affiliation with human health experts at their network universities.

Would the Senator from New Hampshire agree that this research on public health risks posed by pathogens in ballast water is important, and efforts should be made through the Sea Grant College Program to undertake such human health risk studies?

Mr. GREGG. I would concur with the Senator from Wisconsin that it is important to improve the state of understanding about the potential human health risks of pathogens that enter U.S. waters via ballast water, and that the Sea Grant College Program is an appropriate agency to conduct and facilitate such research.

Mr. KOHL. I appreciate the Senator's comments, and understanding of these concerns. Will the Senator be willing to support the inclusion of language in the conference report with regard to such research?

Mr. GREGG. While I can make no promises with regard to the final outcome of the conference, I will work with the Senator to address these concerns in the conference report.

SAFE SCHOOLS INITIATIVE

Mr. BIDEN. Mr. President, I would ask to engage the Senator from New Hampshire, Mr. GREGG, in a brief colloquy regarding a portion of the report which accompanies the bill, calling on the COPS office to direct $175 million to the Safe Schools Initiative, for the hiring of additional police officers to improve the safety of our school children. I strongly support the Committee's effort, lead by Chairman GREGG and ranking member HOLLINGS, to meet this highly important duty. I just wanted to get a clarification about the Committee's intent—is it the Committee's intent that D.A.R.E. police officers would be eligible to be funded under the Safe Schools Initiative?

Mr. GREGG. I appreciate the Senator's concern on this subject. The Committee believes that D.A.R.E. police officers would clearly quality under the Safe Schools Initiative. However, we are not yet ready to increase the D.A.R.E program above the FY 1998 level which has already been approved by the Office of Justice Programs. Of course, such decisions would be made at the local level—they decide the types of community police officers which would best accomplish the goals of the Safe Schools Initiative.

Mr. BIDEN. I thank the Senator for his interest in this matter and for his clarification of the Committee report.

WESTERN SLOPE DRUG ENFORCEMENT

Mr. CAMPBELL. Mr. President. I seek recognition to raise an important issue with the manager of this bill, Senator GREGG.

One area of growing concern in my home state of Colorado is the production, distribution and use of methamphetamines. To help law enforcement address this problem, I pushed for designation and funding of the Rocky Mountain HIDTA which is operating in many regions of the state, and secured additional funding in the Treasury subcommittee for a meth-amphetamine initiative through the Office of National Drug Control Policy. I also have supported budget increases for the Drug Enforcement Administration, but believe that agency can do much more, especially to help Western Colorado.

The Western Slope of Colorado is becoming a major drug transit point because of its close proximity to I–70, its easy access to trains, buses and planes,

and the large geographic areas which law enforcement officers have to patrol. The scope of the methamphetamine problem in this area recently was underscored by the Grand Junction Chief of Police, Gary Konzak. Chief Konzak informed me that ''the quality of life of this city and the safety of its citizens are in peril if significant and organized law enforcement resources are not deployed soon to combat this menace.''

Based on his almost 30 years of law enforcement in Chicago before coming to Colorado, Chief Konzak believes neighborhoods and communities in Western Colorado are vulnerable to degradation similar to what he witnessed when crack cocaine arrived in the Chicago area in the early and mid 1980s.

Mr. President, in Colorado the DEA operates a regional office in Denver and recently established a field office in Glenwood Springs. However, I believe the DEA can do much more to assist police chiefs and sheriffs in Mesa County, Montrose County and other counties on the Western Slope.

The bill we are considering today includes a significant increase in the DEA's budget for the coming fiscal year. The bill also includes $24.5 million and 100 agents specifically for the Methamphetamine Initiative to target and investigate methamphetamine trafficking, production and abuse.

Chief Konzak and other law enforcement officials throughout the Western Slope believe there is an urgent need for a DEA presence, through a field office or permanently assigned agents. I strongly support their request for assistance from the DEA and ask the Chairman for his support.

Mr. GREGG. I thank the senior Senator from Colorado for raising this important issue and for his work on the Commerce, Justice, State subcommittee to make DEA funding a main priority. I can appreciate his concern for the tragic ways methamphetamines can ravage communities, and commit to working with him in urging the DEA to establish a field office on the Western Slope of Colorado.

Mr. CAMPBELL. I thank the chairman for his support and look forward to working with him to address the methamphetamine problem on Colorado's Western Slope.

NEW JERSEY STATE POLICE

Mr. LAUTENBERG. Mr. President, I rise to confirm my understanding of a provision that will be included in the manager's amendment to the Commerce, Justice and State appropriation bill. I had proposed an amendment that would provide $1 million to equip New Jersey State Police vehicles with video cameras. It is my understanding, and I want to confirm this with Mr. GREGG, the distinguished Floor Manager of this legislation, that these funds will be made available by reallocating $1 million to the COPS Program. That $1 million would then be directed to the New Jersey State Police for video cameras in its vehicles, in the same manner that COPS Technology Program funds are directed to various programs on page 61 of the Committee Report to this legislation, e.g., $935,000 for the Missoula County, MT, mobile data terminals. Is my understanding correct?

Mr. GREGG. Yes.

Mr. LAUTENBERG. Is it also the understanding of the Senator that he will support the $1 million for the New Jersey State Police in a Conference Committee with the House?

Mr. GREGG. Yes.

Mr. LAUTENBERG. I would like to thank the distinguished Chairman of the Appropriations Subcommittee on Commerce, Justice, and State for his help with this matter. I appreciate his cooperation and I commend him for all of his hard work on this legislation. I know that it is difficult to accommodate the various requests from colleagues, and I think he and his excellent staff do it with grace and understanding. I also want to thank Senator HOLLINGS, the Ranking Member on the Subcommittee, it is always a pleasure to work with him and his fine staff.

The video cameras that will be funded under this provision will help the police document evidence which will assist prosecutors and also protect the innocent. With these cameras in place, people who are pulled over will think twice before acting violently toward the police. Additionally, the cameras will ensure that the troopers are following proper procedures when they make traffic stops.

In my home State of New Jersey, we must find ways to help resolve disputes and ease tensions between the police and the public they are sworn to protect. These cameras are an important step forward.

Again, I thank Senator GREGG and Senator HOLLINGS for their help in securing this critical funding.

ORGANIZATION FOR INTERNATIONAL ECONOMIC AND COOPERATION

Mr. DOMENICI. Mr. President, I rise today to address one of the international organizations funded in the Commerce, Justice, State, and the Judiciary Appropriations bill that is currently pending. I speak of the Organization for International Economic and Cooperation, or OECD, as it is known.

Mr. President, we live in an era where the pubic rightly demands both less government and higher quality services. This is an era where government downsizing and reform are expected of not just federal, state, and local governments, but also to international organizations.

One organization that has understood that less is better when it comes to government is OECD. The OECD was founded in 1961 as a successor to the Organization for European Economic Cooperation, which was formed to administer the Marshall Plan. As the situation in Europe has changed, so has the work of the OECD evolved. Its purpose today is to contribute to the world economy through economic cooperation among its member nations and beyond.

The OECD works on issues such as regulatory reform, electronic commerce and tax reform. With its first-rate studies and current information, OECD helps the United States and its other member nations to stay ahead of the curve in the fast-changing global economy. Its work offers policy makers important insight on what the United States can do to benefit from globalization and general economic liberalization.

At the same time, the OECD has understood that it, too, has to change. On its own initiative, the OECD has undertaken a significant process of reform, committing to cut its overall spending by ten percent. It is well on its way toward achieving this goal.

The distinguished Chairman of the Commerce, Justice, State, and the Judiciary Appropriations Subcommittee has put an emphasis on getting all international organizations to cut administrative costs. The pending bill reflects reductions in funding to those organizations that are above 15 percent in total administrative costs. Based on the State Department data available to the Subcommittee—a 1997 report which includes data only through 1995—the Subcommittee has reduced funding for the OECD. The OECD has indicated to me that its administrative costs are now only about 12.4 percent of its budget.

I urge the Department of State to provide the Subcommittee with more recent data so that those international organizations that have reduced their overall administrative costs can be appropriately reviewed for FY 1999 funding. For organizations that have pursued reform, such as the OECD, I hope the Subcommittee will reconsider the Administration's budget request for inclusion in the final bill.

WATERLINE EXTENSION PROJECT

Mr. CLELAND. Mr. President, I would first like to thank my distinguished colleagues, the Chairman Senator GREGG and Ranking Member Senator HOLLINGS, for their leadership and superb management of this bill. I would like to take a moment to express my support for a matter of great importance to me, specifically obtaining funding for a Waterline Extension Project in Georgia. The project would involve providing $1,000,000 in Economic Development Administration (EDA) Public Works (Title I) funds for construction of an extended 16-inch water line (16,000 L.F.) along Macon Road (U.S. Highway 80) from Muscogee County into Talbot County. I understand that a proposal for this project was submitted to the EDA, but the application was denied. Apparently, the application was rejected because the project did not identify any, or a significant number of, near term new jobs. However, I have been assured that, although one industry alone would not fulfill the new job requirement, the waterline would allow several new industries to locate in the area which will

more than meet the new job requirement. In fact, there have been commitments in writing from three businesses of their intent to locate in the newly developed industrial site. Talbot County is one of the most economically depressed counties in Georgia. In fact, in 1994, Talbot County had approximately 25% of its population living below the poverty line, ranking near the bottom of the state. If funded, the waterline would provide the vital infrastructure needed to serve potential industrial sites located in Talbot County and bring with it much needed opportunities for employment in well paying jobs. Senator HOLLINGS, I understand that Committee policy prohibits earmarking EDA funding for individual projects. Is that accurate?

Mr. HOLLINGS. My colleague is correct.

Mr. CLELAND. I thank the Senator. I understand that although projects are not earmarked, language is provided in the bill about projects intended to provide favorable recommendations to the EDA, if the project meets EDA criteria. Is my understanding correct?

Mr. GREGG. The Senator from Georgia is correct.

Mr. CLELAND. I thank the Senator. I understand that the EDA has stated a willingness to meet with County and City officials to review and reconsider the proposal at any time. Given the importance of this project and the apparent discrepancy between the information provided by local officials and the information cited by EDA in rejecting the proposal, I urge that the EDA give prompt consideration of any such request for a meeting. Further, assuming that the job-creating potential of the waterline Extension Project can be verified, I ask the distinguished Chairman and Ranking Member if they would agree that this is the kind of project Congress intended for EDA to give favorable consideration to in its public works construction program?

Mr. HOLLINGS. The Senator is correct.

Mr. GREGG. With the information provided, I believe the Senator's understanding is correct.

Mr. CLELAND. I, along with residents of Talbot and Muscogee Counties, thank my colleagues for their understanding and support and believe that this project would provide a critical economic boost to this region.

SWORDFISH CONSERVATION INITIATIVE

Mr. GREGG. I wish to enter into a colloquy with Senator FAIRCLOTH in order to address his concerns about the conservation of swordfish.

The National Marine Fisheries Service is in the process of implementing several management measures to ensure sustainable use of the Atlantic swordfish resource. The rampant importation of undersized Atlantic swordfish harvested by foreign fishing vessels is one of the most serious problems facing domestic and international management of this highly migratory species. The Congress recognizes the significance of this effort and, through the leadership of Senator FAIRCLOTH, this appropriations subcommittee provided $500,000 in this fiscal year for NMFS to fully address this specific concern.

The Committee intends that NMFS will utilize this particular appropriation to implement changes in our current system in order to prevent importation of Atlantic swordfish not harvested in a manner that is consistent with recommendations under the International Convention for the Conservation of Atlantic Tunas (ICCAT).

I ask my colleague from North Carolina to elaborate upon the intent of the Committee in its initiative to address Atlantic swordfish importation problems.

Mr. FAIRCLOTH. The United States has taken a firm conservation position with respect to ICCAT management recommendations. Our domestic fishermen comply with a tightly managed quota designed to rebuild this stock through international cooperation. Through efforts of the NMFS and our fishermen, we harvest only the annual amount specified for the American fishery, and we abide by the minimum swordfish size requirement of 33 lbs. Indeed, despite our harvest of less than five percent of the total Atlantic swordfish catch, the United States is working within the system to manage this resource in a sustainable fashion.

Unfortunately, however, not all countries are playing by the rules. Several foreign nations are allowing the harvest of swordfish smaller than the American minimum legal size. Further, this ''black market'' swordfish often time find its way into our restaurants and fish markets, and we are effectively undermining our resource rebuilding programs and our ability to compete in the marketplace by allowing this situation to continue.

I concur with my colleague from New Hampshire that it is time for us to reign in this illegal activity—to enforce our fishery regulations equally across the board—and protect our domestic fishermen who are operating just as we have asked them to. The intent of the Congress in the swordfish conservation initiative is to arm NMFS with the financial resources necessary to develop a program to restrict the importation of Atlantic swordfish that are below the United States minimum size. I understand NMFS is examining a number of possible management options, including dealer permits, country of origin documentation requirements, and the designation of restricted ports of entry for Atlantic swordfish to facilitate inspections.

I encourage them to continue in their deliberations, communicate fully with our fishermen, and implement a program to address our resource and equitability concerns.

OECD DEVELOPMENT CENTER

Mrs. HUTCHISON. Mr. President, the OECD Development Center works to promote market-opening reforms in developing nations and has provided valuable research and resources to policy makers and analysts in developed nations and developing countries alike. the OECD Development Center was established at the initiative of the United States in 1962, and we have played a leadership role in the Center ever since. I believe it is important to note the OECD Development Center's contribution as a bridge between OECD nations and emerging economies around the world.

Mr. GREGG. I appreciate and understand the remarks of the Senator from Texas in support of the OECD Development Center and the important role it performs.

BROADCASTING ACTIVITIES

Mr. BIDEN. Mr. President, I would like to briefly discuss the funding levels for international broadcasting in this legislation. I am disappointed by the considerable reductions in the Senate bill in this account. We have important priorities in this account. Radio Free Asia, Radio Free Europe/Radio Liberty (RFE/RL), and the Voice of America are critical instruments of American foreign policy. For a relatively modest cost, these broadcasting agencies project American values and promote American ideals. RFE/RL was of critical importance during the Cold War in undermining the tight control on information imposed by the communist states in Eastern Europe and Eurasia. Although the Cold War is over, RFE/RL still have an important function in a region where independent media are not yet firmly established, and, in many countries, is barely adequate. I authored the legislation in 1994 which created Radio Free Asia—which broadcasts news about local events to China and the other dictatorships in the region—and I want to ensure that it has the necessary resources so that it can perform its function.

It is my understanding that Committee has assumed that the bill fully funds Radio Free Asia at the requested level of $19.4 million. Is that the understanding of the Chairman?

Mr. GREGG. That is correct.

Mr. BIDEN. I appreciate that clarification. I understand that the Chairman and Ranking Member have a very tight allocation this year, but I hope that they will do what they can to try to restore the funds that were reduced in the Committee mark for broadcasting activities.

Mr. GREGG. I will say to the Senator from Delaware that I will do my best, within the allocation, to provide additional resources to this account.

Mr. HOLLINGS. I share the view of the chairman that we will do what we can on this account.

Mr. BIDEN. Additionally, I would note that the Committee report makes reference to the fact that the statute authorizing Radio Free Asia provides for a sunset a year from now. That is true, but the Senator from New Hampshire should understand that, in my view, it is quite likely that Radio Free Asia will be reauthorized next year. I plan to introduce such legislation early

in the next Congress, and I would expect that it would be included as part of next year's Foreign Relations Authorization Act.

Mr. GREGG. I am grateful for that information from the Senator from Delaware. I know that he is a strong advocate of Radio Free Asia as well as the other broadcasting services. I look forward to working with him on this issue as the bill goes to conference and in the coming years.

JOINT MARINE AQUACULTURE EDUCATION PROJECT

Ms. SNOWE. Mr. President, I would like to engage the Chairman of the Commerce, Justice, State, and the Judiciary Appropriations Subcommittee, Senator GREGG, in a colloquy.

Mr. GREGG. Mr. President, I would be pleased to join the Senator from Maine in a colloquy.

Ms. SNOWE. Mr. President, S. 2260 provides funding for the National Oceanic and Atmospheric Administration to support a joint marine aquaculture education project in Maine. The committee report lists the project sponsor in Maine as the Island Institute, but the actual sponsor is the Teel Cove Sea Farm. While Teel Cove is associated with the Island Institute, the two organizations are separate entities. In this case, Teel Cove is the chief sponsor of the project in Maine and should be listed as the recipient in the bill or report. I believe that this was the committee's intention. I would like to ask Senator GREGG if his understanding of this matter is consistent with mine, and also whether he would be willing to take appropriate action to ensure that a correction will be made and Teel Cove will be designated as the project sponsor in Maine.

Mr. GREGG. Mr. President, I agree with Senator SNOWE on this point. Teel Cove is the intended recipient and I will make sure that this matter is clarified before the conference on this legislation is completed.

Ms. SNOWE. Mr. President, I thank Senator GREGG for his statement and his agreement to address this matter. I would also like to ask Senator GREGG if my understanding is correct that the bill before us provides the Administration's full request for funding of the State of Maine's Atlantic salmon recovery plan.

Mr. GREGG. Mr. President, this bill does provide the Administration's requested level of funding for the Maine Atlantic salmon recovery plan.

Ms. SNOWE. Mr. President, I thank the subcommittee chairman, Senator GREGG, for his clarifications and assistance.

FISHING CAPACITY REDUCTION PROGRAM

Mr. WYDEN. I thank the Subcommittee Chairman for including $50,000 in the Committee Appropriations report for a potential loan to fund an innovative fishing capacity reduction program on the Pacific Coast. The program, if it receives the approval of fishermen on the West Coast, would be the first capacity reduction program to be ultimately funded by the fishing industry itself.

To comply with the requirements of section 504(b) of the Federal Credit Reform Act (2 U.S.C. 661c), an appropriation is required to cover the potential cost to the government for a debt obligation. My request assumed that the maximum potential cost to the government likely to be determined for the loan would be one percent, which would allow a loan of $5 million based on the $50,000 appropriated by the Committee. It is my understanding that if the Secretary of Commerce finds that the potential default rate for the loan is less than one percent, the loan amount would be accordingly higher than the $5,000,000 authorized by the report. For example, if the potential default rate for a future Pacific Coast buyback is determined to be one-half of one percent, the loan could be as high as $10,000,000 based on the appropriated $50,000. Is my understanding correct?

Mr. GREGG. Yes, the Senator's understanding is correct.

Mr. WYDEN. Further, I would like to clarify to the Chairman in my request, I was seeking credit authority for a maximum loan of $35 million. Is it the Chairman's understanding that if the Secretary of Commerce finds there is a potential default rate low enough for a loan of $35 million, that a loan of $35 million could be made?

Mr. GREGG. Yes, this is my understanding.

Mr. WYDEN. I thank the Chairman for this clarification and his recognition of the opportunity presented by the Pacific Coast plan.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION (NOAA) WEATHER RADIO COVERAGE IN SOUTH DAKOTA

Mr. JOHNSON. Mr. President, recently, a tornado touched down with very little warning, completely destroying the town of Spencer, South Dakota. The Spencer disaster made me realize that every effort needs to be made in order to provide citizens with the earliest possible warning of imminent danger. In my efforts to find new ways to update South Dakota's antiquated early warning system, it was brought to my attention that an immediate solution to upgrading the system would be the use of NOAA Weather Radios.

NOAA Weather Radios broadcast National Weather Service (NWS) warnings, watches, forecasts and other hazard information 24 hours a day. These NOAA Weather Radios automatically sound an alarm and turn themselves on when a severe weather warning or emergency information is issued for a specific county. These radios receive a signal that is broadcast from NWS transmitters located throughout the state. Seventy percent of South Dakota's population currently can receive these NOAA Weather Radio warnings. However, due to the rural nature and dispersed population of South Dakota, there are not enough NWS radio transmitters to provide total NOAA Weather Radio coverage. Many small towns who would be the beneficiaries of this warning system do not reside within range of one of the five NWS transmitters presently in South Dakota.

I have been working with NOAA and the South Dakota NWS to examine ways in which we can increase NOAA Weather Radio coverage so that 95 percent of South Dakota's population reside within range of a transmitter. I have met with Department of Commerce Under Secretary Dr. James Baker, who also is the Administrator of NOAA, to inquire about the requirements for attaining almost complete NOAA Weather Radio coverage for South Dakota. Following my discussions with Dr. Baker, I held several meetings throughout South Dakota with NWS representatives, emergency managers, and county officials to ascertain opportunities and resources already available in our state to augment our existing NOAA Weather Radio coverage.

The South Dakota NWS expects that eight additional transmitters would provide sufficient coverage. The South Dakota NWS currently is examining locations to position these additional transmitters, and they will be submitting their final report to NOAA and my office forthwith.

I hope I will have an opportunity to work with members of the conference committee for the Commerce, Justice, State, and Judiciary Appropriations bill in order to acquire the funding necessary to purchase NOAA Weather Radio transmitters for counties that presently do not receive NOAA Weather Radio coverage, and to ensure that 95% population of South Dakota's population is covered by NOAA Weather Radio.

Mr. President, I strongly believe that the modest funding necessary to complete this goal would go a long way in augmenting South Dakota's NOAA Weather Radio coverage. Although South Dakota is extremely well-prepared to deal with the impending tornado season, I believe it is my responsibility to use every resource available to address the consequences of weather-related events and work the losses associated with them.

I ask Senator HOLLINGS, do you support my efforts to enhance statewide emergency warning systems in South Dakota through the acquisition of additional NOAA Weather Radio transmitters?

Mr. HOLLINGS. Yes, I support the efforts of the Senator from South Dakota, and I appreciate your bringing the situation in South Dakota to the Senate's attention. I will work to locate funding for this important initiative.

Mr. JOHNSON. I thank the Senator for his support. With the prediction of a highly volatile hurricane season expected in your region of the country, I am sure the Senator is aware of the immediate warning that NOAA Weather Radios provide emergency managers

and residents of his state in preparing for an oncoming storm, and how invaluable this early warning is in mitigating the loss of lives and property. Mr. Chairman, will you support my proposed efforts to increase NOAA Weather Radio coverage in South Dakota?

Mr. GREGG. I will work with Senator HOLLINGS and Senator JOHNSON to locate funding for additional NOAA Weather Radio transmitters for South Dakota.

Mr. JOHNSON. I thank the Chairman for his support, and I deeply appreciate your and the Senator from South Carolina's willingness to work with me on this critically important issue.

SHEA'S PERFORMING ARTS CENTER

Mr. MOYNIHAN. Mr. President, I rise to enter into a colloquy with my colleagues, Senator D'Amato, and the distinguished managers of the Commerce, State, and Justice appropriations bill. Mr. President, we have in Buffalo a wonderful old theater, known now as Shea's Performing Arts Center. It opened in 1926 as motion pictures made their ascendance in the nation's entertainment industry, and was also the site of numerous stage productions. As Buffalo's population shifted to the suburbs or elsewhere, Shea's fell on hard times and was almost demolished in the 1970s. But citizens banded together, formed a non-profit group, and began restoration efforts. Today Shea's is on the National Register of Historic Places and is a cornerstone of Buffalo's downtown. I would ask the managers of the bill if they would encourage the Economic Development Administration to consider an application from Shea's Performing Arts Center and provide a grant if warranted.

Mr. D'AMATO. I also hope that the Economic Development Administration will see the merit in awarding a grant to Shea's. In addition to restoration and preservation efforts, the theater needs to be expanded backstage so that it can accommodate the large touring musicals and other productions that people would flock to downtown Buffalo to see. If Shea's were able to accommodate and present the biggest and best in live entertainment, it would be a tremendous boost for Buffalo's economy. I too hope my colleagues will encourage EDA to give every consideration to an application from Shea's.

Mr. GREGG. As I would like to be of assistance to my colleagues from New York, I do encourage the EDA to consider such an application from Shea's Performing Arts Center within all applicable procedures and guidelines, and to fund it if warranted.

Mr. HOLLINGS. I too suggest that EDA consider and fund an application from Shea's if the application has merit and meets all applicable procedures and guidelines.

Mr. MOYNIHAN. I am deeply appreciative of my distinguished colleagues from New Hampshire and South Carolina.

Mr. D'AMATO. I also thank my colleagues for their help.

ERIE, PA, NATIONAL WEATHER SERVICE OFFICE

Mr. SPECTER. Mr. President, I have sought recognition to comment on the Senate Appropriations Committee's decision to provide funding to reopen the Erie National Weather Service office at least in part starting this Fall. Congressman ENGLISH and I were in Erie in April for meetings with local officials and residents on this important issue and our appropriations success is a direct result of that visit. During that visit, I once again heard the troubling litany of severe weather incidents in Erie, which include blizzards and tornadoes which went unreported and put thousands of residents at risk.

I am pleased that Chairman GREGG was able to fulfill part of my request regarding the National Weather Service's activities in the Erie area and wanted to confirm with him that it is our understanding that pursuant to the language in this bill, the agency will undertake mitigation activities which will include having Weather Service personnel in the Erie office 7 days a week, 24 hours a day, for 6 months beginning October 1, 1998.

I will continue to focus with Congressman ENGLISH and Senator SANTORUM on our goal of reopening the Erie office permanently and ensuring that the office is equipped with the most advanced forecasting equipment available in the federal government. The six-month reopening of the office represents a good interim fix and I thank the Chairman for his help.

Mr. GREGG. I concur with my colleague from Pennsylvania as to my understanding of the agency's intentions. The bill before us provides sufficient funds to reopen the Erie office for six months on an around-the-clock staffing basis as part of the effort to mitigate any degradation of service since the Erie office was closed in 1996. I was pleased to be able to provide at least some of the funds he requested and look forward to working with him on this issue as this bill moves to conference with the House of Representatives.

ESSENTIAL FISH HABITAT

Mr. KEMPTHORNE. Mr. President, I wish to engage the Senator from New Hampshire, the Subcommittee chairman of Commerce, Justice, State and the Judiciary and the Senator from South Carolina, the Ranking Member of that Subcommittee in a colloquy.

As chairman of the Drinking Water Fisheries and Wildlife Subcommittee of the Environment and Public Works Committee, I am concerned that the National Marine Fisheries Service's guidelines on essential fish habitat have exceeded the scope of congressional intent. In 1996, Congress amended the Magnuson-Stevens Fishery Conservation and Management Act. The National Marine Fisheries Service's interpretation of a provision in that Act concerns me, the States and a diverse range of affected businesses and citizens throughout the country.

Mr. GREGG. The intent of the original provision was to establish procedures to gather information on essential fish habitat, wherever possible encouraging interagency coordination when other administration programs complemented the EFH goal.

Mr. KEMPTHORNE. As my distinguished colleague points out, the original provision was limited, focusing on increased efficiency and, wherever appropriate, information coordination. Congress did not intend to authorize a provision that created a sweeping new regulatory program.

Concerns have been raised about the complexity of the NMFS ''essential fish habitat'' regulations not add a new level of regulation in addition to what is required under the endangered Species Act.

Mr. GREGG. I appreciate the concerns of the Senator. The report accompanying this bill raises issues about the essential fish habitat program.

Mr. HOLLINGS. I am aware of the report language accompanying the Commerce, Justice, State and the Judiciary Appropriations bill, and I did not object to the inclusion of that language. The EFH provisions of the Magnuson-Stevens Act are intended to address growing concerns over the loss of habitat essential to the health of marine fisheries, including many commercially and recreationally valuable stocks.

Mr. KEMPTHORNE. As envisioned by NMFS, essential fish habitat covers much of the coastal, marine, and estuarine waters of the United States, and it includes some inland habitat for anadromous species. The broad definition of ''essential fish habitat'' raised concerns that NMFS will apply the EFH virtually everywhere.

In addition, serious concerns have been raised by nonfishing interests regarding their lack of participation in the development of these guidelines. Nonfishing interests were not heavily involved in the development of the guidelines. But when NMFS issued the proposal, a coalition of groups felt that their participation should have been solicited.

Mr. GREGG. It is my understanding that since the NMFS regulation was proposed, that community has offered comments. Given the scope of the EFH proposal, and the wide-ranging impacts on nonfishing entities, I believe the agency should take the view of all entities into consideration.

Mr. KEMPTHORNE. I agree. They object to the scope of the proposed EFH program and are concerned that it will subject activities, including land development, agriculture, water supply, forestry, and mining, to the jurisdiction of the Fishery Management Councils under the Magnuson-Stevens Fishery Conservation and Management Act. Ideally, these guidelines, along with the comments submitted by nonfishing interests, will be thoroughly reviewed and, if necessary, republished

by the NMFS. Congress should carefully watch this situation.

Mr. GREGG. The report accompanying this bill directs the General Accounting Office to review the National Marine Fishery Service's implementation of the Magnuson-Stevens Act, including the essential fish habitat provisions. Congress should receive a thorough report on this matter, and I look forward to receiving the results of the GAO's review.

Mr. KEMPTHORNE. I thank the chairman.

PHARMACY RECORD KEEPING

Mr. HATCH. For some time, I have been disturbed over reports that the Drug Enforcement Administration has been imposing multiple, substantial fines for what amount to minor pharmacy record-keeping violations. I am referring to cases in which no unauthorized person obtain control of controlled substances.

Violations of sections 842(a)(5) and (10) of the Controlled Substances Act can result in penalties of $25,000 per violation. I understand that between 1989 and 1997, $50 million in such fines have been assessed.

These provisions of the law adopt a strict liability standard for all record-keeping violations, even a minor error such as a mis-recording of a zipcode, or the insertion of a ditto mark.

While we all favor strong regulation of controlled substances, a rule of reason should prevail here.

For that reason, I am supportive of the thrust of the language contained in sections 118 and 199 of S. 2260.

Section 118 adopts a ''knowingly'' standard, rather than a strict liability standard.

Section 119 gives the courts discretion in assessing a fine, unlike current law which is not permissive. In addition, this section lowers the maximum penalty per occurrence from $25,000 to $500.

In combination, sections 118 and 119 may provide more correction than is warranted. For example, by adding a scienter requirement, while at the same time lowering the maximum fine, we may be creating an atmosphere in which sloppy record keeping is encouraged.

Overall, however, I am supportive of the work of the Committee in this area of long-standing concern to the Congress, drug wholesalers, pharmacies and drug stores. We should not be using this part of the statute as a ''cash cow'' to line the government's coffers.

I will not offer an amendment to these sections at this time. However, I am hopeful that I may work with my colleagues in the Senate and the House to address these concerns in conference.

Mr. GREGG. I appreciate the concerns raised by the Senator from Utah. As you know, we inserted this provision after learning of several cases in which large fines were imposed for realtively minor violations of the Controlled Substances Act. We will be glad to work with you and our House colleagues during the conference, and we appreciate your forebearance in not offering an amendment at this time.

COURTHOUSE SECURITY RENOVATIONS

Mr. LEVIN. Mr. President, I wish to engage the distinguished Chairman of the subcommittee in a brief colloquy regarding the very important issue of Federal courthouse security. As I am sure the Chairman is aware, each day Federal courthouses across the country must temporarily detain thousands of prisoners awaiting trials, hearings and interviews. The facilities must be secure because the courthouses are occupied by members of the public and the judiciary. For example, the U.S. Marshal's Service, which oversees Federal courthouse security, recommends that larger courthouses be equipped with a secure garage area referred to as a ''sally port'' where prisoners can be transferred to the courthouse by van or bus, a detention facility where prisoners can be temporarily held, secure interview rooms where prisoners can be questioned by Assistant U.S. Attorneys, and if possible some separate secure hall or corridor through which a violent or dangerous prisoner can be transferred to a courtroom apart from the public and the judiciary.

Mr. GREGG. I am aware of the security needs of the various courthouses.

Mr. LEVIN. Mr. Chairman, it has come to my attention that many of the older Federal courthouses do not have proper facilities to adequately secure prisoners and assure the safety of the public and the judiciary. For example, in my own state of Michigan the U.S. Courthouse in Detroit, which is a large older courthouse, is in desperate need of security improvements. The building contains no sally ports, and prisoners are transferred from vans and buses in the same modern ventilation systems that control the spread of air bourne diseases such as tuberculosis. Also, there are no interview rooms in which defendants or prisoners acting as witnesses for the Government can be questioned by Assistant U.S. Attorneys or their own counsel. This has led to difficulties for the local U.S. Attorney, and the U.S. Marshal, who has been forced to use extra members of his staff that are needed elsewhere to instead guard meeting rooms while the interviews take place. Moreover, the Detroit courthouse has no secure corridor to transfer prisoners from the detention cells to the courtrooms so that dangerous prisoners must be transferred in the same halls that are used by the public. Finally Mr. Chairman, the Marshal's Service has informed me that there is also a problem with many newly constructed courthouses, which cannot be opened because insufficient money is available to equip the building with a minimum level of security systems such as security cameras and monitors. I want to commend the Chairman and ranking member for appropriating money specifically for courthouses in Detroit and Grand Rapids. However, I would ask that more money be made available for courthouse security projects.

Mr. GREGG. I am aware of the problems you have raised with respect to courthouse security, and you have made a strong argument on behalf of increased funding for courthouse security projects. I would like very much to fund more courthouse security projects such as those in Michigan. Unfortunately, we are operating under tight budgetary constraints. While there are many deserving projects, the Committee could only fund a limited number. I will continue to work with you in the coming year to solve this serious problem of courthouse security.

SMALL BUSINESS ADMINISTRATION'S OFFICE OF ADVOCACY

Mr. KERRY. Mr. President, as Ranking Democrat on the Committee on Small Business, I wish to express my support for funding the Small Business Administration's Office of Advocacy at the full requested level of $1.4 million for FY 1999. The Office of Advocacy plays a vital role in the Federal government by conducting research on issues of particular importance to small business. Recently these issues have included, among other things, access to capital, procurement policy and the cost of Federal regulations. Small businesses are 99 percent of America's businesses; they created more than 90 percent of new jobs in recent years. The research performed by the Office of Advocacy is an important tool for policy makers and legislators who focus on the nation's small businesses. It deserves to be funded at the full $1.4 million, as requested by the Administration.

Since the Office is typically funded from the SBA's general salaries and expenses account without specific designation, I ask for clarification from my colleagues, Senators GREGG and HOLLINGS, Commerce, State, Justice Appropriations Subcommittee Chairman and Ranking Member, respectively. Was it the Subcommittee's intent to fund the Office of Advocacy's economic research function at $1.4 million?

Mr. GREGG. Mr. President, the bill assumes funding of the Economic Research Division of SBA's Office of Advocacy at $1.4 million for FY 1999. This Subcommittee believes the office has provided good service to the small business community. Much of that work is also useful for Congress and other policymakers.

Mr. HOLLINGS. Mr. President, I concur with Subcommittee Chairman GREGG. The work of the Office of Advocacy is important to lawmakers and policymakers alike. It was our intent that the Office of Advocacy receive FY 1999 funding at the full requested amount of $1.4 million.

Mr. HATCH. Mr. President, I see my colleague from New Jersey Senator TORRICELLI, and the distinguished bill manager on the floor. I would like to briefly engage them in a colloquy on

the amendment offered by the Senator from New Jersey, relating to model guidelines on bounty hunters to be published by the Attorney General.

I understand the concerns of Senator TORRICELLI in this matter. None of us want to see abuses by bounty hunters. I am also sure that he does not wish to do any thing to adversely affect the bail bond industry, which has served our criminal justice system well in providing release of non-dangerous criminal defendants pending trial.

Mr. TORRICELLI. I say to the Chairman of the Judiciary Committee that that is a correct interpretation of my intent.

Mr. HATCH. I continue to have some concerns about my colleague's amendment in this respect. However, I believe that these concerns could be resolved during conference. Would the Senator agree to work with me to address this issue?

Mr. TORRICELLI. I would be glad to assure Senator HATCH that I will work with him to ensure that the product that emerges from conference resolves both of our concerns.

Mr. GREGG. Mr. President, I, too, would like to say that I am committed to working during conference with both Senator HATCH and Senator TORRICELLI to address the Judiciary Committee Chairman's concerns.

Mr. HATCH. Mr. President, I thank my colleagues for their consideration, and look forward to working with them on this.

HIGH-TECHNOLOGY ASSISTANCE FOR SMALL- TO MEDIUM-SIZED MANUFACTURERS

Mr. GREGG. Mr. President, my home State of New Hampshire leads the nation in the percentage of private sector employees in high technology jobs. The high technology business in New Hampshire has made the State economy strong and has helped lower the unemployment rate. I am pleased with the investment that high technology companies have made in my state. I am concerned, however, that the benefits to the State from these industries do not reach the more rural areas of New Hampshire. Much of the benefits of the high technology growth have been concentrated in the southern, more urban parts of the State. The more rural areas in the north are not growing as quickly or realizing the benefits of new, innovative technology as widely.

It recently came to my attention that the University of Hew Hampshire's Wittemore School of Business Small Development Center (NH SBDC) has come up with a plan to help the rural areas in New Hampshire take advantage of New Hampshire's technology industries' growth. The NH SBDC proposes to launch a model program to provide technical assistance to small-medium-sized manufacturers (SMMs) in rural areas, which will allow them to benefit from the innovative technology being utilized in other parts of the state. New Hampshire's program could serve as a model for other states that are experiencing similarly slow growth in rural areas. Among the services that NH SBDC intends to provide are: linking rural SMMs to high technology companies; identifying SMMs that have the greatest potential for implementing economic development in rural areas; and helping SMMs identify critical paths to success in their areas.

The NH SBDC would like to implement this plan with funds from the Small Business Administration (SBA). The SBA often funds projects similar to this and, in fact, currently has a successful program in place called the SBA 7(j) program that provides funding for training and technical assistance to rural areas. If the SBA and the NH SBDC work together to develop the plan outlined by NH SBDC, I believe that it could have a significant positive impact on New Hampshire's rural manufacturers. The knowledge gained from this innovative concept can eventually help all States overcome similar problems in rural areas.

I urge the SBA to accommodate the NH SBDC's request for assistance with this project. I look forward to working with the SBA to ensure that this program can be launched to help rural companies all over the United States benefit from the innovative technologies that are used in more urban areas.

Mr. BYRD. Mr. President, I want to applaud the Chairman of the Subcommittee, Senator GREGG of New Hampshire, and the subcommittee's Ranking Member, Senator HOLLINGS of South Carolina, for their work on the Commerce-Justice-State Appropriations bill. They have crafted a good piece of legislation that will help to meet a variety of needs across the country.

One of the important and pressing issues addressed in this legislation is school safety. During the past several months, we have seen several tragic incidents of school violence. These acts are not limited to specific geographic regions or family backgrounds, nor do they have a single catalyst. Those who have committed such cowardly acts have done so for different reasons, at different times, in different schools. But these acts of school violence have at least one thing in common—they have spurred all of us to take a closer look at what can be done to better protect our children at school.

In this Commerce-Justice-State legislation, the Senate offers one new tool in that effort. We have earmarked $210 million in the bill for a new national safe schools initiative geared to assist community-level efforts.

Parents should not have to worry, when they put their children on the bus to school in the morning, that those children will not return home safely in the afternoon. In an effort to provide local school districts with more resources to reduce the levels of violence in our classrooms, I supported this initiative to strengthen local violence prevention and technology efforts.

Within the $210 million, $25 million will assist communities in developing and implementing local school safety approaches. Another $10 million is for the National Institute of Justice to develop new, more effective safety technologies and communications systems that can provide communities with quick access to the information they need to identify potentially violent youths.

Perhaps most important is the $175 million for the Community Oriented Policing Services Program to increase community policing in and around schools. This would be an extension of the COPS program which has been widely hailed as a successful deterrent to crime. In West Virginia, some school districts already partner with the local police department to have what they call ''police resource officers'' in the schools. Officers and educators alike believe that having a familiar police presence in the hallways and a cruiser in the parking lot helps to reduce violence at school.

Ensuring that our classrooms are safe demands that we do everything possible to find safe places for our children to learn and play and grow. While there is no single answer or solution to this pressing problem, the funding in this bill is an important step toward that common goal.

Mr. President, also in this legislation is an amendment I added on behalf of the thousands of families in West Virginia's Upper Ohio Valley and throughout the country who rely on the steel industry for their livelihoods. These are the people who work in the shops and in the mills, and who pay the taxes, and whose sweat keeps America running. My amendment calls for a report by the United States Trade Representative on trade subsidies provided by the South Korean government to its domestic steel industry. Illegal foreign steel subsidies are severely undermining the economic stability in regions throughout our country—literally taking money out of the pockets of American families and putting it into the accounts of foreign governments.

The American steel industry for too long has been forced to compete in an international marketplace that was unbalanced by foreign subsidies, especially those of the South Korean government. By offering this amendment, I want to send a clear message: the United States will not allow foreign governments to undercut fair trading practices. This Congress is prepared to defend our country's commercial interests and take action when those interests are threatened.

West Virginia companies, like Weirton Steel, should not be expected to compete in a marketplace that places unfair obstacles in their paths. When foreign governments subsidize industries, they tip the playing field, change the rules, and make it unfair. Those overseas subsidies directly impact the jobs and livelihoods of working men and women and their families

here at home, as we have seen in Weirton.

FUNDING FOR GUN PROSECUTION PROJECTS

Mr. HATCH. Mr. President, I appreciate the manager of the bill accepting the amendment I filed to the Commerce-Justice-State appropriations bill, S. 2660, which directs the Attorney General to identify two major metropolitan areas besieged by gun-related crime and to initiate vigorous federal gun prosecution projects in those districts. The amendment directs $3,000,000 in funding for hiring additional prosecutors and investigators to ensure that criminals bearing guns are not released due to a lack of prosecutorial resources.

The inspiration for this amendment is ''Project Exile,'' an extraordinarily successful effort by the United States Attorney for the Eastern District of Virginia to rid Richmond of armed criminals by ''exiling'' all those who use firearms to commit a crime to federal prison, regardless of the number of weapons or quantities of drugs seized. ''Project Exile'' also made use of the media to deliver its message that ''An illegal gun will get you five years in federal prison.'' That message was plastered on billboards, a city bus, TV commercials, and business cards distributed by local police.

The results of ''Project Exile'' speak for themselves. In just one year, over 300 individuals were indicated under Project Exile and 363 guns were seized. More than 191 armed criminals were removed from Richmond's streets, including the members of a violent gang responsible for a number of murders. The average sentence for the individuals that have thus far been convicted and sentenced is 56.1 months. Moreover, homicides for the period from November, 1997 through May, 1998 were running more than 50% below the same period for the previous year and there was a corresponding reduction in the rate of gun carrying by criminals. ''Project Exile'' has effectively broken the spiral of violent crime in Richmond.

My colleague, the senior Senator from Idaho, introduced an amendment which was passed yesterday which seeks to set up a similar project in the Eastern District of Pennsylvania in Philadelphia. The senior Senator from Pennsylvania had earlier secured this funding in the committee report to this bill. It is important, however, that these projects be tested in a number of jurisdictions to ensure that their effectiveness can be measured in a wide range of circumstances. By setting up a number of test projects in different locales, we should be able to prove beyond any doubt that a truly determined and aggressive effort by law enforcement to rigorously enforce existing federal gun laws will have the effect of lowering the incidence of violent crime and will create safer communities for our citizens.

We don't need tougher gun control laws on abiding citizens to stem violent crime, we need to aggressively use the effective laws we have to take violent criminals off the streets. We saw yesterday where the Senate stands on issues such as mandatory trigger locks on guns and vicarious liability for gunowners, and I am glad that the Senate is devoting even more resources to targeting violent criminals who use guns. I urge my colleagues to support me in this effort.

Mr. MCCAIN. Mr. President, I want to thank the managers of this bill for their hard work in putting forth annual legislation which provides federal funding for numerous vital programs. The Senate will soon vote to adopt the Commerce, Justice, State Appropriations Bill for the Fiscal Year 1999. I intend to support this measure because it provides funding for fighting crime, enhancing drug enforcement, and responding to threats of terrorism. This further addresses the shortcomings of the immigration process, continues the operating of the judicial process, facilitates commerce throughout the United States, and fulfills the needs of the State Department and various other agencies.

However, I regret that I must again come forward this year to object to the millions of unrequested, low-priority, wasteful spending in this bill and its accompanying report. This year's bill has $361 million in pork-barrel spending. This is a slight improvement over last year's FY 98 Commerce, Justice, State Appropriations Bill, which contained $384.2 million in pork-barrel spending. However, $361 million is still an unacceptable amount of money to spend on low-priority, unrequested, wasteful projects. In short, Congress must curb its appetite for such unbridled spending.

The multitude of unrequested earmarks buried in this proposal will undoubtedly further burden the American taxpayers.

This statement highlighting wasteful and unnecessary spending in authorization and appropriations bills may appear to be a mere political ploy. This is not the case. $361 million spent on locality-specific, special interests, pork-barrel projects is not mere rhetoric. Wasteful spending of this amount warrants serious debate. Wasteful spending of this magnitude erodes the public's trust in our system of government.

Sunshine is often the best disinfectant. Congress and the American public must be made aware of the magnitude of wasteful spending endorsed by this body. While the amounts associated with each individual earmark may not seem extravagant, taken together, they represent a serious diversion of taxpayers' hard-earned dollars to low priority programs at the expense of numerous programs that have undergone the appropriate merit-based selection process. I take very strong exception to a large number of provisions in the bill before us today.

I have compiled a lengthy list of the numerous add-ons, earmarks, and special exemptions provided to individual projects in this bill. It would take a substantial amount of time to recite this list to you. Instead, I request unanimous consent to include this list in the RECORD. However, I will discuss some of the more troubling provisions of the Commerce, Justice, State Appropriations Bill in detail.

$12 million is earmarked for the Director of the United States Information Agency in the state of Hawaii, in order to provide for carrying out the provisions of the Center for Cultural and Technical Interchange Between East and West Act of 1960, and an additional $7 million dollars is earmarked for the East-West Center in Hawaii.

$3 million is earmarked in this bill to carry out the provisions of the North/South Center Act of 1991 in Florida, known as the North/South Center, and, an additional $500,000 is earmarked in this bill for the North/South Center in Florida.

$925,000 is set aside to allow the Utah State Olympic Public Safety Command to continue to develop and support a public safety program for the 2002 Winter Olympics.

$5 million is earmarked for the Utah Communication Agency Network for upgrades of security and communications infrastructure for law enforcement needed for the 2002 Winter Olympics.

An earmark of $750,000 to fund Chesapeake oyster research at Texas State University.

Why are we spending $22.5 million on the East-West and North/South Centers alone. What makes these centers so extraordinary that they receive specific earmarks in this Appropriations bill. I am not condemning the North/South or East-West Centers. Nor am I condemning the merits of the purposes they serve. I am simply condemning the manner which they are receiving scarce government funds.

I am sure there are other centers throughout the U.S. which serve the same or similar missions as the North-South and East-West Centers. Other well-deserving projects of merit and national necessity deserve to compete for the scarce funds gobbled up by locality specific earmarks such as the North/South and East-West Centers. Unfortunately, these projects will never receive fair deliberation if the Appropriations Committee pre-determines their fate by ''recommending'' and ''urging'' the Department to give special consideration to certain projects over others. In sum, it is patently unfair to divert scarce resources to pork-barrel, special interest projects, at the expense of well-deserving projects which would benefit the public as a whole.

The bill also contains language that directs the Immigration and Naturalization Service to expand the duty station in Grand Junction, Colorado. Moreover, this language directs the INS to open new duty stations in

Alamosa, Glenwood Springs, Craig, Durango, and Greely, Colorado. The Committee does not explain why specific sites are higher in priority than others, or why these sites are more deserving of funding. I fail to comprehend why these locations should receive such special attention while the rest of the nation must compete for funds in the appropriate merit-based selection process.

Mr. President, I will not deliberate much longer on this subject, but I strongly object to the wasteful spending in this Appropriations bill. How can we combat the American public's cynicism towards our governmental system when we continue to fund low-priority, wasteful pork-barrel projects?

I urge my colleagues on both sides of the Capitol and on both sides of the aisle to develop a better standard which curbs our habit of funneling hard-earned taxpayer dollars to locality-specific special interests. Commitment to the public good must continue to be our priority. We can only live up to this challenge by eliminating the practice of catering to low-priority special interests, at the expense of the average American.

As I have said in the past, I look forward to the day when Congress can present to the American people a budget that is both fiscally responsible and ends the practice of wasteful pork-barrel spending in Appropriations bills.

FOREIGN AFFAIRS AGENCIES

Mr. BIDEN. Mr. President, as we close debate on the Commerce, Justice, State appropriations bill, I would like to make a few comments on the funding for the foreign affairs agencies.

I want to express my appreciation to the Chairman and Ranking Member of the Subcommittee for their efforts to provide adequate funding for the foreign policy agencies within the tight allocation they have. The United States is a great military and economic power, with extensive interests overseas. To protect those interests, we need both a strong military and a strong diplomatic corps. ''Diplomatic readiness'' is more than a slogan; it represents a commitment to ensure that our diplomats, who stand on the front lines of our national defense, have the resources to perform the many tasks we entrust to them.

I commend the Committee for providing, in particular, the necessary funding to modernize the Department of State's information technology. The Department made some bad choices in previous years, and is now saddled with antiquated computer and telecommunications technology. Information is central to the task of diplomacy, and we are undermining our interests substantially unless we properly equip the Department with modern technology.

I'd like to say a few words about the Bureau of Export Administration in the Department of Commerce, which performs several functions that are vital to the national security of the United States. The managers of the bill before us were unable to find $2.5 million for three of those vital functions. I appeal to the managers to make every effort to find those funds in conference, so that we can continue to safeguard the national security as the American people expect us to do.

These important Export Administration needs are as follows:

Ten new positions (8 full-time equivalents) to fully staff Export Administration field offices, so that they can mount more intensive enforcement of U.S. controls over dual-use items that could otherwise be diverted to military or terrorist uses;

Three new positions (2 full-time equivalents) to enhance the enforcement regarding shipments to Hong Kong, so as to prevent or stop any diversion of strategically-controlled goods to China; and

Six positions (4 full-time equivalents) to maintain the Nonproliferation Export Control teams that help countries in the former Soviet Union to improve their export control systems.

The first two items, which require a total of $2.2 million, are self-explanatory. At a time when we have legitimate concerns regarding the possible Chinese diversion to military purposes of machine tools and high-speed computers, we must give the Bureau of Export Administration the funds and positions it needs to fully enforce U.S. law and regulations that control such exports and provide for follow-up monitoring of their overseas use.

The Nonproliferation Export Control teams require a word of further explanation. This function—which is part of the Cooperative Threat Reduction program—has proceeded for some years with funding from the Department of Defense and the Department of State. The Department of Commerce agreed last year, however, to assume the costs of its participation in that program. The State and Defense budgets no longer include funding for the Nonproliferation Export Control teams. If Commerce Department funds are not found for this purpose, this valuable program could well be lost.

What would we lose if the Nonproliferation Export Control teams were to go away? Those teams have performed incredibly well, fostering ties at the customs agent level and helping the former Soviet states to establish export control laws and institutions to can prevent the loss of sensitive goods and information to rogue states or terrorist groups.

For example, the Government of Ukraine wants a team to help brief members of its parliament on inadequacies in Ukraine's current law. The Government of Slovakia wants help in developing regulations to implement its new export control law. Export Administration's teams support these efforts in full cooperation with other U.S. departments and agencies.

I realize that resources are tight, but it would be a grave mistake, in my view, to let this valuable non-proliferation resource slip away from us. So I urge my colleagues, the managers of this bill, to find the $1.3 million needed to keep the Nonproliferation Export Control teams alive and well in Fiscal Year 1999. I also urge them to find the $1.2 million needed to improve our own export enforcement regarding dual-use goods that we must prevent from being used against U.S. interests. I realize these are small amounts in a bill that funds three large cabinet departments, but they could go a long way in advancing our non-proliferation interests.

In closing, I want to again express my appreciation to the managers of this bill. They had a very difficult task in balancing all the competing interests in this bill, and I believe they did an excellent job in balancing those interests.

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GREGG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. I ask unanimous consent that at 3:15 we begin the vote on the Smith amendment, to be followed by the vote on final passage.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HAGEL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GREGG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3258, AS MODIFIED, AS AMENDED

Mr. GREGG. Mr. President, I ask for the yeas and nays on the Smith amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. GREGG. I call for the regular order.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3258, as amended. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Pennsylvania (Mr. SPECTER) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 68, nays 31, as follows:

[Rollcall Vote No. 233 Leg.]

YEAS—68

Abraham	Domenici	Mack
Allard	Enzi	McCain
Ashcroft	Faircloth	McConnell
Baucus	Frist	Moynihan
Bennett	Gorton	Murkowski
Biden	Graham	Nickles
Bingaman	Gramm	Reid
Bond	Grams	Robb
Breaux	Grassley	Roberts
Brownback	Gregg	Roth
Bryan	Hagel	Santorum
Bumpers	Hatch	Sessions
Burns	Helms	Shelby
Campbell	Hollings	Smith (NH)
Chafee	Hutchinson	Smith (OR)
Cleland	Hutchison	Snowe
Coats	Inhofe	Stevens
Cochran	Jeffords	Thomas
Collins	Kempthorne	Thompson
Coverdell	Kerrey	Thurmond
Craig	Kyl	Warner
D'Amato	Lott	Wyden
DeWine	Lugar	

NAYS—31

Akaka	Glenn	Lieberman
Boxer	Harkin	Mikulski
Byrd	Inouye	Moseley-Braun
Conrad	Johnson	Murray
Daschle	Kennedy	Reed
Dodd	Kerry	Rockefeller
Dorgan	Kohl	Sarbanes
Durbin	Landrieu	Torricelli
Feingold	Lautenberg	Wellstone
Feinstein	Leahy	
Ford	Levin	

NOT VOTING—1

Specter

The amendment (No. 3258), as modified, as amended, was agreed to.

Mr. GREGG. I move to reconsider the vote.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3322

(Purpose: To amend the Immigration and Nationality Act with respect to the requirements for the admission of nonimmigrant nurses who will practice in health professional shortage areas)

Mr. GREGG. Mr. President, I send an amendment to the desk on behalf of Senator DURBIN.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. GREGG], for Mr. DURBIN, proposes an amendment numbered 3322.

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. GREGG. I ask unanimous consent that the amendment be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Without objection, it is so ordered.

The amendment (No. 3322) was agreed to.

Mr. GREGG. I move to reconsider the vote.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Regular order.

The PRESIDING OFFICER. If there are no further amendments, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. GREGG. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Pennsylvania (Mr. SPECTER) is necessarily absent.

The PRESIDING OFFICER (Mr. SANTORUM). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 234 Leg.]

YEAS—99

Abraham	Faircloth	Lieberman
Akaka	Feingold	Lott
Allard	Feinstein	Lugar
Ashcroft	Ford	Mack
Baucus	Frist	McCain
Bennett	Glenn	McConnell
Biden	Gorton	Mikulski
Bingaman	Graham	Moseley-Braun
Bond	Gramm	Moynihan
Boxer	Grams	Murkowski
Breaux	Grassley	Murray
Brownback	Gregg	Nickles
Bryan	Hagel	Reed
Bumpers	Harkin	Reid
Burns	Hatch	Robb
Byrd	Helms	Roberts
Campbell	Hollings	Rockefeller
Chafee	Hutchinson	Roth
Cleland	Hutchison	Santorum
Coats	Inhofe	Sarbanes
Cochran	Inouye	Sessions
Collins	Jeffords	Shelby
Conrad	Johnson	Smith (NH)
Coverdell	Kempthorne	Smith (OR)
Craig	Kennedy	Snowe
D'Amato	Kerrey	Stevens
Daschle	Kerry	Thomas
DeWine	Kohl	Thompson
Dodd	Kyl	Thurmond
Domenici	Landrieu	Torricelli
Dorgan	Lautenberg	Warner
Durbin	Leahy	Wellstone
Enzi	Levin	Wyden

NOT VOTING—1

Specter

The bill (S. 2260), as amended, was passed.

(The text of the bill will be printed in a future edition of the RECORD.)

Mr. GREGG. Mr. President, I move to reconsider the vote.

Mr. HARKIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNANIMOUS CONSENT AGREEMENT—MODIFICATION TO AMENDMENT NO. 3278 TO S. 2260

Mr. SHELBY. Mr. President, on behalf of Senator GREGG, I send amendment No. 3278 to the desk. I ask unanimous consent it be so modified.

The PRESIDING OFFICER. Without objection, it is so ordered.

The modified amendment follows:

At the end of title IV, insert the following new sections:

SEC. . None of the funds appropriated or otherwise made available by this Act or any other Act for fiscal year 1999 or any fiscal year thereafter should be expended for the operation of a United States consulate or diplomatic facility in Jerusalem unless such consulate or diplomatic facility is under the supervision of the United States Ambassador to Israel.

SEC. . None of the funds appropriated or otherwise made available by this Act of any other Act for fiscal year 1999 or any fiscal year thereafter may be expended for the publication of any official government document which lists countries and their capital cities unless the publication identifies Jerusalem as the capital of Israel.

SEC. . For the purposes of the registration of birth, certification of nationality, or issuance of a passport of the United States citizen born in the city of Jerusalem, the Secretary of State shall, upon request of the citizen, record the place of birth as Israel.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

PATIENT ACCESS TO ACUPUNCTURE SERVICES ACT OF 1998

Mr. HARKIN. Mr. President, I wanted to make a few comments on a bill that Senator MIKULSKI and I introduced just yesterday. The bill number is S. 2340. It is called the Patient Access to Acupuncture Services Act of 1998. It will provide limited coverage for acupuncture under Medicare and under the Federal Employees Health Benefits Program. It is an important bill that reflects an appropriate and needed response to both progress in science and to the demand for complementary and alternative treatments for pain and illness.

I acknowledge Senator MIKULSKI's strong support for the bill and for cosponsoring the bill. She has been a strong supporter of effective alternative therapies and has long realized and appreciated the importance and significance of such therapies to our health care system.

Mr. President, approximately 90 million Americans suffer from chronic illnesses, which, each year, cost society roughly $659 billion in health care expenditures, lost productivity and premature death. Despite the high costs of this care, studies published in the Journal of the American Medical Association reveal that the health care delivery system is not meeting the needs of the chronically ill in the United States.

Many of these Americans are looking desperately for effective, less costly alternatives therapies to relieve the debilitating pain they suffer. In 1990 alone, Americans spent nearly $14 billion out-of-pocket on alternative therapies. Harvard University researchers have found that fully one-third of Americans regularly use complementary and alternative medicine,

making an estimated 425 million visits to complementary and alternative practitioners of these therapies—surpassing those made to conventional primary care practitioners!

And with good reason. Last November, a consensus conference of the National Institutes of Health approved the use of acupuncture in standard U.S. medical care. It was the first time that the NIH had endorsed as effective a major alternative therapy, and it was just the type of medical breakthrough that I had hoped for and envisioned when I worked to establish the Office of Alternative Medicine at NIH.

The NIH experts cited data showing that acupuncture can effectively relieve certain conditions, such as nausea, vomiting and pain, and shows promise in treating chronic conditions such as lower back pain, substance addictions, osteoarthritis and asthma.

In 1993, the FDA reported that Americans spent $500 million for up to 12 million acupuncture visits. In 1996, after reviewing the science, the FDA removed acupuncture needles from the category of ''experimental medical devices'' and now regulates them just as it does other devices, such as surgical scalpels and hypodermic syringes. Acupuncture is effectively used by practitioners around the world. The World Health Organization has approved its use to treat a variety of medical conditions, including pulmonary problems and rehabilitation from neurological damage.

It has been reported that more than 1 million Americans currently receive acupuncture each year. Access to qualified acupuncture professionals for appropriate conditions should be ensured. Including this important therapy under Medicare and FEHBP coverage will promote a progressive health system that integrates treatment from both acupuncturists and physicians. and in many cases we see more and more where physicians are acupuncturists. It will expand patient care options. I also believe it will reduce health care costs because of the relatively low cost of acupuncture compared to conventional pain management therapies.

Research is still needed to demonstrate the effectiveness of other alternative therapies. This research is vitally important, but we must act now to help the millions of Americans who can benefit from the knowledge we have already gained.

The 21st century is just around the corner. Less than 50 years ago, treatments that are now considered conventional—organ transplants, nitroglycerin for heart patients, immunology, and x-ray and laser technology—were decried as quackery by the medical establishment. Everyday we face new biological and emotional challenges for which modern Western medicine has no remedy. Now science is revealing the effectiveness of many complementary and alternative treatments, including acupuncture, which I might point out is not a new treatment but, indeed, has been practiced in China for the last 2,000 to 3,000 years, and, increasingly, more Americans are choosing these alternative therapies to manage their health and to treat the illness.

Let us listen to the science, and heed the urgent need for progress. Mr. President, the nation's leading scientists have demonstrated the safety and effectiveness of acupuncture as a treatment for a wide range of pain and illness. It makes common sense that Medicare and FEHBP cover this legitimate course of therapy.

I invite other Senators as cosponsors. Hopefully, we can get the bill passed during this session.

Mr. President, I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

PATIENTS' BILL OF RIGHTS

Mr. KENNEDY. Mr. President, on February 25, 1997, a number of us introduced the Patients' Bill of Rights. Since that time, the Republican leadership has sought to delay and deny action. The leadership and Senator GRAMM have made it very clear that they are not yet willing to allow a free and fair debate.

Mr. LOTT. Mr. President, will the Senator yield?

Mr. KENNEDY. I yield without losing my right to the floor.

Mr. LOTT. I would like to say to the Senator that we would be glad to agree to have this debate and go forward with the Patients' Bill of Rights issue. I would like to begin thinking in terms of what we could work out as a unanimous consent agreement. Going back to June 18, originally it was suggested that Senator KENNEDY's bill be up and we have an alternative, and that we have a good debate and vote. That is fine. Let's do that. Then I suggested, well, if we could get some time agreements on when we could complete it, with some limited amount of amendments, we could do that. I don't think 40 would be considered reasonable.

But I am saying to the Senator that I would like to work something out. I am hoping that next week, Wednesday or Thursday, we are going to get to this and get it done before we go home for the August recess period.

I just want to say that we are ready. We would like to do this. Beginning next week, I am going to start asking unanimous consent requests to actually get it done, because we are ready to go to a vote. But we also have other things. And Senator KENNEDY has been cooperative. We have been working to get issues done. We need to try to do that and allow time for a full and fair debate on this issue. We would be glad to do that.

I just wanted to make sure he was aware that we are willing to do that.

Mr. KENNEDY. Mr. President, I have heard that same explanation, with all respect, by the majority leader for some period of time.

I want to just review, since the majority leader is on the floor at the present time—we had the budget resolution. We had 7 days of debate. We had 105 amendments. Defense authorization, we had 6 days of debate, 150 amendments; Internal Revenue Service restructuring, 8 days of debate, 13 amendments. We had tobacco, 17 days and scores of amendments; agriculture, 5 days of debate and 55 amendments. The Senator now is saying, Well, we will bring it up next week, just before we get out, and have a vote on your amendment or the Daschle bill and/or the Republican proposal.

Mr. President, I just wonder why we can't have a full debate on the comparison between the emergency room provisions of the Republican guarantees and those in the Patients' Bill of Rights.

I intend to talk about those—now I have the floor. I have the floor. I am glad to yield—but when I inquired of the leader on other occasions, he gave us that other little answer about, ''We are going to come to this sometime when we are ready to come to it, some other time, next week, and maybe Wednesday, or Thursday, just before we go out we will have some proposal.'' We are just spelling out now what has been included in these different bills and why it is important to have a full and fair debate on them.

We have seen and we know what the leadership's position has been until the very recent days, and that has been to refuse to permit us to have a markup in our committee, refused us to be able to even have scheduling. I have seen the list of the Republican leadership, and it never was on the list of the Republican leadership in terms of priorities.

Now we are glad that last Friday there was the publication of the ''Republican Bill of Rights.'' That was last Friday. But I want to just review, since the leader mentioned the proposal that was put forward by the leader. This was, I believe, the June proposal that was put forward by the majority leader.

I ask unanimous consent that prior to the August recess [June 18, that was 4 weeks before, June 18] prior to the August recess, the majority leader, after notification to the minority leader, shall turn to the consideration of a bill to be introduced by the majority leader [no information about what that is] or his designee, regarding health care [and further] I ask the Senate to proceed to its immediate consideration; and that, following the reporting . . . by the clerk, Senator DASCHLE, or his designee, be recognized to offer a substitute to the text of S. 1891 as introduced on March 31.

That isn't our bill.

Now, it goes on. It does not include the right to hold the plans accountable. It does not include protecting people who buy their own insurance policy.

Let me just go on.

I further ask that during the consideration of the health care issue it be in order for Members to offer health care amendments in

the first and second degree. I further ask unanimous consent that the Chair not entertain a motion to adjourn or recess for the August recess prior to a vote on or in relation to the majority leader's bill and the minority leader's amendment, and that following those votes it be in order for the majority leader to return the legislation to the calendar.

Even if we win the vote, the majority leader has the ability to send it to the calendar—not send it over to the House of Representatives, send it to the calendar, even if we win that proposal.

Now, it continues.

Finally, I ask unanimous consent that it not be in order to offer any legislation, motion or amendment relative to health care prior to the initiation of the agreement and following the execution of the agreement.

Not be in order to offer any legislation, motion or amendment to health care.

Well, there it is, Mr. President. We are scared in the Senate. After we have some vote, even if we survive, the majority leader can put it back on the calendar, and under the consent agreement we can't even talk about health care for the rest of the session; for the rest of the session. That is what it says here, the rest of the session.

Now, that is the consent agreement that is referred to. ''I want to remind the Senator from Massachusetts we keep asking the Democrats for proposals on it.''

I don't know how long it took to reject that particular proposal, but there it is. In all the time I have been in the Senate, this is really the most preposterous proposal, consent agreement I have ever heard, that if you are going to be successful and win, instead of sending the bill over to the House, you put it right back on the calendar, and you cannot have a vote on the legislation. And then after that, you can't bring up any issue relating to health for the rest of the session—nothing on privacy, nothing on expanding the whole Medicare system in terms of purchasing, the possibility for elderly citizens to buy into the Medicare system, no way. Nothing dealing with any of the issues dealing with health care. That is the proposal and that is what we are supposed to say, ''Oh, what a fair proposal this is.''

And so we have the Republican proposal that was introduced last Friday. Now, we have no interest in delay of the legislation. We have been asking for action for 18 months. We insist on a fair debate on accountability. That is what we are asking, fair debate on accountability. We have had scores of amendments and days of debate on other legislation, and we are entitled to fair debate on accountability on these measures.

There are dramatic differences on these measures. I will take a few moments to get into some of those.

Senator DASCHLE made a series of formal offers on July 16th, asking for a debate beginning on July 21 with 20 amendments on a side. It is almost a week later and all we have is that maybe sometime Wednesday or Thursday next week we may have time to have a debate on an issue which is of paramount importance for the parents and families of the people of this country.

So this is not an unreasonable request given the importance of this bill and the large number of loopholes in the Republican proposal which will be the bill in the Chamber.

We had, as I mentioned, days of debate on the budget resolution, 6 days of debate on defense authorization, 150 amendments. We had 8 days of debate on the Internal Revenue bill, just concluded 5 days of debate and 55 amendments on the agricultural appropriations bill.

This is the most important health care bill that this Congress will consider, and we are now told by the majority leader that maybe sometime next week he will make a request that we deal with this in 2 days. We had 8 days, as I mentioned, on the Internal Revenue bill, and 5 days of debate, as I mentioned, on agriculture. Now, the majority leader and Senator GRAMM are insisting the only way they will debate the issue is up or down on their bill and one vote and that is it.

The American people deserve to know where their Members stand on a number of critical issues that are essential to patient protection. The Senate deserves an opportunity to amend and improve the Republican bill. It is not unreasonable to ask Members where they stand on whether protections should apply to all 161 million privately ensured Americans or leave 100 million out. The Republican proposal leaves out more than 100 million Americans. Now, maybe they have good reason to do so. Their answer is the States are doing it. Well, we ought to have an opportunity to find out and discuss what the States are doing and how much they are doing and how effective it is, given the kinds of concerns that patients have. Let's have a debate on that. But, oh, no. No, no, we don't have time to get into the fact of whether their measure will just cover 48 million and exclude 110 million, or cover all of them. It is a pretty important issue, it seems to me, Mr. President.

Is it unreasonable to ask Members where they stand on allowing a sick child with rare cancer access to a specialist to treat that particular disease?

We had very powerful testimony this morning from a very outstanding oncologist, a specialist who has been operating primarily on women with breast cancer, and she was, with tears in her eyes, talking about the various patients she is treating now who come to her with these various tumors in their breasts. And she looks at the first part of the chart and finds out what the size of that particular tumor was when it was first diagnosed and then what it is on the day that she is there called upon to operate.

She says the time that lapses between the first discovery of those biopsies, which demonstrate that the tumors are cancerous, to the time she gets to see them is often the difference between life and death and more often than not, as she looks over the various files that she gets of various women, the ones with the largest gaps are the ones who are part of HMOs and the procedures that have been denied.

Or listen to the doctor who was talking today about a particular procedure that was going to be necessary for a child who was having constant headaches, and the doctor said, ''What we need is an MRI,'' and the HMO turned that down. Under the Republican bill, since the cost of that MRI was $750, that decision would not be able to be appealed. It was less than $1,000. This was a family of five, income of $30,000. The difficulty of that family was having the $750.

And do you know what the family did? They went down to the county hospital—the county hospital. After a period of time, they were able to get that MRI in the county hospital to find out about the needs of that particular child. You know something. The taxpayers picked up the tab for that. And the bottom line of that HMO looked better and better because they didn't have to pay for that important service which the subscriber had effectively paid for when they signed on for the health care coverage.

Mr. President, we ought to be able to talk and debate about what is going to happen, what kind of protections are we going to give doctors when they speak out for their patients in the HMO system. Are they going to be under the Republican program which still permits doctors to be fired if they object to prescribing certain procedures to patients that are not desired or approved by an HMO? Shouldn't we provide protections for doctors that are looking out for their patients? It is not in the Republican bill. Shouldn't we have a time to debate that issue out here to find out about it?

What about the independent and timely third party review? Do the Members know that on the independent review, under the Republican program, those who are going to be paid to review the various procedures which are being reviewed and appealed are going to be paid for by the HMO, the same HMO? Do they know the restrictions in the Republican proposal in terms of the limitations for the types of procedures that can be appealed? We don't want to debate that?

I can understand why the Republican leadership doesn't want to debate it. Because it is indefensible. It is indefensible. We ought to debate it.

And access to clinical trials, an enormously important issue, particularly for individuals who have some of the most serious illnesses in our society, we are going to say or give assurance to those who may have breast cancer—are we going to exclude them from participation in those clinical trials? It is an important distinction between the

Republican proposal and our Patients' Bill of Rights.

We have the continuity of care. When a family has a doctor they are seeing and that doctor is dropped from a particular program, under our proposal we provide that there is going to be a continuity of care. Perhaps it is an expectant mother who is going to deliver and, for one reason or another, that doctor is dropped from the particular plan. We give assurances.

So does the Republican program. Listen to this. If the employer, however, makes a judgment to change the plans in the middle of the year, and that doctor is treating this same patient, under the Republican program there is no longer continuity of care. Both programs show continuity of care. You have to read the small print; you have to understand what the small print says. Shouldn't we have an opportunity to debate that issue?

The whole question of accountability is something that demands an opportunity to debate that issue. We are talking about the protection that is given to 23 million Americans, county and State employees; 11 million Americans who have private insurance companies. There is no indication there is any escalation of their costs in their program, nothing showing that has been introduced here in the Senate. Some have tried to represent these as extraordinary escalations of cost, but there is no indication, nothing has been put in the RECORD. What has been put in the RECORD is these 23 million Americans. In CalPERS, in California, they have this system with accountability and liability built in so they can hold the HMOs accountable, and there is no apparent increase in the cost of those programs.

Basically, what we are saying is very simple, a very simple concept at the heart of our proposals and which I believe the Republicans have to be able to defend, because it is lacking in their proposal and it is worthy of debate. That issue alone is worth hours of debate here in the U.S. Senate, with the American people watching, because we believe that ultimately the judgment and decision on medical decisions ought to be made by the doctors and the patients, and not by accountants of insurance companies for the profits of those particular insurance companies. That is a basic and fundamental core difference. We ensure that is going to be the case with a number of different protections in our bill. That kind of assurance is lacking in the Republican bill.

There will be those who say, ''No, it is not lacking.'' We ought to have a chance to debate, so the American people can make up their own minds and find out whether it is lacking. We can get the legislation out and show where it is lacking. But that is something basic and fundamental.

We also believe we ought to be able to leave it up to the States to make those judgments and decisions on calling the tune on the issues of accountability and liability. We hear a great deal around this body about ''one size does not fit all,'' that all knowledge is not in Washington, DC, or on the floor of the U.S. Senate; that the States have some awareness and understanding about these issues and problems. How many times have we heard that speech? You have heard the speech, but you will not hear it when we are debating the Patients' Bill of Rights. You will not hear it because our proposal leaves it up to the States to be able to enforce the issues of accountability. We leave it up to the States to be able to do so. Not the Republican leadership program. They effectively preclude the States from having any voice—shut them out, shut out the States.

I hope we don't hear that argument about the importance of all knowledge failing to be in the U.S. Congress and Senate, so let the States decide. That is not going to be an argument you will hear, because under the Republican proposal they will not let the States decide.

What is the issue we are talking about? We are talking about a medical decision that is made by the doctor and the patient, which is overruled by the HMO and causes grievous injury to that individual—maybe life or serious illness; maybe a mother or father, trying to make sure those children and the members of the family are not just going to be left homeless, without any kind of compensation for the decision that is being made for the profits of that particular industry overriding the clear medical decisions. There has to be accountability. There has to be accountability.

We have seen effective programs which we have built into programs on appeals, internal appeals and external appeals, that also have accountability. It works. We improve and strengthen the quality of those programs. We have 11 million Americans—11 million Americans—who have independent insurance programs that have this kind of accountability. It works for them.

So we have 34 million Americans who have this kind of protection, but we are asked to exclude it, to deny the States from even letting those citizens who live in that State who want it from having it. That is part of the Republican program. Don't we think that is worthy of a debate? Do you want to muzzle us from having some kind of debate and discussion on that particular issue? That just does not make sense.

Mr. President, when the leadership wants to go ahead on these appropriations, I am glad to yield the floor so the Senate can move ahead on Senate business. But I want to just make a final few comments.

Mr. President, I believe the Republicans have abandoned their 16-month-long pattern of stonewalling our Patients' Bill of Rights. Now they have produced a plan that borrows the name of our legislation and nothing else. The Senate Republican plan is not a bill of rights, it is a bill of wrongs. The Senate Republican plan is even weaker than the House Republican plan. It is a ''Gingrich lite.'' It protects industry profits instead of protecting patients, and it is so riddled with loopholes, it is a license for continued abuse. It allows insurance company accountants to continue to make medical decisions, and not doctors and patients.

It is very interesting that 170 organizations that represent doctors, patients, and nurses support our program. And who supports the Republican program? The insurance industry and the HMOs. Does that tell you something? Does that tell you something? Mr. President, on this issue it tells us a great deal. This is not a question where we have some ideas, and half the doctors in the country and half the patients' organizations say this is a better idea, and our colleagues on the other side have half of them, and people can say, ''Why don't you get together?''

They don't have them. They don't have them. They don't have the principal organizations. I will be glad to hear any organizations representing health professionals or patients groups that they have.

We still haven't heard. I can't believe if you didn't have them, they wouldn't have them out there. We have them. They support our program. They support the real Patients' Bill of Rights.

But they do have the health insurance industry and they have the HMO organizations, the trade organizations that represent HMOs—they support their program.

Mr. President, we believe that patients with cancer and heart disease and other serious illnesses will not have timely access to specialists and the treatment they need. It immunizes managed care plans from liability for abuses that injure or even kill a patient. No other industry in America has this immunity from any liability which the health insurance industry has and which is protected in the Republican program, and the managed care industry doesn't deserve it either.

Most of the minimal protections in the Republican leadership plan do not even apply, as I mentioned, to the majority of Americans. Two-thirds of the people with private insurance, more than 100 million Americans, will not benefit from the Senate Republican plan. The HMOs are effectively exempt from regulation under their plan because most of their standards apply only to employer-based, self-funded plans. Let me repeat that. Most of the standards in the legislation do not even apply to the HMOs, only to employer-based, self-funded plans covering about a third of privately insured Americans.

Even if the Senate Republican leadership plan was passed, 100 million Americans would be left out. This is unacceptable to the American people and should be unacceptable to the Senate.

The Senate leadership introduced their legislation on Friday. I reviewed

the print over the weekend, and the sum total of what is not in their plan at all is staggering. The fact that these minimal protections only apply to a third of the people who need help is shocking. But the disinformation campaign does not end there. Even the protections they claim to have provided turn out, in most cases, to be less than half a loaf.

In my time, I have seen special interest protection programs masquerading as consumer protection programs many times, but I have never seen anything as indefensible as this. The Republican plan does not include many key protections.

There is no provision to prevent health plans from arbitrarily interfering with the decisions of the doctors.

There is no provision to guarantee access to necessary speciality care.

There is no provision to allow individuals killed or injured by plan abuse to hold the plans liable.

There is no provision to allow participation in clinical trials.

There is no provision to allow access to prescription drugs not on a plan formulary.

There is no provision for continuity of care when an employer switches plans.

There is no effective ban on plan practices which gag physicians; no limits on improper incentive arrangements.

We were looking to address this issue of gagging the physician. They say, ''Oh, yes, we have that; we have a provision that says we will not gag physicians.'' The problem is, unless you address the firing clauses of the HMOs that permit the heads of the HMOs to fire doctors whenever they want, then the gag provisions are meaningless, because they can say, ''OK, you can go out and talk all you like, but you're not coming in to work tomorrow.'' Let's get real on this, Mr. President. That is effectively what the Republican program does.

It has no prohibitions against these financial incentives for doctors. It won't publish financial incentives for doctors so that the public, in reviewing a plan, can find out if a doctor has financial incentives for providing certain kinds of treatment and not providing others, which is happening today. We have given examples of those types of procedures. There are no protections for that.

It does not include a requirement for comparative plan quality information. You cannot find out about the consumers', the patients', satisfaction. You can't find that out. If you ask to find that out, they say, ''Well, that's going to be too bureaucratic; that is going to require too much paperwork; that is going to be a rule or regulation, it is going to be a Federal Government rule or regulation, that is going to raise costs for these particular programs.''

What we are talking about is patient satisfaction, patients staying in these programs: Are they satisfied with these programs? Good ones provide that, Mr. President. These are the elements that are left out of the Republican plan entirely, but even those essentially included are full of loopholes.

The Republicans say they protect you if you need emergency room care, but they have included less than half of the protections provided by the Democratic plan or even the protections that are already included in Medicare. I wonder how many of our colleagues know that the protection that they have indicated on the prudent layperson, prudent layman standard is an entirely different one from the one that is in Medicare. Who would have known that?

Mr. BIDEN. Will the Senator yield for a question?

Mr. KENNEDY. I will be glad to yield.

Mr. BIDEN. I know the Senator knows a great deal about this, but I watched the press conference our Republican colleagues held hailing their Patients' Bill of Rights. You just went through and will continue to go through all the things they left out. I find it very curious the things they say are in their bill, which, in fact, are not in their bill.

One, they say that a woman can pick as a primary care physician an ob/gyn. Second, they advertise that this means you have access to the emergency room. Third, they talk about continuity of doctors so they say you can choose your doctor. And fourth, they say no gag rule. This is the party of gag rule, and now they say no gag rule. I kind of respected them when they were just flat out saying they were just against any of this.

Does the Senator have an explanation as to why they would pick the four most often stated complaints of the American public and suggest that their bill covers those things? It just seems strange to me that the party of the gag rule says they want an antigag rule, and yet there still is no antigag rule; that the party that said when they were going after Clinton's health plan, you should be able to choose your own doctor, will not allow you to choose a specialist or choose the doctor you need; that the party that suggested the costs of the Clinton plan were too high and everyone could just go to the emergency room are not, in fact, providing access to emergency room care the way in which the American public is looking at it. Why did they pick these four things to say they were for and not any of the rest? Is there some strategy here I am missing?

Mr. KENNEDY. Those happen to be the ones that have shown the highest in the polls. I am not saying that is the reason they selected them necessarily. As the Senator was going over them, I was writing them down. Those are the ones that are the top in terms of the polls.

I say to the Senator, what I would like to ask him is, here the Republicans talk about the market forces, that we ought to let people, consumers, make judgments on the basis of information. Under our proposal, we have tried to have information so that people can make the judgment and decisions with regard to their health care plan. Patient satisfaction, for example. Patient satisfaction—not very difficult. Most of the good ones show that in any event.

Absolutely not, they point out, and say: We are not going to provide or support any of that additional information because that is a bureaucratic ruling; it is going to cost the HMO more to require that; therefore, we cannot support even that particular proposal.

But the Senator is quite right. They use these words, ''speciality care,'' ''emergency room,'' and the ''gag rule.''

The spokesperson for the College of Emergency Physicians visited with us today. I think the Senator was there at the time. She reviewed instance after instance after instance where just the words, ''the protections of access to the emergency room,'' were vacant and empty and without the protections that are included in the Patients' Bill of Rights and resulted, in one instance, in the loss of a leg of a young child, the horrific condition of a young girl who had a serious dislocation and her vital signs dropped dramatically and was in real danger of death, and other instances that were taking place in the emergency room.

Mr. BIDEN. Well, let me say to the Senator that I, quite frankly, admired—disagreed, but admired—my Republican colleagues when they made no bones about the fact that they did not want any interference in any way by the Government to do anything about HMOs. At least theirs was a principled stand. They said, ''Look, the insurance companies, in driving down costs, are more important than all these other factors. We're not going to do anything.''

What bothers me—and this is me; you are not saying this, I know it, but I am saying it—what bothers me is the apparent cynicism of picking four items which most often my constituency speaks to, to say they are covered, and nothing else. And even when you look into those four items, they are not really covered.

They are going to be going around—and the insurance companies are spending tens of millions of dollars in ads—saying, ''We want you to have the right to choose a doctor.''

Wait a minute. That is what they said before. But under the Republican bill, the American people can't choose their doctor, if the doctor they happen to need is a specialist, if the doctor they happen to need is in an emergency room and they don't meet the standard that the HMO sets.

I have not been nearly as involved in this debate as my friend from Massachusetts. And as the old joke goes: He has forgotten more about health care than I am going to learn. But I would

feel better about what is going on here if the Republicans said what they truly believe, ''Hey, look, we're not changing our position. We don't think you should be able to choose your own doctor. We don't think there should be an antigag rule. We don't think you should change the requirements to get emergency room access. We don't think that a woman should be able to choose her gynecologist as her primary physician.''

Let me tell you what I think they figured out. I know of no wrath like that of the wrath of a woman who says, ''I can't go to the doctor that I need and trust the most.'' And so they seem to be yielding only in places—and only in part—where the loudest cries are coming from. But, there are so many, many, many, many loopholes in what they say they are doing, and so much they leave out.

I kind of yearn for the day when they just stood up on the floor like they do on guns and say, ''Hey, look, guns are not bad. You know, guns don't kill people. People kill people.'' I kind of like that. I admire it. But this, I don't know.

There will be a multimillion-dollar campaign we are all going to endure, and you do not have to be a rocket scientist to figure out where this is going before this is all over. And I expect I am going to hear your name mentioned a couple hundred thousand times before this is over, too. But at any rate, I thank you for answering my question.

Mr. KENNEDY. I thank the Senator for his interest and also his strong advocacy in terms of the people in his State on this issue. We want you to know that we are still committed to trying to get something worked out. This matter is too important for the reasons that the Senator has outlined. We still want to try and get something worked out. We had been taking a long time before we could get even the recognition of a bill on the other side. Now we ought to go about what is in the best interest of the patients in this country.

I just mention, finally, to the Senator, what I was just talking about: Every doctors organization, every nurses organization, every health professional and patients organization supports our proposal. We have not got a single one on the other side except the health insurance companies and the HMO plans on it. So we want to try and work this out. We are going to do the best that we can. But we are not going to yield in terms of protecting the interests of the consumers.

I thank the Senator.

Mr. BIDEN. I thank the Senator.

Mr. KENNEDY. I want to take just a few moments to review this very moving testimony in terms of the emergency rooms. These are comments made by Dr. Charlotte Yeh, who is the Chair of the Federal Government Affairs Committee for the American College of Emergency Physicians. And these are comments that she made.

In Boston, a boy's leg was seriously injured in an auto accident. At a nearby hospital, emergency doctors told the parents he would need vascular surgery to save his leg and a surgeon was ready and available in the hospital.

Unfortunately, for this young man, his insurer insisted he be transferred to an ''in-network'' hospital for the surgery. His parents were told if they allowed the operation to be done anywhere else, they would be responsible for the bill. They agreed to the move. Surgery was performed three hours after the accident. But by then, it was too late to save his leg.

These are not episodes from the TV program, ''ER.'' These are not anecdotes. They are real people with real lives.

A bipartisan majority in the Congress has called for enactment of standards that will put an end to episodes like the ones I just described. Last year, the Congress adopted the prudent layperson standard and other protections for Medicare and Medicaid patients seeking emergency care. We thought there was a consensus on this issue!

There was consensus on this issue, Mr. President.

Just a few weeks ago, we were delighted to see that Republican Task Forces in both the House and Senate had decided to include the ''prudent layperson'' standard in their respective protection measures.

But we are very disturbed about the way in which the emergency services protections were drafted in the Republican ''Patient Protection Act.'' As a physician, it seems that a little unnecessary surgery was performed on the ''prudent layperson'' standard to the point where it is barely recognizable as the consumer protection we envisioned.

What is the difference between the real ''prudent layperson'' standard included in the ''Balanced Budget Act'' and the Democratic ''Patients' Bill of Rights'' and the ''imposture'' that has been included in the GOP ''Patient Protection Act''?

The GOP Patient Protection Act would establish a weaker coverage standard for privately insured patients than what exists for Medicare and Medicaid patients.

It gets back to what they are talking about. The name of the legislation—Senator DASCHLE—they take the various code words going down the line. They took the ''prudent layperson'' definition, and then they altered and changed it. These are the emergency physicians that I am reading from.

The GOP Patient Protection Act establishes a weaker coverage standard for privately insured patients than for the Medicare and Medicaid patients. The Democratic bill will provide the same protections for all patients.

The GOP Patient Protection Act establishes a two-tiered test for coverage of emergency services and guarantees coverage only for a ''screening examination.''

The Democratic bill would require that health plans cover all services necessary to evaluate and stabilize the patient to anyone who meets the prudent layperson standard—no questions asked!

The GOP Patient Protection Act sets no limits on the amount of cost-sharing the managed care plans would be allowed to charge patients who seek emergency services from a non-network provider.

You get it? They have a prudent layperson. They further define it to mean less in terms of health care protections. And then they include copays. So if they go there, they are going to have to pay up through the nose for it.

Don't you think we ought to be able to discuss that on the floor of the U.S. Senate, to see which way this body wants to go on that particular protection for emergency rooms, for consumers of this country? No. We can't—evidently, no. No. We haven't got time. We haven't got time to be able to ask our Republican friends, Why did you do it this way? Why did you change it? Why did you change it?

Well, I think it is quite clear why they changed it, because the insurance industry wanted them to change it. The GOP Patient Protection Act sets no limits on the cost-sharing.

The Democratic bill would protect patients who reasonably seek emergency services to protect their health from being charged unreasonable copays and deductibles.

We protect the consumer.

The GOP Patient Protection Act sets no guidelines for the coordination of poststabilization care, making it possible for emergency physicians to coordinate and obtain authorization for necessary follow-up care with the managed care plans.

The Democratic bill would require the health plans to adhere to new Federal guidelines that require managed care plans to be available to coordinate poststabilization care, instead of just permitting the managed plan to turn off the phone at 5 o'clock.

Obviously—

And I continue now with her statement:

we are very troubled by the changes to the ''prudent layperson'' standard in the ''Patient Protection Act.''

Our assessment is that this legislation—

Now, these are the emergency room physicians. There isn't a family in this country that does not have some concern—they have children or parents; loved ones—about the importance of having an emergency room that is going to look after an emergency, that is going to affect the family. And there isn't a person that is listening to this program, watching it, that has not had to spend time in an emergency room themselves or their loved ones in a family.

It is very important. And what is happening out there with regard to HMOs, in too many instances, is that they are putting the interests of the insurance industry ahead of the emergency needs of the patient. That isn't what I am saying, although it is what the emergency room doctors are saying.

This is their final assessment:

Our assessment is that this legislation—

[1.] Will provide less protection for privately insured patients than for Medicare and Medicaid patients.

[2.] Will lead to more coverage disputes, not less. [Do we hear that—will lead to more coverage disputes, not less.]

[3.] Will create even more barriers, not fewer.

[4.] Will create new loopholes for managed care plans to deny coverage of emergency services.

These are the doctors who are dedicated and committed to providing

emergency services to the people. That is their assessment, and we are not going to be permitted to debate and discuss the impact of the Republican bill on the patients of this country as compared to our Patients' Bill of Rights. We are going to be denied that opportunity, Mr. President?

In four years, we have come so far, but we cannot support these provisions in their current form. We will do everything in our power to ensure the ''prudent layperson'' standard that is enacted will be consistent with the meaningful protections that Congress enacted for Medicare and Medicaid beneficiaries. Hard-working Americans who pay their premiums deserve no less.

Now, Mr. President, I will conclude in just a moment. I want to sum up where I think we are in this whole experience. During recent years, we have seen a very dramatic shift from the indemnity health care provisions to the HMOs. We have seen the ERISA provisions that were developed in the early 1970s which exclude liability protections for American consumers. Those particular provisions were developed to protect pensions—it wasn't really thought about in terms of the application of these provisions of the law in terms of health care plans. If you go back and read the discussion and the debate, it wasn't really considered. It was there to protect pensions, and it has worked reasonably well to protect pensions.

It hasn't worked to protect the patients in these programs. Nonetheless, we have seen the growth of the HMOs. And we have some outstanding health maintenance organizations. We have some of the best in my own State of Massachusetts. The basic concept behind the HMOs was to try to create the financial incentive for keeping people healthier so that the various health organizations would encourage the preventive health care measures, and by keeping people healthier, on what we call a ''capitation'' program—that is, that the HMO gets a certain payment for an individual; if they keep them healthier, then the HMO's financial situation improves. That made a good deal of sense.

In the better HMOs it works, and it works effectively. The problem is you have many at the lower end that are reflecting the kinds of abuses we have talked about here today. They have to be corrected. They should be corrected.

Legislation has been introduced, and we have been excluded from the opportunity of having it scheduled. Now we have, finally, the Republican leadership's provisions, which were introduced in the Senate last Friday, and we still have no time that has been set aside.

When you look over the range of different provisions in this legislation and the importance of this, we need to have a reasonable opportunity to debate and discuss these measures. The best we were able to get out of the Republican leadership initially was that, ''We are not going to schedule what we don't want to schedule.'' That is what I heard on the floor of the U.S. Senate about 2 weeks ago. Then we heard that, ''We are developing a program and will schedule this when we want to schedule it.'' Then we see the legislation that has been introduced. Now we are told, ''We may or may not get to that in the day or two before the designated recess.''

There is not a measure that affects families in this country that is more important than the Patients' Bill of Rights. It deserves full debate and discussion and thoughtful consideration. It deserves the best judgment of all of the Members, and it deserves a bipartisan resolution at the end to try to see that we do something that is meaningful to provide protections for families. What will be unacceptable is some kind of a toothless piece of legislation that picks up the buzzwords but fails to provide the protections for the American people.

I hope we can get about the business of having this debate and having this result. Every day we delay, we fail to protect our fellow citizens. This issue is not one that is getting better; it is one which cries out for action. It cries out for action now. The earlier, the better.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. NICKLES. Will the Senator yield?

Mr. SHELBY. I yield to the distinguished Senator from Oklahoma.

HEALTH CARE LEGISLATION

Mr. NICKLES. I appreciate my colleague yielding for a moment. I sat here and waited for awhile for my colleague from Massachusetts to speak, and then the Senator from Delaware decided to speak. I wanted to make a couple of comments concerning the health care legislation.

One, I regret maybe some of the tone of some of the debate that has been made. I am very interested in trying to come up with a reasonable time agreement to take up this legislation. We have offered to do that. We have offered to give a vote on both the Democrat and the Republican proposals. I understand my colleague wants more time. He probably would like to spend a month on it. I heard him say it is the most important legislation we have before the Senate. I think I heard him say the same thing about the tobacco legislation. We spent 4 weeks on tobacco legislation, and we are not going to spend 4 weeks on this. The Senate is scheduled to be in session about 5 additional weeks, so we don't have the luxury of time that maybe we have had in the past.

My colleague from Massachusetts made the comment and said we tried to bring this up 18 months ago. That is not correct. His bill was introduced on March 31. Three days later, he was trying to pass a sense-of-the-Senate resolution, saying we will pass it this year. We have agreed to bring it up this year. We have agreed to give it adequate time for debate. We have not agreed to spend an unlimited amount of time on this.

I want to respond to a couple of the statements that were made concerning the Republican proposal. Much to my chagrin, I had hoped my colleague, and colleagues on the other side, would try to find out what is good and maybe see where we can move forward, but instead he has trashed our proposal. I resent that, or I regret it—I guess regret would be the more proper terminology.

We have 49 cosponsors of this legislation. We had a task force that met for months, 7 months, to formulate positive, constructive health care legislation, legislation that would help alleviate some of the problems in the health care industry, legislation that would help protect those people who don't have protections in health care.

I heard my colleague say their plan only affects 48 million Americans and exempts two-thirds. That is absolutely not correct. The facts are, every single ERISA-covered plan, every single employer-sponsored health plan in America would have an appeal process. It is a different process than our colleagues on the Democrat side have followed, but for a good reason. We don't want to drive up health care costs.

What we want to do is make sure people who are denied health care will have an appeal to where they can get health care—not that they have to go to court to get a health care decision—so they can have an appeal through an outsider who has nothing whatever to do with their case and have it be reviewed immediately or expeditiously if there is a serious health care problem. They can even have an outside appeal. We put in ''binding decision'' on the outside appeal. The decisions would be binding. The plan would have to pay if someone said, ''Wait a minute. We thought we were waiting for coverage and we didn't get it.'' They would have an internal appeal and an external appeal and that applies to every single employer-sponsored plan in America. We have heard different numbers. It is about 125 million Americans who would be covered under those plans—every single one—unlike my colleagues' plan; I looked at his. I just want to say that it is the right to sue for more. Under the Democrat bill, their idea is that we are going to get more health care by having more suits. We are going to sue people. You can already sue a health care plan to get a covered service. They want to sue for more.

In the Democrat proposal, they have 56 new causes of action where you can sue. It would be an invitation for litigation, to not only sue the health care plan but to sue the employer as well. I have been in the private sector, I have been an employer, a small employer—maybe a little larger; I went from a few employees to 100 employees. If you make employers liable for suits on health care plans, they will drop health

care plans very quickly and you will have an increase in the number of uninsured that will be in the millions. You will also have costs. CBO estimated that the Democrat bill would increase health care costs by 4 percent over what they are already estimated to cost, at 5.2 percent. That is a 9.2 percent cost increase if we enact the Democrat bill. That would cause millions of people to lose health insurance. I don't think that is smart.

So I want to just make sure that our colleagues are aware of the fact that we are willing to have a significant, credible debate. We are willing to consider various alternatives. We are not willing to get an unlimited amount of time. Earlier, my colleague had offered his bill on an appropriations bill. I said it didn't belong there. Maybe we should have left it there. We could have offered some substitutes.

One way or another, we are going to take up this issue. It is our intention to take it up prior to the August break. That is the majority leader's call. We understand that we have a lot of appropriations bills to do, and that must be done. I know my colleagues on the Transportation Committee are ready to go to work. I won't delay them much longer. We will have adequate time to debate the pros and cons of this bill.

I heard some other allegations—that they don't do anything. The Senator from Delaware said, ''They have all this lip service. They provide for emergency care, gag clauses, and access, direct access to OB/GYN and pediatricians, but that doesn't do anything.'' I disagree. We protect the unprotected. We don't have the philosophy that we should preempt States who are, in many cases, doing a better job than the Federal Government. There is a presumption on the Democrat side that the Federal Government can do it better than State government. Let's protect the unprotected, cover the plans that don't have protections often by the State.

My State has 24 mandates. They have a lot of things that aren't in the Democrat plan or Republican plan, and they are doing quite well. They are considering many more. Most States are looking at the Patients' Bill of Rights, and 36 States have already enacted several others, and 45 States already have a gag clause. Maybe some people think Washington, DC, should decide what kind of communication should or should not be made by physicians, and so on.

My point is, I think we have tried to craft a very careful, balanced, good proposal that won't escalate costs, that won't have undue mandates. The Democrat proposal has 359 mandates. Maybe instead of calling it the Kennedy bill, the Patients' Bill of Rights, they should call it the Kennedy bill of mandates, because it is this idea that the Government in Washington, DC, should dictate everything.

So I look forward to the debate. I look forward to resolving this issue and trying to come up with a good, responsible bill that won't drive up health care costs, that won't add layers and layers of bureaucracy and regulation and red tape, that won't really deter quality health care.

Our bill, I might mention, has a lot of things to deal with improving quality health care. I compliment Senator COLLINS, Senator FRIST, Senator JEFFORDS, and others who worked to put a lot of quality provisions in this health care, whether you are dealing with women's health, or dealing with research, trying to get research out to States and rural areas that would really improve quality health care—not a Federal definition that we know best, but trying to really advance technology and get that information to patients, to various areas around the country that would actually improve the quality of health care in America today.

I thank my colleagues who are managing this bill. I hope they will have success in moving this bill forward. I look forward to the debate and, hopefully, a debate next week on the so-called Patients' Bill of Rights.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I ask unanimous consent to speak for 3 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE ZAAZHOA CASE

Mr. JEFFORDS. Mr. President, I rise today to share some great news and to give thanks to the Members who helped me with respect to this very emotional situation that we have dealt with. I want to share the great news that three young Vermont girls who were abducted to Egypt are now back. I want to thank 56 of my colleagues for their support in this case for signing a letter to urge their return to Vermont. I also want to thank the Egyptian and American Governments for their invaluable assistance.

Last October, anticipating a Vermont court order giving his wife sole custody of their three girls, Michael Zaazhoa took Sarah, Maryam and Leila under falsified passports and fled to Egypt. Lamis Zaazhoa began the frantic search for her girls, ages 3, 5 and 6, which took 9 months, and culminated in a joyful reunion at the U.S. Embassy in Cairo this past Friday.

Lamis listened to the wise counsel of her family and decided to go the long, anxious route of petitioning the Egyptian courts for sole custody of her children under Egyptian law and getting an Egyptian court order for the return of her girls. The Vermont delegation quickly swung into action in support of her efforts, enlisting the help of the U.S. Embassy in Cairo and the Egyptian Embassy in Washington.

After the Egyptian courts ruled squarely in Lamis's favor, I walked around the Senate floor with a letter from Senator LEAHY and me to President Mubarak of Egypt, asking for his support. Fifty-five of my Colleagues signed this letter. I am deeply appreciative of my Colleagues help, which I consider pivotal to the success of our efforts. And I am very grateful to the Egyptian Embassy and Egyptian Government for its help in ensuring that Egyptian law was enforced and the girls were returned to their mother. The staff of the American Embassy was there for us all along, and arranged the swift return to the United States of Lamis and her girls once they were reunited.

I wish I could have invited all of my colleagues to the wonderful meeting Senator LEAHY and I had with these three sweet girls yesterday! Their beautiful smiles and the joy on Lamis's face deeply touched the hearts of all those present. In difficult situations like these, we rely on the good offices of our Government, and the cooperation of our friends in foreign governments. And yesterday we saw with our own eyes the beautiful fruits of those efforts!

This is an unusual result. Many of these cases occur, but very, very few are reconciled the way this was. I thank Jeff Munger of my staff in Vermont, whose sister brought to his attention the plight of the children and spearheaded the results that we got. So, again, I thank all the Members for their helpfulness in getting the three little girls back to Vermont.

I thank the Chair.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

Mr. SHELBY. Mr. President, I ask unanimous consent the Senate now proceed to the consideration of S. 2307, the transportation appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

A bill (S. 2307) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1999, and for other purposes.

The Senate proceeded to consider the bill.

Mr. SHELBY. Mr. President, in putting together the Fiscal Year 1999 Transportation Appropriations bill, we were faced with the difficulty of trying to adhere to the spending levels in the new highway and transit authorization bill and still provide adequate levels of funding for other transportation priorities. We have done that in this bill, and I think it represents a balanced approach to meeting our nation's transportation needs. I want to thank the Chairman of the Committee on Appropriations Senator STEVENS, for all his assistance and advice as we put this bill together and moved it through sub and full committee consideration.

We have also worked diligently with the senior Senator from New Jersey,

Senator LAUTENBERG, the ranking minority member of the subcommittee on transportation appropriations, and with the distinguished ranking member of the Committee on Appropriations, Senator BYRD, to try to accommodate the requests of every Member of the Senate. No one got everything they asked for, but I think as Members look at the details of the bill, they will see that we did our best, with the limited resources we had, to accommodate everyone's request.

I want to outline just a few highlights of the bill, if I may.

The Airport Improvement Program is set at $2.1 billion for 1999, the highest level ever. This funding will expand the capacity of our Nation's airports, reduce delays and congestion, and, most importantly, it will improve aviation safety in America. As the demand for air travel increases, we must ensure that our airports are able to efficiently handle traffic that will come with it.

Highway spending is also at the highest level in history—more than $27 billion. This funding will help States clear out their backlog of overdue highway construction and improvement projects. With more than 40,000 American lives lost each year on our Nation's highways, we must do everything to make them as safe as possible. Highway spending not only improves safety but also will provide good jobs for thousands of Americans.

I believe we have adequately funded both the Coast Guard and the Federal Aviation Administration operations accounts, and we have provided increased flexibility for the Secretary to manage both operations accounts to meet air traffic control and drug interdiction demands.

I am pleased that we were able to fully appropriate the authorized levels for the National Highway Traffic Safety Administration. That agency's funding in this bill represents an 8 percent increase over last year and will aid in their efforts to conduct airbag research, develop automatic crash avoidance technologies, and increase seatbelt use, and also reduce drunk driving on our highways.

The Federal Transit Administration will receive $5.365 billion, an 11 percent increase from 1998. These funds will be used to build new light rail transit systems, replace dilapidated public buses, and construct intermodal facilities to speed the transfer of people from one transportation mode to another.

Regarding Amtrak, the bill provides an additional $555 million on top of the $1.1 billion Amtrak will receive from the Taxpayer Relief Act that we passed last year.

My concerns about the level of Federal subsidies for Amtrak are well known in this body. Since the railroad was created in 1971, Amtrak has received $21 billion in Federal support. That is an average of $750 million a year. Mr. President, that is a disproportionately high level of subsidy for a railroad that only serves 20 million intercity passengers every year. Mr. President, by way of comparison, 600 million Americans fly every year. This means that more people fly in a 2-week period than ride Amtrak over the course of the year. The bill before you this evening contains a provision requiring Amtrak to print the per-passenger subsidy on each Amtrak ticket sold. According to the GAO, Amtrak loses an average of $47 per passenger. I think the American people have a right to know how their tax dollars are being spent.

Finally, Mr. President, let me comment on the Project Labor agreement provision. At full committee consideration of the transportation appropriations bill, the chairman requested that we postpone the debate on this provision until the floor. I believe that the chairman's position to postpone this debate until the floor made sense. And I know that he has been working to resolve this issue in a fashion that will allow the transportation appropriations bill to move expeditiously through the Senate. I will continue to work with the chairman and with Members on both sides of this issue to see if we can craft—and I believe we will be able to craft—a solution that is workable for everyone involved. The intent of the original language in the bill was to prohibit discrimination against any worker in this country simply because he or she chooses not to join a union.

Mr. President, I am proud of what we have been able to accomplish in this bill. I believe it will benefit all Americans by improving transportation services in this country. I look forward to working with the members of the committee and the Members of the Senate to move this bill through the Senate.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER (Mr. COATS). The Senator from New Jersey.

Mr. LAUTENBERG. Thank you, Mr. President.

Mr. President, I am obviously pleased that the Senate has now turned to the consideration of the transportation appropriations bill. It has been some time in coming. And action on the transportation bill has been delayed for several weeks while the committee sought to resolve some of the challenges that arise when there are vital interests needs to be met with too few resources to meet them.

Mr. President, I first ask unanimous consent that Peter Rogoff, a member of my staff, be permitted privileges of the floor during the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Thank you, Mr. President.

Mr. President, it is always interesting, to me anyway, that when we get to something like transportation and we start talking about the numbers and how much we are able to spend on highways and aviation, on buses, and rail, whatever we do, we still fall short on this country's needs for investment in infrastructure.

There isn't a Senator here who doesn't come to Senator SHELBY or me during the time of the negotiations looking for more opportunities to invest in infrastructure. They want to get rid of the potholes, get rid of the obsolete bridges, update our system.

I know I speak for the chairman of the subcommittee, Senator SHELBY, with whom I have the pleasure and opportunity to work—Senator SHELBY and I have known each other for some time. He is a man with specific opinions on things. I could be described as a ''pussycat''—I don't think so. But we have our differences out on the table, and we work to resolve them. There is one thing in this relationship, and that is mutual respect. I want to say today that Senator SHELBY has not only exhibited patience but also a genuine interest in resolving issues, getting rid of the problems, and getting on with the task. Between us, I think we have a pretty good piece of legislation.

For me, one of the greatest challenges that we faced in developing this bill was finding the funds for Amtrak. Senator SHELBY, as is his wont, spoke out about his views on Amtrak. But he has respect for others' views—for those people who see Amtrak as an integral part of the transportation system in this country, an essential part of the system.

While he is concerned about the amount of subsidy that Amtrak is getting from the Federal Government, it is also bidding its way towards self-sufficiency. Until we have the proper kind of equipment that attracts riders, that can make the trip—and the trips are made in faster times, particularly in the Northeast section, where in just the few States that Amtrak goes through with probably 100 million people, it is a significant part of the population in the country. Yes, it requires subsidy, but so does aviation.

We go beyond the ticket tax, which is significant. What we are saying to the people who ride in aviation is you pay a tax for this. We don't really say that in similar terms with Amtrak. You pay a heavy tax when you fly. The system is totally built by the taxpayer and local interests when it comes to aviation. If Amtrak didn't operate, I would like to point out that we would need 7,500 new flights a year on 757s to make up for the numbers of people who are carried on Amtrak.

We were able to fashion a compromise which was in this bill reported unanimously by the Appropriations Committee on July 14. It includes $555 million for Amtrak for the coming year, and as the chairman noted, there is over $1 billion worth of funding; some of that in operating expenses; some of that in capital expense, but it is $66 million less than the level requested by the administration.

Now, we are on the verge—1999 is the year—of getting high-speed rail equipment in the Northeast corridor. And

for the benefit of those who are listening not familiar with it, the Northeast corridor is that corridor of traffic between Washington here in the South, and Boston on the northern run, with New York and Newark as the intermediate points along the way.

Well, if we can get that ride down—and I think that we can—to less than 2½ hours, I can tell you, Mr. President, I have been out at the airport many times to take a flight that was advertised to be 40 and 45 minutes, and it has taken 3 hours. It is not because the airplane is so slow. It is that it's so crowded we can't get off the ground. And sometimes I find when I land in the Newark area we have to wait 30, 40 minutes to get to a gate. We are straining at the seams. And if anybody rides the highways of America they know there is plenty of congestion. I don't care what State it is, you will find a place in those States where highway congestion is unbearable, the air is foul, and we are consuming far more fuel than we ought to because we are building a further dependence on the countries outside our shores that produce it.

And so this investment in Amtrak is one that is going to be made to get us to be able to take delivery on the high-speed equipment which is due next year, 1999.

I thank Senator STEVENS, the chairman of the committee, and Senator BYRD, the ranking member of the full committee, as well as, again, Senator SHELBY, the chairman of the Subcommittee on Transportation, for helping us to find an acceptable funding level for Amtrak, and I also thank them for their patience throughout the process.

The Transportation Subcommittee faced a real daunting challenge in constructing a bill that kept faith with the promises included in the recently enacted Transportation Equity Act. That is the transportation program for the next half dozen years for the 21st century. It is a beginning into the 21st century, and with our infrastructure investment, as modest as it is, I can't say that it is one of America's proudest achievements because we are woefully underfunded, but it is a good start in the 21st century and I am looking forward to building on that.

The TEA 21, as it is referred to in acronym fashion, law authorized substantial increases in our surface transportation programs, and this appropriations bill includes a historic 15-percent increase for funding for the Federal Highway Administration, and an 11-percent increase in funding for the Federal Transit Administration. Separate from these well-deserved increases in the surface transportation area, the bill seeks to meet, to the best of our ability, the needs of the FAA.

You heard me just reciting the fact that crowding in the air is not an insignificant factor. If you want to fly into the New York area, or you want to fly into the Chicago area, the significant metropolitan hubs across our country, you have to share that space, and if the weather turns foul you wait forever. We could upgrade the system. There are other countries that have systems where takeoffs and landings are done at zero visibility. It is done mechanically. The pilot has to be there, but that airplane can touch down safely when you can't see the ground. I know I have been in a couple of flights like that, and it is always a shock when you don't see something and you feel that hard ground beneath you.

That is what we ought to be doing. We have to invest more in all of our transportation modes and aviation as well. The Coast Guard is one incredible agency. We ask so much of the Coast Guard. We not only have them out doing drug interdiction, which is a very popular part of their agenda, but if one looks at the marine system that we have in our country, the development of boating, fishing, the whole recreational aspect of marine life is there because the Coast Guard manages it. They put out the buoy markers. I know sometimes I get lost out there, so I can tell you that they are there. It is not that they have moved. It is that I haven't been able to find them properly.

It is an incredible system. And on top of that, they do pollution patrol; they do a patrol to try to intercept illegal immigrants who want to get to this great country of ours and are willing to risk their lives to do it, sometimes in tire tubes out in the ocean. The Coast Guard is there to provide interdiction, but also humanitarian service as well. And when it comes to rescues at sea, boy, there is nobody better than the Coast Guard. They know how to do it, and they are called on by everybody on every occasion. We just saw a ship fire, the Carnival Cruise Line ship in Florida. The ones I saw right there on the spot were the Coast Guard. They are always there. They need constant investment. I know one of the complaints in some of the northern areas is they don't have enough icebreaking equipment, for instance. We get it sometimes from the Defense Department.

So, when you put all these needs together, it is not an easy challenge. I say, once again, Chairman SHELBY and his staff, Wally Burnett, Reid Cavnar and Joyce Rose, do a terrific job, as well as the people on my staff, Peter Rogoff and Liz O'Donoghue—I mentioned before Peter Neffenger—and Carole Geagley, for the job the staff has done.

The staff has worked very hard. I don't think it is realized outside that by no means are these 9 to 5 jobs. Yes, they are. I am sorry. They are 9 at night to 5 the next morning. That is the kind of jobs they are. We give them time off to sleep, go home, meet their families, say hello to their newborns, get breakfast—the work requirement is beyond comprehension, in many cases. But it gets done, and I am proud of what we did this year.

Mr. President, as Members are aware, and the chairman brought it up, the bill as reported by the Appropriations Committee contains an extremely controversial rider. It is something regarding Project Labor agreements. The provision effectively wanted to stop labor-management agreements that have served successfully for years to hold down construction costs and improve working conditions. Imagine—on those occasions, which are too few, where management and labor shake hands across the table, no longer could they say, ''These are the conditions we are going to be working under. This is what you can expect from us, and this is what you can expect from us; we are going to bridge our differences now, before this job starts. We are going to decide on things like pay scales and work schedules and health care—all of those things. We are going to decide together on the schedule that we want to meet. We want to be proud of this job when it is finished.''

The chairman of the Appropriations Committee used a reference. He said in the Alaskan pipeline they had an agreement that saved billions of dollars, because everybody understood exactly what their responsibilities were and there was no room for work stoppages or things of that nature. It is a system that works. Why some people felt it was time to stop it, I don't understand. But I respect the differences that we have here.

The issue was discussed at length during full committee markup of the bill. As Senator SHELBY noted, Chairman STEVENS asked us to defer this until we get to the floor and get this bill out there so Senators can see it and understand what we are doing. We did just that, and the result is we have a compromise that Senator STEVENS sought to develop that would allow the bill to move forward and gain the President's signature.

Senator SHELBY and others involved, Senator KENNEDY from Massachusetts, and I, agreed this was a consensus with which we could live. I am delighted that took place so we did not have to wrangle over it. We want to get this bill in place so when the new year starts, October 1, we are ready to go with the new spending levels and new programs.

Once we have concluded our opening remarks, we are going to adopt the managers' amendment that encompasses a compromise on this issue, so all parties are agreed they will live with it. I thank my colleagues for their efforts in reaching this compromise.

In closing, I want to express my view that the most important funding in this bill is not for any individual project or any individual State. The most important funding in the annual transportation appropriations bill is the taxpayers' dollars that we commit to maintaining safety throughout our national transportation network.

Safety in the skies—we know we are crowded, we know we are busy, and we

know there is a terrific strain on the staff who maintain the aviation system, the controllers, those in the towers and those in the service routes along the way. They do a terrific job. One need only look at the accident record, the number of people. Senator SHELBY mentioned there are 600 million travelers a year. Look at that and thank the Lord, look at the accident record. You will see one of the nearly perfect systems that one could imagine operating in our skies with all that volume.

We want the same thing on our roads. We want to reduce drunk, careless driving. We would like to even reduce road rage. I don't know how we do it. Sometimes we get into rage here, but we should be able to do that.

Safety on our waterways—again, the Coast Guard is there marking out routes. It is just a terrific facility that we have.

So, safety is the No. 1 priority of my agenda. It is the No. 1 priority for the Secretary of Transportation, Secretary Slater, and for the President of the United States. He talks about it a lot. And Senator SHELBY indicated he is interested in safety.

I am hoping one day we will be able to shore up our .08 blood alcohol level bill. We passed a bill that goes part of the way, but we have to go further in order to make it complete. The worst thing that can happen to a family is to lose a youngster, a young person, to an automobile accident when we try so hard to bring them up, to raise them and encourage them, and then have somebody get in a car where someone has been drinking too much and end their life.

We are focused on safety. We are going to do that. I cannot overemphasize the responsibility that every Senator has in ensuring our transportation laws protect the safety of our traveling public to the maximum extent possible. The fate of the traveling public is truly in our hands each and every day. During the up and coming debate we are going to discuss a number of amendments that are critically important to the safety of our constituents.

With that, I yield the floor to my colleague. We are ready to consider amendments and start with the managers' amendment.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, first of all, I thank the distinguished Senator from New Jersey for his kind remarks, because we do work together on a lot of issues, not only in the Appropriations Committee but also we both serve on the Intelligence Committee and spend a lot of time generally behind closed doors. He is an active member of that committee, too.

AMENDMENT NO. 3324

(Purpose: An amendment on the part of the managers.)

Mr. SHELBY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY], for himself and Mr. LAUTENBERG, proposes an amendment numbered 3324.

Mr. SHELBY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 19 of the bill in line 2, strike '': *Provided,* That $3,000,000 shall be transferred to the Appalachian Regional Commission''.

On page 26 of the bill, line 15, insert the following before the period: ''*Provided further,* That of the funds provided under this heading, $5,000,000 shall be made available for grants authorized under title 49 United States Code section 22301''.

On page 20 of the bill, in line 17, after the colon, insert: ''*Provided further,* That within the $20,000,000 made available for refuge roads in fiscal year 1999 by section 204 of title 23, United States Code, as amended, $700,000 shall be made available to the U.S. Army Corps of Engineers to determine the feasibility of providing reliable access connecting King Cove and Cold Bay, Alaska and $1,500,000 shall be made available for improvements to the Crooked Creek access road in the Charles M. Russell National Wildlife Refuge, Montana:''.

On page 28 of the bill, amend the figure in line 5 to read ''7,500,000''.

On page 44 of the bill, insert at the beginning of line 1 the following: ''New York City NY Midtown west ferry terminal''.

On page 51 of the bill, insert after line 19 the following: ''Whittier, AK intermodal facility and pedestrian overpass''.

On pages 86 and 87 of the bill, strike all of section 336 (lines 16–24 and lines 1–10).

On page 88 of the bill, in line 18, after the semicolon insert the following:

(3) in subsection (d), by inserting ''(including an exemption under subsection (b)(3)(B)(i) relating to a bumper standard referred to in subsection (b)(1))'' after ''subsection (b)(3)(B)(i) of this section''; and.

And on page 88 of the bill, in line 19, amend the ''(3)'' subsection number to read ''(4)''.

On page 90 of the bill, in line 1, after the semicolon insert the following: ''$3,500,000 is provided for the Providence-Boston commuter rail project;''.

On page 92 of the bill, after line 25, insert the following:

SEC. 351. Item 1132 in section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 298), relating to Mississippi, is amended by striking ''Pirate Cove'' and inserting ''Pirates' Cove and 4-lane connector to Mississippi Highway 468''.

On page 78 of the bill, strike lines 8–15, and insert the following:

SEC. 322. None of the funds in this or any other Act may be used to compel, direct or require agencies of the Department of Transportation in their own construction contract awards, or recipients of financial assistance for construction projects under this Act, to use a project labor agreement on any project, nor to preclude use of a project labor agreement in such circumstances.

Mr. SHELBY. Mr. President, this amendment has been cleared on both sides of the aisle. I think it makes sense and will allow us to move forward with the bill.

The PRESIDING OFFICER. Is there further debate on the amendment?

If there is no objection, the amendment is agreed to.

The amendment (No. 3324) was agreed to.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote.

Mr. SHELBY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SHELBY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SHELBY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SHELBY. Mr. President, I would just like to tell my colleagues in the Senate, some of them are here on the floor and in their offices, Senator LAUTENBERG and I are ready to move this bill toward third reading. We haven't heard from anyone. We will give a few more minutes in case somebody wants to get in, or offer an amendment to this bill, but we believe this is a well put together bill, as I said earlier. Both sides have put a lot of work into it. We should not keep Senators here all evening. We will move as soon as we can.

If we don't hear from somebody on the floor in just a few minutes, it is my idea, if Senator LAUTENBERG concurs at that time, to move to third reading.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. If I might, I knew we constructed a good bill. I didn't realize it was this good. But the fact of the matter is I guess we covered everybody's requests fully. But we should wait to see if any of our colleagues want to come down to the floor and commend us for it.

Otherwise, I think we are seriously ready to go. I am feeling a little lightheaded because we haven't heard a lot of criticism. But the bill is here. If there are people who want to amend it in any way, let them come down now or forever hold their peace, or something.

Mr. SHELBY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BENNETT). Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that a fellow in Senator BINGAMAN's office, Mr. Dan Alpert, be given floor privileges during the pendency of the transportation appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Thank you.

OCCUPATIONAL AIR QUALITY TESTS IN COAL MINES

Mr. WELLSTONE. Mr. President, I rise today to call to the attention of colleagues a disturbing set of circumstances and facts which I believe merit investigation and probably legislative action on the part of the Senate. I also believe that the facts I am about to discuss warrant more attention than they have received so far from the Justice Department.

There is evidence of significant violation of Federal law leading to great harm. I hope that in addition to the Congress responding appropriately, the Justice Department might look further into this matter.

I am referring to what appears to be a record of widespread systematic cheating on occupational air quality tests by operators of many of our Nation's coal mines. This alleged cheating, of which there appears to be nearly incontrovertible evidence, apparently has led to much unnecessary suffering in thousands of American families. It likely also has led to the unnecessary death from black lung disease of thousands of American coal miners.

Unfortunately, I am not referring to conditions that existed early in this century, or even conditions of the 1950s or 1960s. I'm talking about circumstances of the 1970s, 1980s and 1990s. I'm talking about allegations related to existing conditions and practices in American coal mines today.

I ask unanimous consent, Mr. President, to have printed in the RECORD a series of articles that appeared in April of this year in the Louisville Courier-Journal.

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

FROM THE EDITOR

For years, a quiet but deadly tragedy has been played out in the nation's underground coal mines.

Coal mine operators have known about it.

The federal government has known about it.

And coal miners themselves have known about it.

The tragedy is that in 1998 black-lung disease still exists and hundreds of miners nationwide die of the disease each year because of cheating on air-quality tests.

Doctors have known for a century that coal dust causes black lung, which can be prevented through underground dust-control measures.

But 30 years after Congress placed strict limits on airborne dust and ordered mine operators to take periodic tests inside their mines, almost 1,500 miners die of black lung every year.

The Courier-Journal set out to find out why.

The answers were shocking.

In a year-long investigation that involved interviews with 255 working and retired miners and computer analysis of more than 7 million government records, The Courier-Journal found that, among other things:

Miners continue to breathe dangerous levels of coal dust because cheating on dust tests is rampant.

Most coal mines send the government air samples with so little dust that experts say they must be fraudulent.

Many mine operators—non-union mine operators in particular—don't comply because strict adherence to safety regulations is time-consuming, costly and cuts into profits.

The federal agency responsible for protecting miners ignored overwhelming evidence of cheating.

Nearly every miner interviewed said that cheating on dust tests is common and that many miners help operators falsify tests to protect their jobs.

And almost no coal miners qualify for black-lung benefits under Kentucky's new workers' compensation law.

Since publication of the series, Kentucky's attorney general has asked U.S. Attorney General Janet Reno to investigate why mine-safety officials have ignored evidence of cheating. And state lawmakers have called for a special session to adopt new legislation on workers' compensation.

This reprint includes the entire five-day series, supporting editorials, followups and a guest column by the top mine-safety official.

We think this piece of work represents outstanding public service journalism in the finest tradition of The Courier-Journal.

Mr. WELLSTONE. That is the newspaper of Louisville, KY.

This remarkable series of five articles, principally by a reporter named Gardiner Harris, is titled ''Dust, Deception and Death.'' The series documents an apparent pattern of falsification of coal dust sampling tests by coal mine operators and it details the consequences of that dishonesty: unnecessary suffering and early death for American coal miners.

It is an extraordinary report. I do not believe it has received enough attention, although hearings have been taking place at the state level in Kentucky to look into the charges.

The paper conducted a year-long investigation. Hundreds of current and former miners were interviewed. More than 7 million government records were examined. Based on that research, the Courier-Journal's reporters concluded that cheating on air-quality tests in coal mines has contributed to great suffering and to a large number of deaths from black lung disease among American coal miners. Their reporting reveals that the Federal Government, at least until very recently, largely ignored readily observable indications of that cheating.

I do not draw absolute conclusions at this time from what is reported in the Courier-Journal. But I can say that what is reported in this series is consistent with what I saw and heard when I visited with miners in Eastern Kentucky a year ago. I was told then that cheating goes on in the dust sampling program in American coal mines. And I heard from sick and dying miners and their families about the connection between coal-mine conditions and black lung disease—especially in non-union mines.

We in the Federal Government have a responsibility to these workers and their families. At the end of my statement, I will make some suggestions regarding actions I believe we should take in the Senate. And I hope that colleagues, as they become more aware of this situation, might add to those suggestions and help determine the most appropriate response to what I believe is a national shame.

The initial shame is that the suffering and death of thousands of Americans appears to be the direct result of systematic cheating on a government-monitored health-protection program. The deeper shame is that we in the Federal Government have had the opportunity to know it, yet so far we haven't done very much about it. Dedicated people in the appropriate Federal agency, the Mine Safety and Health Administration (MSHA), are beginning to address this problem. J. Davitt McAteer, who is the Assistant Secretary for MSHA, has begun during recent years to take a number of steps, and he has called for further steps beyond those he has taken. But we still are not doing enough.

Before I cite some details from the series, I would like to read a portion of the newspaper's editorial on this subject into the RECORD. This Louisville Courier-Journal editorial, printed on Sunday, April 19, is headlined, ''Death and Denial.'' It begins as follows:

Coal is an outlaw industry. It is now, and it always has been. Coal is the closest thing to brute, unrepentant late 19th Century capitalism that we have left in American life. If you don't believe that, just consider the fact that ranks of miners choke to death every year because coal operators routinely cheat. They cheat on air-quality tests which could save lives. When they do that, they cheat workers of the years they would be able to spend with families and friends but for an early death from black lung. And this grotesque disease continues as the principal killer of coal miners, just as it has been for a half-century.

That is not the conclusion of some outside group of hostile critics of the coal industry. It is the editorial position of a major newspaper in the state of Kentucky, where that industry remains important to the economy. Let me recite the conclusion of that same editorial: ''One-third of all the nation's underground mines get cited for excessive dust. And those are just the operations that are caught in the flawed, sporadic dust tests. Miners are more than exhausted with this continuing outrage. They're dying.''

Mr. President, every article in this series warrants reading in its entirety. There are some sad and shocking quotes from former foremen in the

mines, as well as from miners themselves about their own roles in test falsification. There are heartbreaking profiles that illustrate the human consequences of this reality. Men who are suffocating to death, whose lungs are destroyed, who cannot even crawl up two steps at their home without stopping and gasping for breath. I hope Senators will read the story of Leslie Blevins, 45-year old former coal miner who is dying of silicosis, a form of black lung. I hope Senators will read the story of Terry Howard and his family. Terry died in 1995 of black lung disease. He was 45.

Let me try to summarize some of the series' important findings.

The first and most important conclusion of the series is that coal miners today continue to breathe hazardous amounts of coal dust because falsification of dust sampling is still widespread. In 1972, strict dust limits in coal mines went into effect. That was a result of the 1969 Federal Coal Mine Health and Safety Act. Today, under that Act, every two months, operators of underground coal mines have to test the air in the mines for dust. They use air pump machines attached to certain of the miners' belts to collect air samples. Then government laboratories weigh the amount of dust collected in those machines' plastic cassettes. Also, in addition to weighing the dust cassettes once they have been turned in, Federal government supervisors actually oversee the company-conducted testing on one occasion per year.

How is the Federal dust-sampling program working? Not very well. In fact, the dust-sampling program, crucial as it is, today is a big part of the problem. Numerous miners, former mine owners and managers told the Courier-Journal that the sampling is routinely falsified. ''Most of the time, we just turn them off,'' one miner said of the machines. Many miners described how the pumps often were hung where the air was clear of dust, or placed in lunch buckets. Some are run outside the mines or not at all.

According to the newspaper's reporting, in 1997, at about half the nation's underground coal mines, at least 15 percent of the air samples taken were almost completely dust-free. It is virtually impossible for those tests to have been accurate, according to experts. Assistant Secretary McAteer, who I believe is an honorable man and is moving in the right direction in addressing the problem, told the paper that these samples are ''inaccurate,'' ''unfathomable,'' and ''statistically impossible.'' In other words, Assistant Secretary McAteer was saying that those results were not accurate. They could not have been accurate. They indicated cheating. That was in 1997.

Cheating is reprehensible, of course. But what matters even more is the reason for the cheating. The paper's reporting provides compelling evidence that this widespread cheating is for the purpose of covering up the existence of severely hazardous conditions—dusty conditions which exceed federally allowable levels and which are still causing black lung disease today. How can that be, one might ask? We put the law in place. We have an agency devoted to enforcing it. Surely the mine operating companies are not interested in endangering their workers. And yet they do.

It appears from the evidence that mine operators don't comply with the Federal dust-sampling program mainly because it would cost them time and money to do so. It is a sad and maddening observation, but it appears to be true. Furthermore, it apparently also is the case that the coal mine operating companies do not comply with the Federal dust sampling program today because up to this point they have had little to fear from the Federal Government when they cheat. Even when convictions have been obtained in cases of falsification of dust tests, penalties seem to have been light.

So far, the Federal Government has not been up to the job of protecting miners' health. MSHA appears over a period of years to have largely ignored readily available evidence that cheating was occurring. They are not ignoring it now, although I believe we need to make sure they are doing everything that is possible to do. Penalties for violations, as well as investigations and prosecutions, have been a largely ineffective deterrent. One-third of the mines are cited for dust-level violations, but the fines are generally small. For years average fines were about $100, and even now the average fine is just a few hundred dollars. Those are for the violations which are caught—instances where the measurable dust exceeded allowable levels. The kind of cheating which is documented in the Louisville series, which is a separate issue, has gone largely unpunished because it has gone largely uncaught. Furthermore, even after miners have contracted one or more of the diseases which are known collectively as black lung disease, few are able to qualify for government benefits intended to relieve their plight.

The most important information in this series of articles is not only that American miners continue to suffer and die from black lung disease today. Many Senators are aware that, whereas we pledged as a nation to eliminate black lung disease 28 years ago, we still have not accomplished that goal. The Federal Government pays approximately $1 billion annually for programs directly related to black lung diseases. States pay worker's compensation health benefits to miners with black lung disease. So we know that thousands of Americans suffer from black lung disease. The important information in this series, however, which would have been new and surprising to me had I not visited with coal miners in Eastern Kentucky last year, is information which I think should shock Members of the Senate. That information is that it appears that the cheating on air-quality testing by coal mine operators, the falsification of coal dust sampling tests, continues to go on today on a widespread scale. That—if true, and it appears to be—is what we must acknowledge is a national disgrace.

What does this mean? It means that the cause of future suffering and dying is going on, unabated, in today's coal mines. Right now, today. We can talk about responsibility and accountability for dishonesty in the past, which has led to today's suffering. We should. We should investigate it thoroughly, and if federal laws have been broken, then we should prosecute. But if false sampling continues today, and if we allow it to go on, then we in the Senate are failing in our responsibility to protect thousands of American coal miners from serious health hazards while they are on the job. We literally would be encouraging through our inaction the continued exposure of miners to conditions and practices that we have every indication will condemn thousands of them to suffering and early death. We are responsible. We cannot allow coal operators to cause avoidable suffering and death. I say avoidable because suffering and death from black lung disease is avoidable. Coal can be mined profitably without subjecting miners to dirty conditions that will give them black lung disease.

Mr. President, we may not solve this problem during the remainder of this Congress. It will probably not be a simple matter, and we have only a few remaining legislative weeks. It cannot be solved overnight, even though every day that cheating occurs American miners are exposed to deadly levels of black-lung-causing coal dust. Nonetheless, we can do some things immediately. We should.

We should hold at least an initial hearing on the subject of the effectiveness, or the lack of effectiveness, of current Federal measures to eliminate black lung disease. Such a hearing should include testimony regarding the voluminous evidence presented in the Louisville Courier-Journal series indicating widespread cheating on dust sampling tests. It might take more than one hearing to get to the bottom of the problem, not to mention the best solutions to it. But there should be a hearing, and I have directed a request for such a hearing to the Chairman of the Labor Subcommittee on Public Health and Safety, Senator FRIST, as well as to that Subcommittee's Ranking Member, Senator KENNEDY. We need to call attention to the issue, and we need to send a signal to American miners and their families that we will meet our responsibility to learn the truth and protect their health and safety.

Second, we need to ensure that MSHA has sufficient resources to carry out more of their own dust sampling, as well as more monitoring of tests conducted by the coal mine operators. I hope when we consider the Labor-

HHS Appropriations bill that we will provide adequate funding to MSHA to do more testing. The companies have shown that they will not carry out accurate tests. At the same time, I do not believe that we should simply increase our own Federal spending and testing, and meanwhile take the companies off the hook. The companies should continue to test, as well, and they must be held thoroughly accountable for their results. A more rigorous testing and monitoring program by MSHA would both improve the reliability of the test results, and it would also help us identify more of the individuals and companies that are cheating on the tests and endangering the health of miners.

MSHA already has increased its spot-inspections of mines that have turned in tests with suspiciously low dust levels. The agency should go further, and they should have the resources to ensure they are able to go further. I believe Federal enforcement agencies should consider whether increased criminal and civil prosecution is warranted for what appears to be the systematic circumvention of the Mine Safety Act. By enforcement agencies I am referring to MSHA and the Department of Justice.

The number of criminal prosecutions has been low if the claims asserted in the Louisville newspaper series are correct. Between 1980 and early 1997, there were only 96 cases in which criminal charges were successfully brought by the Federal government for violations in the area of coal mine safety and health. That is 96 cases over a 16 year period, or about six a year. It is my understanding that very few, if any, even of that small number of successful prosecutions were for the kind of cheating documented in the newspaper series. If cheating on dust sampling, which endangers people's lives, is as widespread as has been alleged, then I believe current Justice Department prosecution has been less than it should be. I do not know if the problem has been at MSHA, or if the problem has been at the Department of Justice. It may be difficult to prove this cheating. It may be difficult to get miners to testify. But if what the series portrays is true, then we are simply not doing a good job of deterring these illegal practices—practices which are causing illness and death.

Finally, the Secretary of Labor last year proposed new rules governing implementation of the Black Lung Benefits Act—rules which to my knowledge still have not taken effect. This set of proposed revisions to the Black Lung Benefits Act is sound, justified and needed. It should be implemented. Only about 7.5 percent of Black Lung claims have been granted since the early 1980s, with nearly one-third of claims tied up in lengthy hearing and appeals processes. Litigation consumes almost half of the Black Lung Trust Fund's administrative expenses. The Department of Labor's new rules were published in the Federal Register in January of last year, and they should be put into effect.

Mr. President, I will return to the floor to speak further about this issue before the year is over. I hope we can conduct a hearing in the Labor Committee. I hope we will provide adequate appropriations for the Mines Safety and Health Administration. And I hope we will do right for the safety and health of American miners. I intend to do all I can as a United States Senator to see that we do so. I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS, 1999

The Senate continued with the consideration of the bill.

UNANIMOUS-CONSENT AGREEMENT

Mr. LOTT. Mr. President, we have notified all Members that we would like to complete action on the transportation appropriations bill. I believe our managers are ready to move in that direction.

We have a list of amendments now that have been identified.

I ask unanimous consent that the following amendments be the only first-degree amendments in order to the pending transportation bill, and subject to relevant second-degree amendments:

Managers' amendments; Senator LOTT, three relevant amendments; Senator SHELBY, three relevant amendments; Senator FRIST, regarding cemeteries; Senator ABRAHAM, regarding name change, ITS; Senator SPECTER, regarding bond issue; Senator DEWINE, regarding Coast Guard; Senator MCCONNELL, regarding expedited review; Senator MCCAIN, regarding Amtrak bookkeeping; Senator LEAHY, regarding helicopters; Senator BYRD, two relevant amendments; Senator LEVIN, regarding commuter rail; Senator BUMPERS, relevant; Senator LAUTENBERG, relevant in three instances; Senator DASCHLE, three relevant amendments; Senator KERRY, one amendment on Amtrak; Senator FEINGOLD, relevant amendment; Senator JOHNSON, two relevant amendments; and Senator DURBIN, regarding smoking on international flights.

Mr. LAUTENBERG. And Gramm on drugs.

Mr. LOTT. And one last, Senator GRAMM possibly, one amendment regarding Coast Guard.

Mr. President, we deleted the Feingold relevant.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, while we have leadership on the floor, we have heard the list. That is now confined. I think we ought to get on with the business of getting it done. We could wrap this bill up in short order. There is a full agenda. The majority leader holds out a plum at the end of the ladder. The plum swings a week from Friday. This helps reach that goal.

I ask my colleagues if they want to get out of here on Friday—I know most of them would like to stay, but you will have to put up with us in getting out early.

Mr. LOTT. I thank the managers of this legislation. Senators SHELBY and LAUTENBERG are on the verge of setting a very commendable record. I ask that they quickly go through this list of amendments and dispose of them and, as soon as possible, identify any needed votes, get a time agreement on those votes, and get it done as quickly as possible. It would help us be prepared to move on to other appropriations bills and be able to get out of here as scheduled next Friday.

I yield the floor.

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. I know the hour is beginning to get late and Members would like to know what they can expect tonight. We do have a list of amendments that the managers are working on right now. I believe most of those are going to be resolved without the necessity of extended debate, or even a vote. We should know in another 15 minutes or so exactly what that would be. I hope there won't be more than one or two amendments that require some time.

Our intent would be to do those amendments that are necessary and final passage, and then Senator DASCHLE and I would like to go to the District of Columbia appropriations bill. Senator COATS and Senator LIEBERMAN have an amendment that they are prepared to debate tonight, discuss tonight, and we hope to have all debate on that and other amendments, but the vote on the amendments and final passage we would propose would be done then Monday night at 5 o'clock in order to accommodate one of the managers.

Tomorrow, while we will have a vote or two early in the morning, we will go to the credit union bill early in the morning. There are not expected to be

any recorded votes on the credit union bill in the morning.

So in summation, if we could get cooperation on the transportation bill, we could wrap that up here relatively shortly and that would be the final vote tonight, if the Members would cooperate with us.

Senator DASCHLE has been working to get this amendment list identified. He agrees that this would be a good approach. The Members would have a decent night tonight, and we would be able to wrap up early in the morning and then go to the credit union bill.

I ask Senator DASCHLE if that is his thinking on this process at this time.

Mr. DASCHLE. Mr. President, I thank the Senators on both sides for the cooperation that they have given on transportation, as well as on the District of Columbia. I think we can accommodate Senators' schedules and the need to pass these two bills in an appropriate time by taking the actions the majority leader has outlined.

So I think this is a plan that will still require some cooperation and support on both sides of the aisle, but I think we can do it. I think it is the best way with which to accommodate schedules as well as the need to address these issues soon. So I certainly commend the majority leader for the recommendations and the proposal, and I hope we can complete our work.

Mr. LOTT. I thank the Senator. I thank the Chair.

I yield the floor. I observe the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SHELBY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SHELBY. Mr. President, we are working together, Senator LAUTENBERG and I, and our staffs. We are close to resolving a number of amendments here, but there are some amendments that will require votes. I just ask the sponsors to come on down to the floor because we are probably going to have to have some votes on them: The McConnell amendment regarding expedited review, the McCain amendment regarding Amtrak bookkeeping, the Leahy amendment regarding helicopters, the Kerry amendment regarding Amtrak, and the Durbin amendment, smoking on international flights.

It is just a few minutes before 7. Senator LAUTENBERG and I are ready to move. If Members who are sponsoring those amendments would come on down and help us, I think it would expedite the bill tonight.

Mr. LAUTENBERG. Mr. President, I understand that the majority leader, the leadership has agreed we are going to finish this bill tonight?

Mr. SHELBY. That is right.

Mr. LAUTENBERG. It becomes a matter of Members' choice; you either finish it late or you finish it early. I am not dismissing the importance of anybody's amendment, but now is the time to do it. If it is not important enough to get over here and do it, I think we will try to expedite things, if the majority leader and minority leader agree, to get to a third reading. We have a couple of things we can do. We should do them. We are now looking at the possibility of clearing some.

So until then, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HAGEL). Without objection, it is so ordered.

AMENDMENT NO. 3326

(Purpose: To provide for expedited review to ensure constitutionality of section 1101(b) of the Transportation Equity Act for the 21st Century)

Mr. MCCONNELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL] proposes an amendment numbered 3326.

Mr. MCCONNELL. Mr. President, I ask that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 92, after line 25, add the following:

SEC. 3___. JUDICIAL REVIEW OF CONSTITUTIONAL CLAIMS.

(a) EXPEDITED CONSIDERATION.—It shall be the duty of a district court of the United States and the Supreme Court of the United States to advance on the docket and to expedite to the maximum extent practicable the disposition of any claim challenging the constitutionality of section 1101(b) of the Transportation Equity Act for the 21st Century (23 U.S.C. 101 note; 112 Stat. 113), whether on its face or as applied.

(b) APPEAL TO SUPREME COURT.—

(1) IN GENERAL.—Notwithstanding any other provision of law, any order of a district court of the United States disposing of a claim described in subsection (a) shall be reviewable by appeal directly to the Supreme Court of the United States.

(2) DEADLINES FOR APPEAL.—

(A) NOTICE OF APPEAL.—Any appeal under paragraph (1) shall be taken by a notice of appeal filed within 10 calendar days after the date on which the order of the district court is entered.

(B) JURISDICTIONAL STATEMENT.—The jurisdictional statement shall be filed within 30 calendar days after the date on which the order of the district court is entered.

(3) STAYS.—No stay of an order described in paragraph (1) shall be issued by a single Justice of the Supreme Court.

(c) APPLICABILITY.—Subsections (a) and (b) shall apply with respect to any claim filed after June 9, 1998, but before June 10, 1999.

Mr. MCCONNELL. Mr. President, the amendment I have sent to the desk simply says that the courts should tell us once and for all whether the DBE Program in the new ISTEA law is constitutional.

The new ISTEA law, now referred to as the Transportation Equity Act for the 21st Century, or TEA 21 for short, contains the much debated and long discussed DBE Program.

As every Senator knows, and as the Supreme Court has made clear, this Government-mandated program requires States and private contractors to treat persons differently based on race. The DBE Program, at a minimum, grants benefits and presumptions to some persons based on race and ethnicity but denies the same benefits and presumptions to others based on race and ethnicity.

Now, some say that the preferences are vast and pervasive, while others say preferences are only slight and incremental. Some say that preferences are unfair. Others say that any burdens placed on persons of the wrong race are far outweighed by the benefits for the citizens of the ''officially preferred'' race.

Mr. President, my views on this issue are well known and well documented in the CONGRESSIONAL RECORD. But the policy debate over TEA 21 and the DBE Program is over for now. We have moved beyond that policy debate for the moment. The only thing that the Senate can do today is to ensure the constitutionality of the DBE Program mandated in TEA 21. That is precisely what my amendment does.

Mr. President, when the topic is racial preferences, it is rare that both parties can find any agreement. But I think today is that rare moment. I think there are several areas of agreement today that should lead to unanimous approval of my amendment.

First, I think we all agree that the Supreme Court has acknowledged that racial preference programs subject persons to unequal treatment under the law.

In landmark Supreme Court cases, like Adarand v. Pena, and City of Richmond v. Croson, the Court made it clear that programs doling out different presumptions, benefits, and burdens based on race, in fact, subject Americans to unequal treatment under the law.

In the words of the Supreme Court:

Whenever the government treats any person unequally because of his or her race, that person has suffered an injury that falls squarely within the language and the spirit of the Constitution's guarantee of equal protection.

Moreover, the Court explained:

We deal here with a classification based upon the race of the participants, which must be viewed in light of the historical fact that the central purpose of the Fourteenth Amendment was to eliminate racial discrimination emanating from official sources in the States. This strong policy renders racial classifications ''constitutionally suspect,'' and subject to the ''most rigid scrutiny,'' and ''in most circumstances irrelevant'' to any constitutionally acceptable legislative purpose.

So, Mr. President, out of the mouth of the highest court in the land we hear our first undisputed fact: Programs like the DBE Program subject Americans to unequal treatment under the law.

Our second undisputed fact is that the Supreme Court will only tolerate such unequal treatment if the program can survive the test of strict scrutiny. That is, is the program, first, narrowly tailored; second, to remedy past discrimination?

Let me again quote the Supreme Court in Adarand. The Court said:

> We hold today that all racial classifications, imposed by whatever federal, state, or local governmental actor, must be analyzed by a reviewing court under strict scrutiny.

This leads me to the third undisputed fact: Strict scrutiny is an extremely high constitutional hurdle. The administration has conceded the height and depth of the constitutional challenge following Adarand. It has spent a considerable amount of resources over the last 3 years trying to respond to Adarand.

Let me count the ways. First, the administration was forced to launch a governmentwide review of all racial preference programs; second, the President even promised to ''mend'' those programs that were broken; third, the Justice Department and the Commerce Department joined forces to embark upon an unprecedented national benchmark survey to help figure out whether various racial preference programs could survive the strict scrutiny test after the Adarand case; and finally, several media reports have indicated that the President has been forced to make good on the part of his promise, and that he has attempted to end or curtail several programs.

Mr. President, I think it is clear to all of us that strict scrutiny is an extremely high constitutional hurdle. Let me quote our colleague, Senator BYRD, on this point. My typically astute and always distinguished colleague from West Virginia explained in the CONGRESSIONAL RECORD that the Supreme Court's decision in Adarand ''makes it exceedingly difficult for any affirmative action program to pass constitutional muster.'' And as the Senate's unofficial historian, Senator BYRD dutifully noted that ''the last time the Supreme Court upheld a statute based on a racial or national origin classification under the strict scrutiny test was in 1944.''

Undisputed fact No. 4: Upon remand, the district court in Adarand followed the Supreme Court's lead and found that the DBE Program could not meet the test of strict scrutiny. Let me read the relevant portion of the district court's opinion and order:

> It is ordered that section 1003(b) of ISTEA, [that is, the Disadvantaged Business Enterprise Program] and . . . the regulations promulgated thereunder . . . are unconstitutional.

In fact, the district court, like many of us in the Senate, expressly questioned whether any race-based statute could be upheld as constitutional.

The Federal judge concluded, ''I find it difficult to envision a race-based classification that is narrowly tailored.''

The district court's ruling was not exactly a surprise to many of the Nation's constitutional scholars. As the Congressional Research Service has explained, the district court's decision in Adarand ''largely conforms to a pattern of Federal rulings which have invalidated State and local government programs to promote minority contracting in the following places: Richmond, San Francisco, San Diego, Dade County, Florida, Atlanta, New Orleans, Columbus, [the State of] Louisiana, and [the State of] Michigan, among others. . . .''

So let me repeat undisputed fact No. 4. The DBE Program was declared unconstitutional by the Federal court in Colorado.

Undisputed fact No. 5: The attempt to respond to Adarand did not involve any statutory reform whatsoever. The administration's reform of the law came in the form of a maze of complex and lengthy new regulations to try to fix the ISTEA program.

Undisputed fact No. 6: Members of both parties expressed concern about the constitutionality of the program, and many of those who voted to support it relied upon the administration's promises and proposed regulations. I am sure that my colleagues will remember that in March of this year, 1998, a divided Senate spent several hours over the course of 2 days debating whether a ''mended'' transportation program that continues to treat persons differently based on race would now be upheld as constitutional. Ultimately, 58 Senators took the administration at its word and reauthorized the program, but with a very watchful eye.

I think that my good friend from New Mexico summed up the feeling of those Senators who supported the new DBE Program, but had the following admonition. Senator DOMENICI said:

> I say to the administration very clearly right now: You have now put the signature of the Attorney General of the United States and the Secretary of [Transportation] on the answer to . . . seven questions [about the constitutionality of this program]. And this Senator [Senator DOMENICI, referring to himself] and I think a number of other Senators, is going to be voting to keep the provisions in the bill based on these kinds of assurances. . . . If, in fact, it comes out in a few months that the regulations are not being interpreted in a way suggested here, then I assure you that we will change them. . . . This better come as a very, very, serious challenge to the administration as they finally implement this program.

This candor and concern was also expressed by other Members on both sides of the aisle. Let me share an insightful colloquy pointing out the constitutional concerns. This colloquy involved the distinguished Environment and Public Works committee chairman, Senator CHAFEE; the ranking member, Senator BAUCUS; the chairman of the Subcommittee on Transportation and Infrastructure, Senator WARNER; and Senators DOMENICI and DURBIN.

Let me read those statements from the CONGRESSIONAL RECORD of March 5 of this year.

Senator DURBIN said:

> I believe the DBE program must be implemented in a manner that is constitutional. I believe that it is critical to the integrity of the program, and to the Senate's support of that program. Therefore, I would like to ask the chairman and ranking member—whose committee has oversight of the DBE program—is it their intention to press the Department to ensure that the new regulations pass constitutional muster?

That was a question being asked by the Senator from Illinois, Senator DURBIN.

Senator CHAFEE, the chairman of the committee responding:

> Yes, it is. We have made it clear to the Secretary that while one can never predict with 100 percent certainty what language may pass constitutional muster, the Committee expects the Secretary and his legal staff to do their utmost to make sure that the new regulations closely follow the guidance set forth by the Court in Adarand.

Senator BAUCUS, the ranking minority member of the committee says:

> I concur. It is the committee's intention that this program be carried out in a manner that is consistent with the Constitution. We expect no less. Secretary Slater is aware of, and I am assured agrees with, our views on this matter.
>
> Senator WARNER. As chair of the subcommittee that sponsored this bill, I have a particular interest in this matter and want to assure the Senator that adherence to Adarand is our intent.
>
> Senator DOMENICI. I appreciate the Senator's confirmation on this point. Let me ask further: Will the committee continue to be in touch with Department officials as the regulations are ready for release? And will the committee scrutinize the new regulations to ensure that the Department did in fact follow the Court's guidance under Adarand?
>
> Senator CHAFEE. Yes, we will.
>
> Senator BAUCUS. I can assure the Senator, and the Senate, that we will indeed.
>
> Senator WARNER. We certainly intend to.
>
> Senator DOMENICI. I am pleased to hear it, and I want to thank the Senators for taking the time to respond to my concerns.

Mr. President, I could stand here on the floor and read statement after statement made by Members of both parties during the ISTEA debate in March of this year that spell out the Senate's serious constitutional concerns about the DBE Program. But I think it is abundantly clear that every Member of the Senate understands the constitutional guarantees and obstacles that stand in the way of a Federal highway program that treats Americans differently based on the immutable trait of race.

Let me say that I wholeheartedly agree with and appreciate the constitutional concerns set forth by Senators CHAFEE, BAUCUS, WARNER, DURBIN, and DOMENICI. We must ensure that the new DBE Program is constitutional.

My amendment is perfectly consistent with these constitutional concerns, and I hope all Senators will fully support my amendment.

Undisputed fact No. 7: The proposed regulations were not final prior to our vote back in March on the DBE Program. In fact, the proposed regulations are still not final, even though the CONGRESSIONAL RECORD is filled with statements promising that the new DBE regs would be final in April or May of this year.

Well, Mr. President, we are now headed into August, and it is my understanding that the States and contractors still have no guidance from DOT on how to run this multibillion-dollar DBE Program in compliance with the Constitution, with Adarand, with the Supreme Court and the law of the land.

So as the statements that I read earlier from Senators CHAFEE, BAUCUS, and others made clear, we do not know for sure whether the regulations make the DBE Program more constitutional or less constitutional. We do not know for sure whether the proposed regulations will help or hurt, whether the regs alter the statute to allow the program to pass the stringent test of strict scrutiny, or whether the Federal courts will follow the district court in Adarand and continue to strike down the program as unconstitutional.

Mr. President, undisputed fact No. 8: The Senate should take its oath to uphold the Constitution seriously. Mr. President, let me say that all of us, when we come into the Senate, solemnly swear that we will support and defend the Constitution of the United States. I think we can all agree that this is a constitutional oath that should be taken seriously. In fact, for a good portion of our history, the Congress mandated an expedited Supreme Court review of any and all constitutional questions.

In more recent years, the Congress has focused the expedited review approach on those important laws that are surrounded by legitimate questions of constitutional validity. A quick search by the Congressional Research Service has documented several recent laws and bills that have included expedited Supreme Court review provisions. I think my colleagues will remember each of these. Let me name just a few: the Line-Item Veto Act; the Communications Decency Act; the census sampling in last year's Commerce-Justice-State appropriations bill; the District of Columbia Schools Opportunity Scholarships Act; and the Gramm-Rudman-Hollings Act. All of those rather well-known measures had an expedited review provision. These are only a few of the bills that have included expedited review provisions. These were generally supported and passed in both Houses of Congress for the simple reason that there were legitimate questions of constitutionality surrounding key provisions of the bills.

Mr. President, this leads me to undisputed fact No. 9: I think we can all agree that, at a minimum, there are legitimate questions of constitutional validity regarding the DBE Program. Both the Senate and the House acknowledged these questions when we had extended debate and a divided vote back in March on whether the program was constitutional.

Moreover, the TEA 21 law is direct evidence that both the Senate and the House feel that there are legitimate constitutional questions surrounding the DBE Program. Specifically, TEA 21 contains a provision that prohibits the Department of Transportation from cutting off Federal transportation funds whenever a State discontinues its federally mandated DBE Program in compliance with a court order striking down the program as unconstitutional. So, Mr. President, the very law we passed makes it perfectly clear that there are valid questions of constitutionality about the DBE Program.

The courts have also made it clear that the DBE Program raises genuine questions of constitutionality. Case law is replete with courts striking down programs that mandate different rules and different treatment for citizens of different races. The Congressional Research Service, as I noted earlier, has found that the recent Adarand decision by the district court conforms to a pattern of Federal rulings striking down racial preference programs across the country. I have here a long list of cases in the last few years where courts have declared programs like the DBE Program to be unconstitutional. This list shows court decisions by the Supreme Court, D.C. circuit, the third circuit, the fourth circuit, the fifth circuit, the sixth circuit, the seventh circuit, the ninth circuit, the eleventh circuit—all striking down race-based programs. The list also shows other unambiguous rulings of lower courts in Georgia, Connecticut, Ohio, Louisiana, Michigan, Colorado, and the city of Houston—again, all striking down race-based programs.

Mr. President, I ask unanimous consent that this list be printed in the RECORD.

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

RACE-BASED CONTRACTING PROGRAMS ARE ROUTINELY STRUCK DOWN

The Congressional Research Service has explained that the recent district court decision in *Adarand* conforms to a pattern of federal rulings across the country striking down race-based contracting programs as unconstitutional.

See City of Richmond v. *Croson*, 488 U.S. 469 (1989); *Lutheran Church-Missouri Synod* v. *FCC*, 141 F.3d 344 (D.C. Cir. 1998); *Monterey Mechanical* v. *Wilson*, 125 F.3d 702 (9th Cir. 1997); *Engineering Contractors Ass'n of South Florida, Inc.* v. *Metropolitan Dade Co. 1997 WL 535626 (11th Cir. 1997); U.S.* v. *Board of Education of the Township of Piscataway*, 91 F.3d 1547 (3d Cir. 1996); *Hopwood* v. *State of Texas.*, 95 F.3d 53 (5th Cir. 1995), *cert. denied*, 116 S.Ct 2581 (1996); *Podberesky* v. *Kirwan*, 38 F.3d 147 (4th Cir. 1994), *cert. denied*, 115 S.Ct. 2001 (1995); *O'Donnell Construction Co.* v. *District of Columbia*, 963 F.2d 420 (D.C. Cir. 1992); *Milwaukee County Pavers Ass'n.* v. *Feidler*, 922 F.2d 419 (7th Cir. 1991); *Associated General Contractors of California, Inc.* v. *San Francisco*, 813 F.2d 922 (9th Cir. 1987); *Michigan Road Builders Assoc., Inc.*, v. *Milliken*, 834 F.2d 583 (6th Cir. 1987).

Houston Contractors Association v. *Metropolitan Transit Authority of Harris County*, 993 F.Supp. 545 (S.D. Tex. 1997); *Adarand* v. *Pena*, 965 F. Supp. 1556 (D. Colo. 1997); *Associated General Contractors of America* v. *Columbus*, 936 F. Supp. 1363 (S.D. Ohio 1996); *Louisiana Associated General Contractors, Inc.* v. *Louisiana*, 669 So.2d 1185 (La. 1996); *Contractors Ass'n. of Eastern Pennsylvania* v. *Philadelphia*, 893 F. Supp. 419 (E.D. Pa. 1995), *affirmed* 91 F. 3d 586, (3d Cir. 1996) *cert. denied*, 117 S. Ct. 953 (1997); *Arrow Office Supply* v. *Detroit*, 826 F. Supp. 1072 (E.D. Mich. 1993); *Arrow Office Supply* v. *Detroit*, 826 F. Supp. 1072 (E.D. Mich. 1993); *Associated General Contractors of Connecticut* v. *New Haven*, 791 F. Supp. 941 (D. Conn. 1992); *S.J. Groves & Sons Co.* v. *Fulton County*, 696 F. Supp. 1480 (N.D. Ga. 1987).

Mr. MCCONNELL. Finally, Mr. President, undisputed fact No. 10: If we are willing to grant expedited review to ensure the constitutionality of everything from census sampling to vouchers to vetoes to balanced budget laws to Internet restrictions, then surely we would all agree that Americans deserve to know whether an important law involving race, civil rights, the 5th and 14th amendments, is constitutional.

We all know that there are many more cases striking down racial preference programs than there are cases striking down vouchers, or line-item vetoes, or balanced budget laws, or Internet restrictions. In fact, I will bet that you could combine and add up all of the cases striking down vouchers, line-item vetoes, balanced budget laws, and Internet restrictions, and that amount still would be less than the number of court cases striking down racial preference programs. Surely, if we have given expedited review to all of those other issues, then we are going to give expedited review to the critical issue of civil rights and the constitutional guarantee of equal protection of the laws.

Mr. President, I have spelled out 10 undisputed facts which serve as the common ground for the amendment I have offered. I think these facts are more than reason enough to immediately pass this expedited review amendment.

Let me simply close by pointing out that the time for debating the constitutionality of the DBE Program has passed. Now the courts must decide. My proposed amendment simply just says that the Supreme Court should tell us once and for all whether a transportation program that treats contractors and subcontractors differently based on race can survive strict scrutiny.

We must ensure the constitutionality of the DBE Program. We owe it to the States and localities that are receiving the billions of dollars in TEA 21 funds.

We owe it to the contractors who are threatened with the loss of jobs and contracts if they do not comply with the constitutionally suspect mandate of TEA 21.

We owe it to the minority-owned businesses who are forced to hang in the balance and twist in the constitutional winds wondering if the current program will survive a court challenge.

And, finally, we owe it to every American who sent us to the U.S. Senate to faithfully uphold the Constitution.

Mr. President, that is all this amendment would do. Regardless of how Senators may have voted on this measure back in March, this would quite simply just provide expedited Supreme Court review in this field. This is something we have frequently done, as I indicated in my prepared remarks.

I hope that this amendment will be cleared and accepted on both sides of the aisle.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. MOSELEY-BRAUN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MOSELEY-BRAUN. Mr. President, I would like to respond to the amendment by the Senator from Kentucky. But at the outset, I want to point out that inasmuch as this amendment came, we haven't had a chance to go back and check citations and check the references that he made in the speech. However, I would point out that at the outset, the simple and obvious undisputed fact is that the Governor of Kentucky does not like the idea of there being any disadvantaged business enterprise law in this great country, and wants very much to see it repealed. This amendment is no more and no less than a subterfuge for that. Frankly, as far as I can determine, it will effectively tie up the consideration of this legislation.

I tried to listen as closely as I could to the Senator from Kentucky in his argument with regard to the reasons for the expedited consideration.

I would point out that our Constitution provides a process, a procedure, for judicial review of legislation passed by this Congress, not the least of which requires the handling of a case in controversy. Those constitutional requirements and those procedures have been in place really since, I would say, the founding of this country. But that probably is not true. Marbury v. Madison was probably the first case in which the ability of the judiciary to determine the constitutionality of an act of Congress was upheld. And I think the precedent goes back to that.

The Senator from Kentucky wants to have this Senate say that the procedure that has stood in very good stead for the consideration of all the legislation that we have passed over the last couple hundred years is not good enough when the issue is race; that it is not good enough when the issue is gender; and, that is not good enough when the issue is providing some avenue for bringing people into the main stream of our American economy who had heretofore been excluded from it.

I point out that the DBE is shorthand for Disadvantaged Business Enterprise. It is in the first instance a business enterprise. It says that of the contracting that takes place in transportation, it is only right, it is only fair, that women, that minorities—and minorities meaning a whole range of people—have an opportunity to participate as equal partners in the conduct of business for the development of the Nation's transportation system. This is not anything, or this should not be anything dramatic. This shouldn't, frankly, rattle any cages, particularly when one considers that the amount of contracting the last time I looked was less than 5 percent for women and for minorities.

When you think about that, you are talking about women being roughly half the population of this country and minorities as roughly another 40 percent or 30 percent of this country. So the majority of the population is allowed an opportunity to participate at a minority level in contracting under the Department of Transportation by virtue of this Disadvantaged Business Enterprise Act. It has obviously been a matter of controversy precisely because it speaks to open the door to women, it speaks to open the door to minorities, it speaks to Federal contracting activity under the auspices of, again, the Disadvantaged Business Enterprise section of ISTEA, which is the Intermodal Surface Transportation and Efficiency Act.

This has been a controversy to the extent that the Supreme Court has already taken the issue up in another context at least with regard to a State court law in the Adarand v. Pena case.

In the Adarand v. Pena case, the Supreme Court said that the Federal Government must subject affirmative action programs to ''strict scrutiny,'' meaning that the programs must be ''narrowly tailored'' to meet a ''compelling government interest.''

The Court explicitly in that case stated that affirmative action is, in fact, still necessary. It wrote, and I want to quote from the Adarand case:

> The unhappy persistence of both the practice and the lingering effects of racial discrimination against minority groups in this country is an unfortunate reality, and the government is not disqualified from acting in response to it.

I will even take issue with that part of the dicta in the case in that the DBE law, the Disadvantaged Business Enterprise law, applies not just to racial minorities; it applies not just to ethnic minorities, but applies to women as well.

So we have a situation in which individuals who, because of their situation, their status, their station in society, had not been previously able to do business, start out with something of a disadvantage, and it is for that reason that the program was initiated to correct that imbalance to bring some fairness, to bring some equity, to bring some fair share of the spending of Federal contracting dollars with the majority-minority community.

I say again, ''majority-minority'' community, because when you add women and African Americans, Hispanic Americans, Native Americans, Asian Americans, all of the different groups included in the definition, the last time I looked, when you add all of the minority groups, when you add women, you are really talking about a majority of the population of this country. The DBE, Disadvantaged Business Enterprise, section of the law allows them to participate in the transportation equity, in the Department of Transportation funding.

The question is, Why are we here to talk about this amendment? What does this amendment do, and why does it seek to do it? Well, what this amendment says is that the minute someone comes in and says, ''Oh, my goodness, I don't think that this is constitutional,'' that the case has to be expedited; that the district court advance, expedite over everything else.

That means, then, that if you are a district court judge, and someone comes in with a case that says, ''Ah-ha. I think that the program that is giving this female contractor the asphalt paving contract in my State, I think that is illegal.'' Then your case goes ahead of the murder cases on the docket; your case goes ahead of the drug cases on the docket; your case goes ahead of the antitrust cases on the docket; your case goes ahead of the civil rights cases on the docket; and your case goes ahead of everybody.

We have to ask ourselves: Does this make any sense at all? Why is there such an egregious harm? What devastating occurrence has taken place that would give this claim a right to overcome everything else on a court's docket and make it go directly to the Supreme Court? Do not pass go, do not take advantage of the procedures that have been placed literally, in many instances, since the founding of this Republic.

The Senator from Kentucky apparently thinks that opening up the door and allowing women and allowing minorities to have some part of the business enterprise of this country is just that egregious an occurrence that it ought to take precedence in its ability to be challenged in the courts; that we ought to throw aside hundreds of years of precedents in court, hundreds of years of procedure in order to make certain that a claim of this magnitude goes directly to the Supreme Court, and has an opportunity to be heard immediately before anybody else has the right to get protected.

I submit to my colleagues that the logic of this amendment is what fails it the most. It is simply not logical to put aside everything else on a court's docket to avoid the court of appeals altogether, to take this dramatic move

to redress what injury. What injury? I think the Senator from Kentucky fails to demonstrate the injury. The Senator from Kentucky also fails to talk about what standing, what case or controversy, what issue would give rise again to the need to undo all of the procedures associated with the challenging of the constitutionality of cases in the courts of this country.

So what this amendment really is about is attacking the legality of the DBE set-aside program through the side door. Would that it be through the back door, it would be even more direct. But this goes through a side door and takes with it the integrity of the court's procedures. This goes through a door that says, ''Whenever we don't like something in this Congress, we can just change the law and change the relationship between the courts and the executive branch and the legislative branch willy-nilly as we see fit and come up with a brand new procedure that we create out of whole cloth.''

That is what this amendment does. It creates from whole cloth a process of appeal for a set of circumstances, again, the injury of which, frankly, escapes me, and I think escapes a number of our colleagues.

I would point out that the front-door attack on the DBE Program failed, failed by 58 votes during the ISTEA debate, and it was, frankly, a very good thing, in my opinion. I understand the Senator from Kentucky and I see these things differently, but in my opinion it was a very good thing that a number of our colleagues recognized they would have to go home and explain to all of the women who had wanted to do business with the Department of Transportation the door was slammed in their face, and that wasn't a good thing. Then they would have to go home and explain to all of their minorities, be they racial minority or ethnic minority, why the door was slammed in their face. And that would not be a good thing.

The amendment was defeated in the front-door attack, and so now the Senator from Kentucky has developed a way to come at it sideways by saying, We are not going to ourselves repeal it, or attempt to repeal it, because we cannot repeal it; we are not ourselves going to take on straight forward the legality or the propriety of the Disadvantaged Business Enterprise Program, and we are not going to go in the back door, either. We are going to get in the side door. We are going to let anybody out there who might want to take up this cudgel for us, who might want to play politics in the courts for us, we are going to give them an opportunity to do it, and we are going to let them do it in an expedited way.

Well, let me suggest that this is not a place where new judicial procedures ought to be supported. There is no reason for this new set of procedures or for this new expedited appeals process. This controversial amendment does not belong on this bill because, quite frankly, I believe this amendment in and of itself would be enough to bring down this bill. I don't think the Senator from Kentucky or anybody else wants to see something as important as this legislation go down over this novel, creative, innovative, imaginative, interesting but bizarre, legal procedure that is being suggested by the Senator from Kentucky.

I have just received a note from the ranking member, and I don't know if he wants to say something or not, but, in any event, I certainly will defer to him and his leadership in this area. He has been exemplary over time.

Mr. President, I plead with the Senator from Kentucky to refrain from the controversy that is about to be visited on this very important legislation.

I thank the Chair, and I yield the floor.

Mr. LAUTENBERG. Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCONNELL. Mr. President, this is not a complicated amendment. We had the debate back in March on the DBE Program and the Senate spoke. The Senate decided that it wanted to accept on faith that the administration would issue regulations that complied with the Adarand decision and the subsequent district court decision ruling the DBE Program to be unconstitutional. All the amendment of the Senator from Kentucky does is provide for an expedited review of those regs once they are promulgated and litigated as they will certainly be litigated.

It is not unusual on matters of extraordinary and constitutional significance for the Congress to say, ''We would like to get an expedited review, an answer to the issue.'' So that is all this amendment is about. It does not deal with the merits of the debate at all. The Senator from Kentucky did not support the program and did think the Senate ought to follow the Adarand case, but the Senator from Kentucky lost that debate, cheerfully, I might say, and all we are asking for here in this proposal is to get an expedited Supreme Court review of the new regs after they are promulgated.

I, frankly, thought this amendment would be accepted and am somewhat surprised that we are having a debate about it. But that is all this amendment does. Regardless of how Senators may have voted on the DBE Program back in March, this is not about that. All this amendment does is obtain an expedited decision by the Supreme Court once some regulations are, at long last, promulgated.

I see my friend from Alabama in the Chamber. Let me just mention a few other bills in which we did this. This is not unusual. We did it with the line-item veto, which the Supreme Court recently struck down. We had such a provision in the Communications Decency Act. We had it in the census sampling measure in last year's Commerce-State-Justice appropriations bill. We had a similar provision in the D.C. Schools Opportunity Scholarships Act and the Gramm–Rudman-Hollings Act.

Mr. President, this is not in any way extraordinary or unusual to hope that the Supreme Court might give us some expedited guidance is a matter of great importance.

Mr. President, I see the Senator from Alabama in the Chamber. I am happy to yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I had occasion to study this issue previously, and there is a serious question this country is facing. I believe the Supreme Court has given attention and careful review to it. I believe they are very, very sensitive to the national interest in having minority citizens, minority groups be able to rise and succeed in our Nation. At the same time, I think the Supreme Court is troubled by a policy that, in effect, says you have a preference simply because of the color of your skin. In fact, I think that they have said Adarand could violate the Constitution of the United States. That is a serious matter. I believe the Adarand decision is well decided. I believe in my judgment, and I don't claim to be a Supreme Court Justice, but in my judgment the present statute that we passed is in violation of Adarand. But, regardless of that, the President has said that he can cure the problems of Adarand through regulations and they intend to issue regulations that would avoid this conflict. I am not sure that is possible. It may be. But what I hear the Senator from Kentucky to say is we are not here to debate that issue again. We are simply saying that if this law, and the regulations imposed by it, violate the Constitution of the United States, before we pass it we ought to set up a system in which there can be a prompt review by the courts to judge on that.

That is all this does, it seems to me. I salute him for suggesting at least one small step that will reach a final conclusion of this matter.

Before the Senate Judiciary Committee we had hearings on this matter. We had the lady who was married to the president of Adarand Corporation. She testified how they had suffered because of the set-asides in the transportation law. I think it is a serious question. If it is outside the Constitution, they ought to have an expedited review.

I think the Senator from Kentucky has proposed a reasonable, fair amendment. I think any of us ought to be able to support that. I thank him for doing so, and I look forward to continuing this healthy debate about how we ought to disperse the benefits in

this country, what standards should be applied, and how our goods and services ought to be dispersed. I suggest they should not be dispersed on the basis of the color of one's skin.

Mr. President, I yield the floor.

Ms. MOSELEY-BRAUN. Will the Senator from Alabama yield for a question?

Mr. SESSIONS. I will be glad to. I have yielded the floor.

Ms. MOSELEY-BRAUN. Is the Senator from Alabama aware that the program applies not just to people based on the color of their skin, but also to women, as well as other ethnic groups who have not historically done business with the Department of Transportation?

Mr. SESSIONS. Yes, the Senator is quite correct. It does apply to a number of different circumstances. Some of those circumstances, I suggest, probably are constitutional. Many of those things may be required. Certain parts of it may not be. I suggest, with regard to those that may not be, let's go on and not have it take 3 years to get up through the court system. Let's have a review so there can be a prompt determination of what would be legitimate and what would not be.

Ms. MOSELEY-BRAUN. I thank the Senator.

The PRESIDING OFFICER (Mr. FRIST). Is there further debate on the amendment?

If there be no further debate, the question is on agreeing to the amendment.

Mr. SARBANES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SHELBY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to amendment No. 3326.

The amendment (No. 3326) was agreed to.

Mr. SHELBY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LAUTENBERG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JEFFORDS. Mr. President, I want to thank Senator SHELBY and the entire Senate Transportation Appropriations Committee for their work putting together this legislation. I would like to briefly engage my colleagues in a colloquy on an issue important to me and my constituents in Vermont; preservation of our nation's historic covered bridges. The recently passed federal transportation legislation, ISTEA–2, contains language authorizing funding to protect historic wooden covered bridges. The National Historic Covered Bridge Preservation Act asks the Secretary of Transportation to study the appropriate techniques to protect and preserve covered bridges, distribute this information to states and towns across the country and grant funds to fully repair and protect these beautiful old historic structures. The bill, that is now law, authorizes $10 million for these activities. I understand the difficulty my colleagues had in distributing funds in this legislation. Although no funds were directly appropriated for these activities, I would ask the Chairman of the Senate Transportation Appropriations Subcommittee if he would agree that preservation of historic covered bridges should be a priority?

Mr. SHELBY. Mr. President, I agree with the Senator from Vermont that preserving our nation's historic covered bridges should be a priority for the U.S. Department of Transportation and transportation departments across the nation.

Mr. JEFFORDS. Would the Senator agree that from available funds included in this legislation for the Federal Highway Administration that priority should be given to funding the collection and dissemination of information concerning historic covered bridges, conduct research on the history of historic covered bridges, and study the techniques for protecting historic covered bridges from rot, fire, natural disasters or weight related damage? Would the Senator agree that the Federal Highway Administration should use available funds to develop and publish guidance for implementation of the National Historic Covered Bridge Preservation Act?

Mr. SHELBY. Mr. President, I agree with the Senator from Vermont that the Federal Highway Administration should make this a priority and move to publish guidance as soon as possible.

Mr. JEFFORDS. Would the Chairman of the Senate Transportation Appropriations Committee agree that funding for the repair and reconstruction of covered bridges should be given priority within the Bridge Discretionary Program?

Mr. SHELBY. Mr. President, I agree with the Senator from Vermont that every effort should be made by the Secretary of Transportation to use funds from within the Bridge Discretionary Program to repair and rehabilitate covered bridges across the nation.

Mr. JEFFORDS. I would like to thank both Chairman CHAFEE and Chairman SHELBY for their commitment to covered bridges and for working with me to ensure that the program is fully funded within available funds at the U.S. Department of Transportation.

Mr. GORTON. Mr. President, I rise today in support of the Transportation Appropriations measure crafted by Senator SHELBY. This bill takes a significant step forward in addressing the transportation needs of the nation, and more specifically of Washington state.

As the Aviation Subcommittee Chairman, I am especially pleased with the generous increase in funding for the Airport Improvement Program. The Airport Improvement Program provides valuable grants to fund the capital needs of the nation's commercial airports and general aviation facilities. It allows the Secretary of Transportation and the FAA Administrator to fund planning, design, and construction of airport projects directly affecting aircraft operations, including runways, aprons, and taxiways, with the purpose of maintaining a safe and efficient nationwide system of public use airports.

Adequate funding for AIP is integral to addressing the infrastructure needs of our national aviation system. The GAO estimates that the gap between available funds and projected maintenance and construction costs for airports is almost $3 billion. The $2.1 billion included in this measure for AIP is a significant step toward bridging this gap. As the Aviation Subcommittee Chairman, I will continue to look for the best possible way to assist the Appropriations Committee in meeting the infrastructure needs of our aviation system.

Chairman SHELBY also included several aviation related items that will have a positive impact on Washington state's airports. Inclusion of $6 million for the Contract Tower Cost-Sharing Pilot Program is certainly a positive development for my state. This new program, which I am also working on in the context of the FAA reauthorization measure, will allow local airports that fall below the eligibility criteria for the existing program to cost-share with the FAA. The $6 million included by Chairman SHELBY will cover cost-sharing arrangements for approximately 30 contract towers across the country. Olympia and Felts Field are the two affected airports in Washington state that will be able to maintain their contract towers and, therefore, not diminish the current level of safety.

I am pleased that the Chairman included $3 million for the Tactical (Transponder) Landing System. This system was recently certified by the FAA and could provide immense benefit to airports that are surrounded by geographical barriers such as mountainous terrain or approaches over water that render the current Instrument Landing System useless. With the installation of a TLS, Boeing field, whose current approach patterns cause significant noise problems for local residents, will be able to structure much more agreeable landing patterns. Moscow/Pullman airport, which is also named in the bill, should be an excellent test of the effectiveness of a TLS in mountainous terrain.

I would also like to commend Chairman SHELBY for giving priority consideration to Felts Field, Pangborn Field, Paine Field, and Spokane International airports, which all face unique problems that I look forward to working with the FAA to resolve in a safe and timely manner.

This bill is not only positive for aviation. The Chairman has realized that innovative thinking and problem solving in the transportation field deserves priority consideration. This is demonstrated in the Transportation Planning, Research, and Development account, where the Chairman included two projects in Washington state that will serve as models for communities across the nation. The first is a freight mobility study instigated by the Kent, Washington Chamber of Commerce that will bring together representatives from federal, state, and local governments, as well as the shipping, trucking, and rail industries, along with organized labor, to brainstorm on ways we can make the existing system work better, realizing that we have finite resources with which to improve our aging infrastructure.

The other Washington state project included in the Transportation Planning, Research and Development account is the Chehalis Basin/I–5 Flooding project. Currently, flooding in the Interstate 5 corridor near Centralia/Chehalis in Washington state seriously compromises freight mobility, with damage and impact estimates of $50–80 million per day. The Washington State Department of Transportation (WSDOT) is currently planning to solve the problem by elevating the freeway for almost three miles. This would be a typical transportation project, but it would also exacerbate the flooding problem in the Chehalis River Basin and have extensive environmental impacts. The plan is estimated to cost $98 million, with funding anticipated from the federal roads allocation to the states. As an alternative, Lewis County is leading a consortium of three counties (with Grays Harbor and Thurston), two cities (Centralia and Chehalis) and the Chebalis Tribe to eliminate the I–5 flooding problem by solving the flooding problem in the upper Chehalis River Basin. Work on this project is well-advanced, and cost estimates range between $60–80 million. I look forward to working with the Chairman to ensure a significant federal contribution to assist in the costly permitting process that will make this common sense alternative solution a reality.

The Chairman was also very generous in his support for the Regional Transit Authority, which was recently renamed Sound Move. On November 5, 1996, the voters of the Puget Sound region approved this $3.91 billion transportation proposal. Sound Move will increase the capacity of the region's transportation system through a fix of light rail, commuter rail, High Occupancy Vehicle (HOV) expressways, regional express bus routes and ''community connections'' (such as park-and-ride lots and transit centers). Once completed, transit customers will be able to travel throughout a densely populated tri-county region in the state—Pierce, King and Snohomish counties—by local bus, regional bus, light rail and commuter rail, using a single ticket.

By passing the Sound Move ballot measure, voters in the Puget Sound region agreed to provide the local funding portion of the plan through a .4 percent increase in the local sales tax and a .3 percent increase in the motor vehicle excise tax. These tax revenues will provide a stable, dependable, dedicated source of local revenue for building, maintaining and operating the system. Coupled with revenue collected from bonds and fareboxes, this funding will provide a 62 percent local match for the light rail and commuter rail portions of the project and over 80 percent of the total $3.91 billion project.

Despite the voters' clear willingness to pay for an improved transportation system, the Regional Transit Authority needs federal financial assistance to successfully implement the light rail and commuter rail portions of this plan. The rail segment of the Sound Move proposal includes: a 25-mile light rail line with 26 stations between Seattle's University District and the City of SeaTac via downtown Seattle and the Seattle-Tacoma International Airport; a 1.6-mile light rail line between downtown Tacoma and the Tacoma Dome train station; and an 81-mile commuter line using existing freight track between Everett and Lakewood with at least 14 stations.

Mr. President, Sound Move is one of the most cost-effective projects in the nation, with one of the strongest local commitments. In fact, Sound Move ranked Medium/High in all categories in the recently released Department of Transportation FY '99 Report on Funding Levels and Allocation of Funds for Transit Major Capital Investments. These rankings demonstrate the overall strength of the project, which boasts ridership and cost effectiveness estimates that unquestionably rank it among the top new starts in the country. The voters around Puget Sound are eager to join the federal government in making this project a reality and it is my hope that the $60 million included in this measure for the rail component of Sound Move will be supplemented by the full $18 million which was included in the House bill for buses.

Mr. President, once again, I would like to thank the chairman for crafting a fair measure that adequately funds our national priorities while realizing and addressing the unique transportation problems facing Washington state.

Mr. MCCAIN. Mr. President, the Senate has completed action on several of the annual appropriations bills that fund the federal government and its many programs.

The appropriations bills that have cleared the Senate to date contain many good provisions and generally provide appropriate levels of funding to continue the necessary functions of the federal government. But, Mr. President, these bills regretfully continue the practice of earmarking billions of taxpayers dollars for pork-barrel projects.

Over my tenure in Congress, I have consistently fought Congressional earmarks that direct money to particular projects or recipients, believing that such decisions are far better made through competitive, merit-based guidelines and procedures.

Traditionally, earmarking has been more geared to political interests rather than public needs and priorities. Highway demonstration projects, earmarked by Congress, have been a classic case-in-point. Most of these projects, which totals more than $9 billion in the Transportation Efficiency Act for the 21st Century (TEA–21), don't even appear on state priority lists.

The same is true for many other Congressional earmarks. I find this an appalling waste of taxpayer dollars. And, S. 2307 is typical of the types of earmarks and set-asides that Members add to the multi-billion dollar appropriations bills we annually consider.

This bill and report earmark more than $1.1 billion for site-specific bridge repairs and airport projects, research activities at selected universities, intelligent transportation projects, ferry systems, road improvements in ski areas, state-specific snow removal activities, bus purchases and transit projects.

Mr. President, S. 2307 continues Amtrak's subsidies yet goes so far to concoct yet a new spending scheme to pay for its operating costs. I will be proposing an amendment to ensure Amtrak's financial situation is not a moving target and that the integrity of the reform legislation enacted just over six months ago is not jeopardized by the proposals in this measure.

This bill further earmarks several million dollars of Amtrak's capital funds for new projects associated with Amtrak. The Committee report earmarks $1.4 million to relocate an Amtrak passenger station in Pennsylvania, $2.5 million to refurbish two turbo trainsets for Amtrak's empire corridor, and $1 million to install a speed monitoring system on locomotives operating between New Haven, CT and Boston, MA. The report also directs that $800,000 be used to restore the historic Southern Pines, NC, railroad station, which is owned by the State of North Carolina and served by Amtrak's Silver Star route.

Didn't the Congress agree last year that Amtrak needs to operate like a legitimate business? Isn't that why we approved legislation which placed Amtrak on a glidepath to free itself of operating subsidies? How is directing Amtrak to carry out these projects or requiring it to spend its resources on certain stations going to help Amtrak ever achieve its financial goals? Amtrak should be permitted to expend its funds on those projects it deems most critical, not on projects required by the whims of Congress.

Mr. President, in addition to the types of earmarking I have mentioned, the Appropriators have taken a number of actions that fall squarely under the authorizers' duties. For example, the bill would prohibit the Coast Guard from implementing any new navigation user fees. This means the Administration would be prevented from implementing even reasonable new user fees. I understand the concerns that the user fee proposed by the Administration are discriminatory in that they would target only certain users of the navigation system, but the language in the bill is overly restrictive.

Mr. President, there are some small earmarks in this year's transportation appropriations bill as well as some very large earmarks. For example:

More than 80 percent of the total funding provided for Intelligent Transportation Systems deployment projects are earmarked. The bill specifically sets aside more than $84 million for projects in 20 cities and counties, and in 13 states.

Although no dollar amounts are set for individual bus projects, the bill prohibits the Federal Transit Administration from using any of the $393,550,000 provided in the bill for any project not designated in S. 2307. All of the 150 TEA–21 authorized bus projects are included in the bill, and more than 150 new projects are named. Some of these projects have been earmarked in the past and others are new additions to the bus earmark parade.

The appropriators have earmarked all of the $902,800,000 provided for the new transit and transit system extensions program. Many of the projects are unauthorized and were not requested by the Administration.

Examples of the earmarks for unauthorized projects include $2.5 million for multimodal transportation in Albuquerque/Santa Fe, New Mexico; $8 million for a transitway corridor in North Miami; and $250,000 for a micro rail trolley system in Sioux City, IA.

Why are the appropriators so reluctant to permit projects to be awarded based on a competitive and meritorious process that would be fair for all the states and local communities? I suspect it is due to the fact they doubt the merits and worth of the very projects they are earmarking.

The bill contains a legislative amendment to section 1110 of the Alaska National Interest Lands Conservation Act of 1980 (ANILCA). By making a simple definitional change, the provision would modify ANILCA to permit helicopters to land in all conservation system units in Alaska, including National Forests, National Wildlife Refuges, National Parks, and National Wilderness Areas. The legislative changes could result in large-scale helicopter tourism in these sensitive conservation system units. The transportation appropriations bill is not the appropriate forum to address a controversial environmental issue. A helicopter's ability to hover over an area is disruptive to wildlife, including large game species and nesting birds. In addition, the capability of a helicopter to land in areas where airplanes cannot causes concern for the integrity of the habitat.

I have only mentioned a few of the examples of earmarks and special projects contained in this measure and I will not waste the time of the Senate going over each and every earmark.

Mr. President, I also want to express the critical need for Congress to send a very clear message to Secretary Slater regarding the Department of Transportation's treatment of the committee report accompanying this bill. Earlier this week, I chaired a hearing on the Department's actions regarding discretionary funding decisions. Believe it or not, some of the DOT modal administrations do not even understand the clear delineation regarding statutory bill language and a committee report. While I did my best to impress upon these modes—particularly the Federal Transit Administration—that report language does not have the effect of law, I am still not sure they get it.

Therefore, I urge Secretary Slater to take immediate action to educate his Department on the very clear and significant differences between the bill language and report language. Report language is not law. Report language does not have the effect of law. Report language is advisory. It's as simple as that.

CONTRACT TOWER COST-SHARING

Mr. FAIRCLOTH. I would like to ask the distinguished chairman of the Transportation appropriations subcommittee about the provision in the bill that includes $6 million for an FAA contract tower cost-sharing program. I have several contract towers in my stat that would benefit greatly from such a program. What is the intention of this provision?

Mr. SHELBY. The FAA contract tower program has been proven to be a very cost-effective way for the FAA and local airports to work as partners to improve air traffic safety in many smaller communities. In fact, the Department of Transportation Inspector General recently determined that the program provides quality air traffic control services at a lower cost compared to the FAA. This cost-sharing program would enable some airports that fall just below the eligibility criteria for a contract tower to retain their air traffic control services by paying for a share of the costs. The Committee believes that this program will improve aviation safety in small communities at a minimal expense to the FAA.

HIGHWAY RESEARCH AND DEVELOPMENT, BRIDGE STRUCTURES AND THE UTAH TRANSPORTATION CENTER

Mr. BENNETT. Mr. President, I rise today to enter a colloquy with the Chairman of the Subcommittee on Transportation Appropriations, Senator SHELBY. The topic of my colloquy addresses the ongoing design/build work on Interstate 15 through the Salt Lake Valley and the unique opportunity this project presents to conduct seismic and other bridge structure research on existing overpasses that will soon be replaced.

I would like to thank the Transportation Appropriations Chairman for his interest and support of research on Interstate 15 bridge structures during the reconstruction of this important segment of highway. The Subcommittee on Transportation Appropriations included language in its report (105–249, page 96) which provides $2,000,000 for research on Interstate 15 bridge structures. This report language directs the Federal Highway Administration to make this money available to the Utah Department of Transportation (UDOT) and the Utah Transportation Center (UTC), Chairman SHELBY, am I correct in understanding that UDOT was included in this language primarily to facilitate the flow of these federal funds to the Utah Transportation Center which will administer the research done by Utah State University, University of Utah and Brigham Young University?

Mr. SHELBY. My colleague from Utah is correct in his understanding of this situation. Since the Federal Highway Administration already has a relationship developed with UDOT, the Committee included the state agency to facilitate the flow of these research funds to the Utah Transportation Center made up by the universities mentioned. The Committee believes that these funds should be made available to the UTC expeditiously so that this opportunity for bridge structure research is not lost.

Mr. BENNETT. I thank the Chairman of the Subcommittee for his clarification and I thank the Chair for its time and attention on the Senate Floor.

SOUTHWEST FLORIDA INTERNATIONAL AIRPORT APPLICATION FOR A LETTER OF INTENT

Mr. MACK. Mr. President, southwest Florida is one of the fastest growing areas in the country. Not surprisingly it is also my understanding that RSW is the third fastest growing airport in the United States. Additionally, I am told RSW has experienced an average annual growth of 9.2 percent over the past ten years.

Due to this unprecedented growth, RSW has embarked upon a major expansion program which includes construction of a new terminal and runway. This project is one of the State of Florida's most important airport projects and it has received substantial funding from the State. Moreover, the Federal Aviation Administration has provided discretionary funding for this worthy project due, in no small part, to the support of the distinguished Chairman of the Transportation Appropriations Subcommittee, Senator SHELBY, and his subcommittee over the past two years through the prior Transportation Appropriations bills. I very much appreciate the support of the Senator for RSW and its expansion project.

Additionally, as the Senator may be aware, earlier this year RSW submitted a request for a Letter of Intent to the FAA in order to support their expansion project from the agency. Over the course of the last several years, recognizing the budget constraints which the FAA must operate under, RSW officials have worked hard to significantly reduce the federal share of this project by more than 30 percent.

I believe the Chairman of the Subcommittee can appreciate the efforts of RSW, in working with the FAA, to craft a plan which meets the needs of the airport yet substantially cuts costs in an effort to remain within the FAA's anticipated budget constraints. I feel confident this is the type of cooperation from a project which the FAA should consider for priority LOI consideration.

Mr. SHELBY. I thank the distinguished Senator from Florida for his comments regarding our subcommittee's past support of the Southwest Florida International Airport. The Senator has been very active in keeping the subcommittee informed on the progress of the expansion at RSW. Because of this, I am well aware of the intense growth that this airport has experienced over the past several years.

Likewise, I am aware of the efforts of RSW to work with the FAA in developing an LOI request, and that this effort has resulted in a substantial reduction in their request, making it reasonable within today's budget environment. I believe the behavior and efforts exhibited by RSW in working with the FAA, as well as their established need, are exactly the sorts of things the FAA should be looking for when considering LOI requests. Accordingly, I encourage the FAA to give priority consideration to RSW's request for a Letter of Intent.

Mr. MACK. I thank my colleague from Alabama for his past commitment and support of the Southwest Florida International Airport (RSW) and look forward to continue working with him in the future.

KEEP HELICOPTERS OUT OF WILDERNESS

Mr. LEAHY. Mr. President, there are maybe thirty-five legislative days left this Congress. We have passed six out of thirteen appropriations—and those have been the easier ones. Now—we are facing the appropriations bills that are bogged down with legislative riders and have already invoked Presidential veto threats.

The Transportation Appropriations bill though is fairly clean and we might be able to pass it tonight. Unfortunately, the temptation to put environmental riders on this bill could not be resisted. Section 342 of this bill will overturn eighteen years of national environmental policy, open some of the most pristine wilderness in the country to helicopter landings.

Mr. President, I was here when the Alaska National Interest Lands Conservation Act was passed by Congress. I remember the careful balance that was crafted to pass this landmark legislation. The question of allowing helicopters was raised at that time and the answer we came up with was to not allow them in wilderness areas except for emergency situations. If you look at the legislative history included in the Senate Report for ANILCA it specifically lists what transportation was allowed in wilderness areas and helicopters are not one of them.

Instead, it directed the Secretary of the Interior to allow airplanes to be used in wilderness areas for traditional activities. Mr. President, I understand why this exception to the national Wilderness Act was made for Alaska and I supported it at the time. But I supported it as part of a larger compromise. One that this language will now undo.

Two years ago, the Forest Service conducted an Environmental Impact Statement on this same proposal and concluded that helicopters were not airplanes and were not a traditional means of access to the wilderness areas. Obviously, some of my colleagues do not like this conclusion and felt that tacking an environmental rider onto the transportation appropriation bill was the best way to get around it.

The Interior Department has also objected to this language due to the impact on wildlife in these wilderness areas. Mr. President, I think we all know that a helicopter flying overhead is much louder than a small airplane flying overhead. Helicopters blast the adjacent area with a minimum of 100 decibels or more.

But this language is not about just sheer noise. It is also about allowing helicopters to hover and land anywhere in these areas—the remote reaches of the Tongass National Forest, the glaciers of Kenai Fjords National Park and even the inlets of Glacier Bay.

Although it may seem like it now, I am not the only person speaking out against this language. I have over thirty five letters from outfitters, bush pilots and tour guides in Alaska who oppose this language.

So, Mr. President, I simply ask: What is the rush? Why are we including language in a transportation appropriations bill that rewrites legislation that has been on the books for eighteen years, on which no hearings have been held and that has been recommended for a veto?

Mr. FEINGOLD. Mr. President, I want to express my concern about Section 342 of the Senate FY 99 Transportation Appropriations Bill. That section creates an exception in the Alaska National Interest Lands Conservation Act allowing helicopter landings by the general public on federally-designated wilderness and other protected lands within Alaska.

Federal wilderness lands in Alaska are covered by two federal laws: the Wilderness Act of 1964 and the Alaska National Interest Lands Conservation Act, known as ANILCA. To describe the interaction of these statutes in more detail, Mr. President, the Wilderness Act establishes a federal definition of wilderness, and governs the use and administration of land within the various states that have been designated by Congress as federal wilderness. ANILCA, which passed in 1980, is the statute which designated various lands within the state of Alaska as federal wilderness. It also conferred other federal land use designations, creating parks, monuments and other protected status lands in Alaska.

The reason I am concerned about Section 342 of the bill before us is that it replaces the word ''airplane'' with ''aircraft'' within ANILCA. Though such a change would appear benign to those who do not know the statute well. However, that is not the case. The practical effect of the proposed amendment would be to permit helicopter landings by the general public in federal wilderness areas and other protected lands in Alaska.

Why is this such a concern, Mr. President? There are two major reasons why I find this one-word switch troubling. First, expanding the type of aircraft allowed in federal wilderness areas violates the Wilderness Act and sets an alarming precedent.

Section 1110 of ANILCA presently permits the general public use, on lands protected under the act, of ''snow machines, motorboats, airplanes, and nonmotorized surface transportation methods for traditional activities.'' Although airplane use is specifically permitted in Alaska under ANILCA, helicopter landings by the general public are prohibited in all federal wilderness. However, helicopter landings are permitted on a discretionary basis by the federal land management agencies for emergency situations. All public lands in Alaska allow helicopters to land for that purpose.

I strongly support allowing helicopters in wilderness areas to rescue injured or lost visitors. And those uses are already allowed. However, I have concerns about allowing helicopter landings in wilderness for other than emergency reasons, for purely recreational purposes.

In my home state of Wisconsin, people love the wilderness areas they visit such as the Boundary Waters Canoe Area Wilderness and the wilderness areas in the Nicolet and Chequamegon National Forests. The reason they love those places, Mr. President, is not only because they are among the most beautiful spots in the Upper Midwest, but also precisely because they are remote and are challenging to reach. National Parks are beautiful places. I support them, and I visit them with my family. However, National Parks, which have roads and restaurants and maintained campsites, are not the same as the lands protected under the Wilderness Act. National Parks are maintained for public access, wilderness areas by contrast, are areas where one can bring one's canoe and tent and hike in, or fly to in a float plane, as permitted today

under ANILCA. By these means of transportation visitors can enter wilderness areas in a relatively low impact manner.

Allowing helicopters into wilderness areas would mean managing lands, that according to the Wilderness Act are supposed to remain undisturbed by human access, in a contradictory manner. Imagine being in a remote spot surrounded by nature on a nice getaway and having a helicopter land right next to you to drop people off for an afternoon of wandering around? I believe we should not sacrifice the very reasons we have protected wilderness in an effort to increase access to the wilderness. If it's easy to get to, it's not a wilderness.

Second, Congress and federal land management agencies have already considered the issue of helicopter use on wilderness lands in Alaska and have found it to be inappropriate and incompatible. The Forest Service has explicitly considered and rejected helicopters in Alaska's wilderness. In 1997, the Forest Service completed an EIS specifically addressing helicopter landings in more limited circumstances than the language in this bill. At that time, the proposal was to allow helicopters in areas other than specifically designated wildlife, cultural resource, and research areas. Section 342 would allow helicopters in all areas.

The legislative history of ANILCA also specifically excluded helicopters from lands designated under that Act. The Senate Energy Committee considered special access to lands subject to ANILCA, and the Committee Report stated ''the transportation modes covered by this section are float and ski planes, snowmachines, motor boats, and dogsleds.''

Congress has already considered this issue, Mr. President, and we have found that helicopters for general public access do not have a place in Alaska's wilderness areas. I would urge that we not go back on this sound judgment. I yield the floor.

AMTRAK

Mr. MCCAIN. Mr. President, I am very concerned over this bill's proposal concerning Amtrak's funding and will offer an amendment to ensure the proposed scheme does not jeopardize the integrity of the Amtrak Reform and Accountability Act, P.L. 105–134, enacted on December 2, 1997.

Congress worked for a number of years in a bipartisan manner and each side accepted compromises in order to provide Amtrak with the statutory reforms it said it needed to allow it a real chance to meet its financial goals. The reform bill was based on both Amtrak's Strategic Business Plan, a plan charting Amtrak's financial operating and capital needs, and its federal grant request. And of course, its ultimate approval was the key to releasing the $2.2 billion ''tax credit'' for capital investment.

As my colleagues well know, I am not a proponent of a system that was intended to be privatized two years after it was created in 1971, but instead today has racked up more than $21 billion in taxpayer support even though it serves less than one percent of the traveling public. However, I worked in good faith with my colleagues and compromised to enable enactment of a legitimate reform bill.

I have been standing by the deal I cut. I have done nothing to hinder Amtrak nor have I offered proposals to prevent it from having the opportunity to fulfill its goals. But am I the only one who believes a deal is a deal?

Mr. President, I am sick and tired of the Administration and Amtrak seeking to change the agreement which is law.

First the law required the establishment of an 11-member Amtrak Reform Council (ARC) comprised of individuals appointed by the House, Senate, and the President. The ARC is responsible for evaluating Amtrak's performance and make recommendations to Amtrak for further cost containment, productivity improvements, and financial reforms. The ARC is required to submit annual reports to Congress and it is responsible for determining if Amtrak is meeting its financial goals.

While the House and Senate fulfilled its duties to appoint its members, the President has yet to make all of his appointments. As such, Senator LOTT, myself, and Congressman SHUSTER encouraged the appointed members to meet and begin carrying out its duties.

It seems the Administration thought they could hold up the ARC from doing its work if it dragged its feet long enough but that is not the case. In fact, the Department of Transportation even resisted fulfilling its administrative duties associated with the ARC in an attempt to hinder the ARC. But the ARC members have not let DOT hold them back and they have begun a steady meeting schedule.

Next the law called for a new Reform Board to replace the Amtrak Board of Directors serving at the time of enactment. Since we expect Amtrak to try to reinvent itself and to operate like a real business, we included a provision to allow a new leadership to guide Amtrak and instill a ''new culture'' among Amtrak employees and management.

Mr. President, several provisions concerning the establishment of the new Board were included in the reform bill in an attempt to prompt timely action by the Administration and Congress. Unfortunately, the spirit of these provisions was met with little regard.

The law required the new Board to be in place by March 31, 1998. Yet, the Senate did not receive even a single nomination from the President until the eve of the Memorial Day Recess. Due to concerns that the Administration may drag its feet indefinitely, Amtrak's authorization was linked to the nomination and confirmation of a new Board. Specifically, the law provides that if the new Reform Board has not assumed the responsibilities of the Amtrak Board of Directors before July 1st, Amtrak's authorization would lapse. The law also automatically discharged pending Board nominations from the Senate Commerce Committee if the Committee had failed to act by June 1st.

Presidential nominations require Senate confirmation, with hearings and review by the appropriate Senate Committees accompanying nominations. Yet due to the lack of timely action by the Administration, the Commerce Committee had no opportunity to carry out its duties prior to the statutory automatic June 1st discharge. It is my view the Administration's timing was a direct attempt to circumvent the Commerce Committee's authority in this regard.

Mr. President, my position regarding the new Board was made clear from day one. I repeatedly voiced my concerns to the Administration each time I heard rumors of its plans to reappoint current members. I was very clear that the Commerce Committee would not report favorably any Board hold-overs and I remained firm on that position. I truly believed even the Administration would acknowledge we didn't create a new Board only to reappoint the same members.

So what happened? The Administration sent up the nominations as Congress headed into a recess. Two of the six nominations needing confirmation were Board holdovers—that is, one-third. As I have said before, the Administration must have known that the Commerce Committee would be unable to fulfill its hearings and review prior to the statutory discharge date, given the Administration's stealth nomination submission.

However, in an effort to ensure Amtrak's authorization remained intact, I again worked in good faith with the Majority Leader and others to confirm some of the nominations in order to meet the deadline. The Commerce Committee now has an opportunity to consider whether the pending Board nominees should be approved and sent to the full Senate for a vote.

The law further provides for Amtrak to be free of operating subsidies within five years. If the ARC determines Amtrak is not meeting its fiscal goals, the ARC is to develop a plan for an alternative system. At the same time, Amtrak is to develop a plan for its liquidation. If at such time this occurs, the Congress will then need to approve a restructuring plan, or the liquidation proceeds.

As I've mentioned, the sunset trigger is contingent upon Amtrak meeting its fiscal goals and being free of operating subsidies by fiscal year 2002. Yet the Administration is again attempting to get around the law. And this time, the Appropriators are helping. .

The Appropriation bill proposes to permit Amtrak to pay for its operating expenses with its capital funds. I am told this proposal is strictly due to budgetary scoring concerns. However, I am not sold.

With the stroke of a pen, this bill jeopardizes the integrity of the reform bill—specifically the sunset trigger. Amtrak's proponents could just waive this bill as a demonstration that Amtrak is free of operating subsidies, since the bill does not include a line item for operating expenses as historically has been the case.

As I see it, Amtrak and the Administration are simply attempting to shift operating expenses into its capital budget, thereby backing away from agreements reached last year during the hard-fought reauthorization process. While the reauthorization placed a cap on the amount of money that may be appropriated in any one year for operational expenses or capital investments, the authorized levels were based on Amtrak's own projected financial needs.

Mr. President, during the last days of negotiations on the reform legislation, you may recall certain members of the Amtrak Board of Directors negotiated a new labor agreement which raised salaries for union employees, thereby incurring a substantial increase in its operational costs. Amtrak's projected net loss for FY 1998 is greater than the previous year's in part due to the Board's own actions. Yet, the Board assured us at the time that the labor agreement would require no action by Congress—nor more importantly, would the labor agreement place any additional obligations on the American taxpayers. However, shifting labor costs into the ''capital'' account could clearly result in the taxpayers once again being forced to cover expenses due to Amtrak's poor management decisions.

We authorized Amtrak at funding levels based on its own projected needs. Further, we directed an independent financial assessment of Amtrak be carried out under the direction of the Inspector General of the Department of Transportation. That audit will be based in part on Amtrak's Strategic Business Plan, including its projected operating and capital costs. Should Amtrak be permitted to significantly change the way it accounts for operating and capital expenses, an accurate accounting could be next to impossible. The proposed change in the use of capital funds raises legitimate concerns whether Amtrak and the Administration may be attempting to keep Amtrak's financial situation and Strategic Business Plan projections a moving target.

Further, we have continually been told Amtrak has critical capital investment needs. Yet, I am told that more than $500 million of the $621 million for capital would likely go to cover labor and other operational costs under this latest proposed scheme. If Amtrak is permitted to shift capital funds to cover what traditionally have been considered operating costs, how will Amtrak make up for the corresponding loss in funding for its capital improvements? Time and again we have been told Amtrak faces critical infrastructure investment needs which must be met if Amtrak is to have any chance of becoming a viable operation. Time and again we have been told Amtrak needed a dedicated source of capital. As I see it, the change has the very real potential for jeopardizing Amtrak's abilities to meet its capital needs which it has sought so long to accomplish.

Therefore, the amendment I will offer is intended to retain some semblance of legitimacy to P.L. 105–134.

BUS FUNDING FOR NORTHERN NEW MEXICO PARK AND RIDE

Mr. BINGAMAN. I know the Chairman and Ranking Member are aware of the proposal in the state of New Mexico to start up a new park and ride transit system that would serve the cities of Los Alamos, Pojoaque, Española, and Santa Fe. I first brought this exciting proposal to the senators' attention last September. Is the Chairman also aware that last August the State of New Mexico ran a two-week trial run of the proposed transit system and that the demonstration was an enormous success, with over 1500 riders per day and an estimated reduction of 750 vehicles?

Mr. SHELBY. Yes, Senator, I am aware of the success of the state of New Mexico's initial two-week demonstration of the Northern New Mexico Park and Ride.

Mr. BINGAMAN. I know the Senators are aware that, at my request, last year the subcommittee provided $1.5 million to the state to begin full-time transit service in Northern New Mexico this fall using leased buses and borrowed facilities. Is the Ranking Member also aware that the commitment of the local governments to the program has also been demonstrated by individual contributions of $100,000 each from the City of Santa Fe, Santa Fe County, Los Alamos County, and the Los Alamos National Laboratory?

Mr. LAUTENBERG. Yes, Senator BINGAMAN, I am aware of the funding commitments from the local governments and Los Alamos Lab for the Northern New Mexico Park and Ride.

Mr. BINGAMAN. Is my understanding correct that for fiscal year 1999 the Transportation Appropriations Subcommittee did not identify individual programs and funding amounts for discretionary grants for bus and bus facilities, but that the conference with the other body may present an opportunity to identify individual projects and funding amounts? If that is indeed the case, can the citizens of Northern New Mexico count on the Senators' efforts to identify $10 million to purchase the needed buses and bus facilities to allow the Park and Ride program to continue beyond the first year?

Mr. SHELBY. The Senator can be assured we will give the project our full consideration in the conference.

Mr. LAUTENBERG. I appreciate knowing of the Senator from New Mexico's interest in the Northern new Mexico Park and Ride.

Mr. BINGAMAN. I thank the Senators for their consideration.

CONSTRUCTION OF THE NEW CASTLE COUNTY AIRPORT CONTROL TOWER

Mr. BIDEN. Mr. President, I rise this evening on behalf of myself and my distinguished colleague from Delaware, Senator BILL ROTH, to note the importance of a project at the New Castle County Airport in Delaware that involves the Federal Aviation Administration, and to ask the help of the managers of this bill.

In an extraordinary—and what is believed to be the first-of-its-kind offer—the owners of the New Castle County Airport—a bi-state compact known as the Delaware River and Bay Authority—has agreed to pay the approximately $5 million it will cost to construct and equip a new control tower. This facility will replace the 43-year old existing tower which does not meet federally-mandated safety and environmental standards.

The FAA, however, has now taken the position that not only should the Delaware River and Bay Authority finance the cost to design and construct a new control tower, but also pay $2.3 million for the FAA's overhead, equipment and administrative costs to oversee the project.

In addition, the FAA wants the sponsor to reimburse the agency $1 million for costs related to the relocation of the FAA's Very High Frequency radar system (VOR) at the Airport—even though the FAA's current lease indicates the FAA should bear such costs.

With the Airport sponsor willing to finance the significant cost of constructing a new control tower for the FAA, the agency should not impose additional overhead costs on that sponsor.

The owners of the Airport have worked diligently and cooperatively with the FAA for the past three years on this project, but continue to encounter further financial demands and bureaucratic delays.

Clearly, this new control tower will help the FAA. Not only will the FAA get a new, state-of-the-art tower at no cost, if the New Castle County Airport is able to expand, it will help the FAA solve the growing problem of air traffic congestion at major commercial airports in Philadelphia, Baltimore and New York.

We believe it is in the best safety interests of all parties—the FAA, the Delaware River and Bay Authority, and most importantly the flying public—that this critical airport in Delaware be allowed to construct a new control tower facility for the FAA, without additional financial demands and delays.

It's our understanding that the House Appropriations Committee Report accompanying the FY'99 Transportation Appropriations bill specifically directs the FAA to assume the approximate $3.3 million in overhead costs. I rise today to bring this important issue to the attention of the Chairman and

Ranking Member and to seek your help in working to include this House language in the Conference Report.

Mr. SHELBY. Yes, we appreciate the concerns raised by the Senators from Delaware. We agree with the House Report language and want to assure you that we will work with you to ensure that these additional overhead costs are not imposed on the airport sponsor willing to construct the new control tower.

Mr. BIDEN. I thank the Senator, and I yield the floor.

Mr. DEWINE. Mr. President, I would like to take a moment to commend the Chairman of the Appropriations Subcommittee on Transportation, Senator SHELBY, for the work he has done on this bill. It is not easy to balance the competing interests in any appropriations bill, but I think it is even more difficult on transportation appropriations. I would also like to call attention to one area of the Senate's bill which is very different than the House version.

The Federal Automated Surface Observing System (ASOS) Program, which began in the late 1980's, is sponsored by the Federal Aviation Administration (FAA), the National Weather Service (NWS), and the Department of Defense (DoD) and currently includes over 860 ASOS units. For its part, as of December 2, 1997, the FAA had procured 569 ASOS units. Yet only 297 of these units had been commissioned as of June 16, 1998.

The current Senate bill provides $20.97 million for the Automated Surface Observing System (ASOS). This amount is $11 million more than the Administration request. According to the Committee report, $9.9 million is to be used to commission systems that have already been purchased. This only makes sense. After all, the Federal government purchased these systems. They might as well be used.

Last year, Congress appropriated $10 million more than the Administration request to procure nearly 30 more ASOS units. If the past is an accurate indicator, these units will sit idle until FAA finds the funds to commission them. In essence, what we are doing is purchasing technology with great potential but fraught with high maintenance costs and are going to be unusable for a number of years when, it is my understanding that there are other alternatives that cost less and can be used immediately. In fact, I understand that one of these alternatives, the Automated Weather Observing System (AWOS) is very popular in many states, including the Chairman's home state of Alabama.

I would draw my colleague's attention to the action taken yesterday by the House Committee on Appropriations. In its companion to the bill before us, that panel declined to fund any of these systems for the coming fiscal year but noted the Senate Committee's action. The House report language says that both systems (AWOS and ASOS) are ''meritorious'' and takes the strong position that if additional funding beyond the Administration's request is provided in the final conference action, that ''an equitable distribution'' of the additional funding should be provided for both systems.

I strongly support the action taken by our House colleagues and urge my good friend, the Chairman of the Subcommittee to join me to inject fairness, cost-effectiveness and competition into this program.

Mr. SHELBY. I thank the Senator from Ohio for his statement. I have listened with interest to his remarks and recognize his concerns. The Senator from Ohio has raised very compelling arguments and I will carefully consider his request during the conference committee's deliberations.

Mr. KOHL. I would like to engage Senator SHELBY in a colloquy with respect to an issue of importance to my State of Wisconsin and the entire Midwest Region. As you may know, Wisconsin and eight other Midwestern states, Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Nebraska and Ohio, working with Amtrak, have undertaken planning studies of a Midwest regional rail system to be hubbed in Chicago. The regional rail system would provide modern service on all existing rail corridors as well as several new corridors within the nine-state region. By connecting major Midwestern metropolitan areas, ridership and revenue projections have revealed that the rail network would operate without subsidy, enhance regional economic development and increase mobility in corridors with congested highway systems. To date, the states and Amtrak have contributed $468,500. The Federal Railroad Administration has also contributed $200,000 to this endeavor. I understand that the Committee grappled with unique constraints this year due to the firewalls created by the Transportation Equity Act, the so-called TEA–21. Implementation planning funds are needed, however, to move this important project forward. For this reason, I do hope that I can count on your assistance if additional resources become available in conference and as this process moves forward.

Mr. SHELBY. I know this initiative was of interest to the senior Senator from Wisconsin and that you had requested funds so that your State and the other Midwestern states could complete detailed implementation planning. As you know, we were unable to fund high speed rail corridor planning studies in the Senate Transportation Appropriations bill due to budget constraints. However, I will work with you and if we revisit this issue in conference and take another look at corridor planning studies, I assure you that the Midwest Rail initiative will receive every consideration.

Mr. HOLLINGS. Mr. President, I rise to briefly discuss a provision in this legislation which I was pleased to sponsor. The interstate network of railroads faces several problems. As you are aware, several areas in the United States currently experience serious rail freight congestion. We frequently hear of delays on the delivery of goods for two to three weeks because of rail congestion. With more train traffic, there has also been an increase in rail related accidents. There is no comprehensive system which manages the interface between trains and cars at the huge number of highway crossings in the United States. In South Carolina alone, there are 32,000 crossings. This situation is compounded in many parts of the country. Congestion is worsened and safety is jeopardized because passenger trains, high-speed trains, and freight trains all use the same track.

Unlike the national tracking of air traffic that assures millions of safe passenger air miles each year, comprehensive automated management and control of movement and location in the rail industry does not exist. The Transportation Safety Research Alliance, a non-profit public/private partnership which includes industry and research institutions, is seeking to develop an advanced, integrated technology system that would provide direction, movement, and highway crossing control for the rail freight industry. Without such a system, we are going to experience more accidents endangering the public safety and more delays to shippers and consumers that harm the Nation's commerce. This bill includes language directing the Federal Railroad Administration to provide $500,000 towards the development of this project. I want to thank the Subcommittee Chairman, Senator SHELBY, and the Ranking Member, Senator LAUTENBERG, for including this language. I appreciate your leadership in the Conference to ensure that this provision is included in the Conference Report.

Mr. SANTORUM. I also wish to express my support for this provision. One of the key industry members of the Transportation Safety Alliance, Union Switch and Signal, is headquartered in Pittsburgh, Pennsylvania. They manufacture signaling automation and control systems for railroads, and are at the cutting edge of an industry which can help our country achieve greater rail safety in the 21st century.

Senator LAUTENBERG. The issue of rail safety in this country is of great importance to me. I appreciate your comments, and will work to keep this provision in the Conference Report.

ADVANCED CIVIL SPEED ENFORCEMENT SYSTEMS UPGRADE

Mr. BIDEN. Mr. President, I say to my good friend and colleague, the distinguished Chairman of the Finance Committee, that I note with interest that the report on the bill before us provides funds in the amount of $1 million for the upgrade of safety systems on all locomotives operating between New Haven, CT, and Boston, MA.

Mr. LAUTENBERG. That is correct.

Mr. ROTH. We have a question for the distinguished Ranking Member of the Transportation Appropriations Subcommittee. Is it the intent of this legislation that installation of the advanced civil enforcement systems be performed at the facility that has the expertise, capability, and prior experience to assemble and test cab signal equipment?

Mr. BIDEN. These new speed monitoring systems are important to the operation of the Northeast Corridor and we want to ensure that the installation is done at a facility where the workers have the skills and experience to do the job right.

Mr. LAUTENBERG. That is our intent; that is the facility that should do the job.

PORTLAND LIGHT RAIL FUNDING

Mr. WYDEN. Mr. President, I would like to engage the Chairman and Ranking Member of the Transportation Appropriations Subcommittee in a colloquy to clarify the funding provided for Portland Light Rail. The Committee Report on the Transportation Appropriations Bill has a single line item for the Portland Westside and South-North Light Rail projects. However, the Committee report description is ambiguous as to how the funding provided may be used. The description reads:

Portland Westside and south-north LRT projects.—The Committee recommends $26,700,000 for the Portland Westside LRT project. . . .

The report then goes on to describe both projects. It is the Committee's intention to provide this funding for both the Westside and south-north project?

Mr. SHELBY. Yes. The Committee intends the funding to be available for both projects.

Mr. WYDEN. I thank the Chairman for this clarification. I would also ask whether the Committee intends to allow the $26.7 million amount provided for Portland light rail to be utilized either for completion of the Westside project or final design and right-of-way acquisition for the south-north project?

Mr. LAUTENBERG. Yes. The Committee intends this funding to be available for either of these purposes.

Mr. WYDEN. I thank the distinguished Chairman and Ranking Member for their assistance in providing funding for both of these important transit projects.

CHEHALIS I–5 FLOOD CONTROL PROJECT

Mr. GORTON. Mr. Chairman, I would like to bring to your attention a project that is of utmost importance to Southwest Washington state, the Chehalis I–5 Flood Control Project. You were gracious enough to include $250,000 for this project in the manager's amendment in full committee, and I would like to thank you for your attention to this matter. Unfortunately, this project, which will ultimately cost taxpayers $18 million less than the initial option proposed by the Washington State Department of Transportation, will require $2.5 million in FY 1999 to wade through the myriad of permits that must be completed before this project can move forward. I would like to work with you in conference to ensure that this project has the Federal support to become a reality.

Mr. SHELBY. I appreciate your bringing this matter to my attention. I look forward to working with you in conference to ensure that an innovative project such as the Chehalis I–5 Flood Control Project receives the federal commitment that it deserves.

Mr. LAUTENBERG. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DEWINE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3327

(Purpose: To provide additional resources for the United States Coast Guard for drug interdiction efforts)

Mr. DEWINE. Mr. President, I have an amendment I send to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Ohio [Mr. DEWINE], for himself, Mr. COVERDELL, Mr. GRAHAM, Mr. BOND, Mr. GRASSLEY and Mr. FAIRCLOTH, proposes an amendment numbered 3327.

Mr. DEWINE. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 8 of the bill, in line 17 after the colon insert: *Provided further,* That not less than $2,000,000 shall be available to support restoration of enhanced counter-narcotics operations around the island of Hispaniola.

On page 5 of the bill, in line 4, strike ''$165,215,000'' and insert ''$158,468,000'';

On page 9 of the bill, in line 2, strike $388,693,000'' and insert ''$426,173,000'';

On page 9 of the bill, in line 4, strike $215,473,000'' and insert ''$234,553,000'';

On page 9 of the bill, in line 7, strike ''$46,131,000'' and insert ''$55,131,000'';

On page 9 of the bill, in line 9 strike ''$35,389,000'' and insert ''$44,789,000'';

On page 77 of the bill, in line 15, strike ''$10,500,000'' and insert ''$17,247,000''.

Mr. DEWINE. Mr. President, yesterday 15 of my colleagues and I introduced the Western Hemisphere Drug Elimination Act, legislation that would restore balance to our comprehensive antidrug strategy. My friend from Florida, Congressman BILL MCCOLLUM, is leading a similar effort in the House of Representatives.

This legislation is a $2.6 billion effort—$2.6 billion over the next 3 years. This is an outline. It is a blueprint to really restore balance to our antidrug effort. Unfortunately, over the years, the effort that we are putting in in regard to interdiction has gone down significantly as a percentage of our total budget. And we need to restore that balance.

This legislation is a $2.6 billion, 3-year investment to reduce the amount of drugs coming into this country and to drive up the cost of drug trafficking. Taken together, this strategy will drive up the price of drugs and, most importantly, then drive down the incidence of the use of drugs in our country. This is an important investment in the future of America and the future of our children.

Today, one day later, after having introduced this bill, the Senate will, I hope, take the first step towards realizing that investment. I am pleased to have just sent to the desk an amendment offered along with Senator COVERDELL, Senator GRAHAM of Florida, Senator BOND, and Senator GRASSLEY, an amendment that will provide much needed resources for the U.S. Coast Guard, resources that will increase their drug interdiction capability.

Specifically, Mr. President, our amendment would accomplish two goals. One, it would increase the funds available for equipment devoted to drug interdiction by approximately $37.5 million. Second, the amendment would set aside resources needed to restore a much needed drug interdiction operation in the Caribbean.

Mr. President, I see the distinguished chairman of the Transportation Subcommittee, Senator SHELBY, on the floor. I would like to engage in a colloquy with him to go over the particulars of the bipartisan amendment that I have offered.

First, I would like, before I do that, to discuss the $37.5 million secured for additional resources.

Specifically, Mr. President, with respect to sea-based resources, our amendment would enable the Coast Guard to reactivate one T–AGOS vessel and acquire two additional T–AGOS vessels. These vessels, originally Navy submarine hunters, have proved to be quite valuable for counterdrug operations because they have the room needed for command and control equipment, such as sensors and communications equipment.

In addition, the amendment also would enable the Coast Guard to acquire a maritime interdiction patrol boat and satellite communications equipment for patrol boats.

With respect to Coast Guard air operations, our amendment would allow for the reactivation of three maritime control aircraft. These are jet aircraft that would be used by the Coast Guard to track and pursue drug traffickers.

Finally, our amendment would allow for the acquisition of forward-looking infrared systems. This technology enables the Coast Guard to track heat signatures in the water.

Why is this important? Well, drug traffickers, drug runners in the Caribbean, use what we call, and they call, ''go-fast'' boats, boats that are too fast for detection in tracking using conventional radar. The infrared systems can

detect ''go-fast'' boats and thus allow for more effective aerial surveillance.

Mr. SHELBY addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, I appreciate the effort of the Senator from Ohio, first, in offering this very important amendment and, second, in briefly tonight explaining to the Senate the kinds of resources that are to be acquired with the additional assistance he has been talking about. I also commend him for his diligence in seeking additional funds for the Coast Guard dealing with interdiction.

Mr. DEWINE. I thank my friend from Alabama very much for his very kind words and for his leadership in assisting with this amendment.

There is one additional component, Mr. President, of this amendment that I would like to discuss briefly this evening, and that is the set-aside that will enable the Coast Guard to restore a very effective drug interdiction program in the Caribbean.

My interest in drug interdiction activities in the Caribbean stems, in part, from my interest in the island nation of Haiti. The hard reality is that the Caribbean—from Haiti to the Bahamas—is fast becoming once again a major illegal drug transit route.

On one of my recent trips, Mr. President, I saw that, in particular, Haiti is becoming an attractive rest-stop on the cocaine highway. It is strategically located about halfway between the source country, Colombia, and the destination country, the United States. Haiti law enforcement, though slowly getting better, is, at this point, utterly unequipped, unprepared to put a dent in this drug trade.

What is more, the Coast Guard fleet consists of a handful of boats. They are making progress. They have certainly a long way to go. As the poorest country in the hemisphere, Haiti is extremely vulnerable to the kind of bribery and corruption that the drug trade needs in order to flourish. Not surprisingly, the level of drugs moving now through Haiti has dramatically increased.

According to a U.S. Government interagency assessment on cocaine movement, in 1996 between 5 and 8 percent of the cocaine coming into the United States passed through Haiti. By the third quarter of 1997, the percentage jumped to 12 percent, and increased yet again to 19 percent by the end of that year.

Accordingly, we responded to this crisis with an interdiction strategy called Operation Frontier Lance—Operation Frontier Lance—which utilized Coast Guard cutters, speedboats, and helicopters, all to detect and capture drug dealers on a 24-hour-per-day basis.

Incidentally, this operation was modeled after another successful interdiction effort that took place off the coast of Puerto Rico called Operation Frontier Shield.

Mr. President, last May I boarded the U.S. Coast Guard Cutter Dallas and observed Operation Frontier Lance and observed the men and women who are on the front line—and were on the front line—carrying out our antidrug operation. And I came away thinking that this is the kind of effort, the kind of coordination of resources, that we need not just off the coast of Haiti and the Dominican Republic but also throughout the drug trafficking routes throughout the entire Caribbean.

Mr. President, unfortunately—unfortunately—funding for Frontier Lance ran out last month. This once effective roadblock on the cocaine highway is no more. With our amendment, we can get that operation and/or similar operations in the region back up and running.

Specifically, our amendment secures operations funding that will allow Operation Frontier Lance or similar operations to resume. And with the additional resources I described earlier, the Coast Guard has an even greater ability to flex its drug interdiction muscle in the entire region.

Mr. President, I express my thanks again to the chairman and the ranking member of the Transportation Subcommittee, Senator SHELBY and Senator LAUTENBERG, for their very effective efforts to assist me and the distinguished list of cosponsors of this amendment. I also send my thanks to the staff of the subcommittee for their effort. Their effort was great and it was first rate. This would not have happened without them.

As I said at the beginning of my statement, Mr. President, this amendment today is a first step. I expect that there will be many more steps in the future, steps that are needed if we are going to restore a truly balanced, truly effective drug control strategy.

This amendment represents a bipartisan effort to make a targeted and very specific investment, an investment in stopping drugs before—before—they reach America. It will take similar efforts over the course of the next 3 years to bring our drug strategy back into balance and, most important, back on the course of reducing drug use in our homes, our schools, and our communities.

I thank the Chair and yield the floor.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, the Senator from Ohio presents, I think, very effectively the case for continuing the efforts that we have had in the past—some quite successful—to intercept the drug trafficking, and to make sure that we do not let down our guard, and to maintain the facilities and personnel that we need to do it.

The thing I am concerned about—and I commend the Senator from Ohio for bringing this to our attention; we will be looking at this over the next period of time—the offset for this amendment, if I am not mistaken, is proposed to come out of the administrative costs at DOT; am I correct in that?

Mr. DEWINE. That is correct.

Mr. LAUTENBERG. That account has been severly tested. We will look closely to see if we can put together the package that the Senator from Ohio is recommending.

I do send up a note of caution as we look at it. We have been warned that we could face a RIF, reduction in force, at DOT at the levels currently in the bill for administrative expenses.

The chairman and I have been very careful to try to make sure that the dollars we expend are those that are most effective in providing transportation facilities, helping the Coast Guard, helping FAA, and we have been all along trying to reduce the administrative side, the travel side, all of those things. We are both staunch supporters of the Coast Guard with our coastal States and in deep appreciation for what the Coast Guard has done.

The drug interdiction mission I talked about earlier today, and I am prepared on this side to accept the DeWine-Graham amendment, but I have to know that the chairman and I are going to take a fresh look at DOT's administrative costs in conference.

Mr. SHELBY. Mr. President, I want to state to my colleagues tonight that I believe myself, as I said earlier, that what Senator DEWINE is offering to do makes a lot of sense. I will work with Senator DEWINE and Senator LAUTENBERG in the conference when we get into the seriousness of what we can do with money. Interdiction here dealing with drugs should be and will be one of our No. 1 priorities.

Mr. DEWINE. Mr. President, let me thank both of my colleagues, the ranking member and the chairman, for their great cooperation. I understand my colleague has expressed his concerns about the money situation. I look forward to working with both Members in regard to that.

I appreciate your concern for the Coast Guard. I believe this is money very well spent. I think the Coast Guard knows what to do with its money. They know how to get the job done. I have been out literally in the field or on the sea with them to see what they can do. They do a good job getting it done.

I understand the concerns with regard to the money.

I don't know if there is any further debate.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3327) was agreed to.

Mr. LAUTENBERG. I move to reconsider the vote.

Mr. SHELBY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENTS NOS. 3328 AND 3329, EN BLOC

Mr. SHELBY. Mr. President, I have two amendments, one on behalf of Senator MCCAIN, and one on behalf of Senator SPECTER. It is my understanding

they have been cleared. I send them to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY] proposes amendments en bloc numbered 3328 and 3329.

Mr. SHELBY. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments en bloc are as follows:

AMENDMENT NO. 3328

(Purpose: To ensure that the policies and goals of the Amtrak Reform and Accountability Act of 1997 will be met, and for other purposes)

At the appropriate place insert:

SEC. . The change in definition for Amtrak capital expenses shall not affect the legal characteristics of capital and operating expenditures for purposes of Amtrak's requirement to eliminate the use of appropriated funds for operating expenses according to P.L. 105–134; No funds appropriated for Amtrak in this Act shall be used to pay for any wage, salary, or benefit increases that are a result of any agreement entered into after October 1, 1997; *Provided further,* That nothing in this Act shall affect Amtrak's legal requirements to maintain its current system of accounting under Generally Accepted Accounting Principles; *Provided further,* That no later than 30 days after the end of each quarter beginning with the first quarter in fiscal year 1999, Amtrak shall submit to the Amtrak Reform Council and the Senate Committee on Appropriations, and the Senate Committee on Commerce, Science, and Transportation, a reporting of specific expenditures for preventative maintenance, labor, and other operating expenses from amounts made available under this Act, and Amtrak's estimate of the amounts expected to be expended for such expenses for the remainder of the fiscal year.

AMENDMENT NO. 3329

(Purpose: To clarify Delaware River Port Authority to toll collection authority)

At the appropriate place in the bill, insert the following:

SEC. . Section 3 of the Act of July 17, 1952 (66 Stat. 746, chapter 921), and section 3 of the act of July 17, 1952 (66 Stat. 571, chapter 922), are each amended in the proviso—

(1) by striking ''That'' and all that follows through ''the collection of'' and inserting ''That the commission may collect'' ; and

(2) by striking '',shall cease'' and all that follows through the period at the end and inserting a period.

Mr. SHELBY. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. We agree to the amendments.

Mr. SHELBY. The amendments have been cleared on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc.

The amendments (Nos. 3328 and 3329) were agreed to.

Mr. SHELBY. I move to reconsider the vote.

Mr. LAUTENBERG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DELAWARE RIVER, PENNSYLVANIA ITS DEPLOYMENT PROJECT

Mr. SPECTER. Mr. President, I have sought recognition to comment on the inclusion in the bill of $4 million at my request for the deployment of an intelligent transportation system project across the Delaware River. I sought these funds at the request of the Delaware River Port Authority, which is implementing electronic toll and traffic management systems for the Ben Franklin, Walt Whitman, Commodore Barry, and Betsy Ross Bridges in the Pennsylvania-New Jersey-Delaware region, which are operated and maintained by the Authority and serve thousands of drivers each day, including substantial commercial traffic.

I believe that it is critical that we do all that is possible to alleviate traffic congestion on these important river crossings, for the sake of improving the quality of life of area residents and others who drive on the bridges and to reduce air pollution in Philadelphia and its suburbs.

I thank the Chairman for including funds for deployment of an ITS system over the Delaware River, which will benefit both Pennsylvania and New Jersey.

Mr. SHELBY. I am familiar with the Delaware River project discussed by my colleague from Pennsylvania and would note that the Delaware River Port Authority project is particularly well-suited for consideration by the Federal Highway Administration for funding under this legislation.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SHELBY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NOS. 3330 THROUGH 3335 AND 3323, AS MODIFIED, EN BLOC

Mr. SHELBY. Mr. President, on behalf of myself and Senator LAUTENBERG, I send—and I will name them—a number of amendments to the desk that have been agreed to.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Alabama [Mr. SHELBY] proposes amendments numbered 3330 through 3335 and 3323, as modified.

Mr. SHELBY. I ask unanimous consent that the Senate consider these amendments en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SHELBY. Among these amendments is an amendment on behalf of the Presiding Officer, Mr. FRIST, an amendment on behalf of Senator ABRAHAM, an amendment on behalf of Senator LEVIN, an amendment on behalf of Senators LAUTENBERG and KERRY of Massachusetts, an amendment on behalf of Senators BOND, KOHL and JOHNSON, an amendment on behalf of Senator DURBIN, and an amendment on behalf of Senator BURNS.

The PRESIDING OFFICER. Is there further debate on the amendments?

Mr. LAUTENBERG. No. We support the amendments and urge their adoption.

Mr. SHELBY. I urge the amendments be adopted en bloc.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc.

Without objection, the amendments are agreed to.

The amendments (Nos. 3330 through 3335 and 3323) were agreed to, en bloc, as follows:

AMENDMENT NO. 3330

On page 22 of the bill, in line 1, strike ''State of Michigan,'' and insert: ''Oakland County, MI,''.

On page 89 of the bill, in line 24, before the figure ''2,700,000'' insert the following: $200,000 is provided for the Southeast Michigan commuter rail viability study; $2,000,000 is provided for the major investment analysis of Honolulu transit alternatives;''.

On page 92 of the bill, after line 25, insert the following:

SEC. . Section 1212(m) of Public Law 105–178 is amended (1) in the subsection heading, by inserting '', Idaho and West Virginia'' after ''Minnesota''; and (2) by inserting ''or the States of Idaho or West Virginia'' after ''Minnesota''.

In amendment No. 3324, in line 10, strike ''determine the feasibility of providing reliable access connecting King Cove and Cold Bay, Alaska'' and insert the following: ''study rural access issues in Alaska''.

AMENDMENT NO. 3331

On page 30, after line 11, before the period insert the following: *Provided further;* That of the funds made available under Sec. 5308, up to $10 million may be used for the projects that include payments for the incremental costs of biodiesel fuels: *Provided further;* That such incremental costs shall be limited to the cost difference between the cost of alternative fuels and their petroleum-based alternatives.''

AMENDMENT NO. 3332

(Purpose: To prohibit smoking on scheduled domestic and foreign airline flight segments taking off from or landing in the United States)

At the appropriate place, insert the following:

SEC. . PROHIBITIONS AGAINST SMOKING ON SCHEDULED FLIGHTS.

(a) IN GENERAL.—Section 41706 of title 49, United States Code, is amended to read as follows:

''§ 41706. Prohibitions against smoking on scheduled flights

''(a) SMOKING PROHIBITION IN INTRASTATE AND INTERSTATE AIR TRANSPORTATION.—An individual may not smoke in an aircraft on a scheduled airline flight segment in interstate air transportation or intrastate air transportation.

''(b) SMOKING PROHIBITION IN FOREIGN AIR TRANSPORTATION.—The Secretary of Transportation shall require all air carriers and foreign air carriers to prohibit, on an after the 120th day following the date of the enactment of this section, smoking in any aircraft on a scheduled airline flight segment within the United States or between a place in the United States and a place outside the United States.

''(c) LIMITATION ON APPLICABILITY.—With respect to an aircraft operated by a foreign air carrier, the smoking prohibitions contained in subsections (a) and (b) shall apply only to the passenger cabin and lavatory of the aircraft. If a foreign government objects to the application of subsection (b) on the basis that it is an extraterritorial application of the laws of the United States, the Secretary is authorized to waive the application of subsection (b) to a foreign air carrier licensed by that foreign government. The Secretary of Transportation shall identify and enforce an alternative smoking prohibition in lieu of subsection (b) that has been negotiated by the Secretary and the objecting foreign government through a bilateral negotiation process.

''(d) REGULATIONS.—The Secretary shall prescribe regulations necessary to carry out this section.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 60th day following the date of the enactment of this Act.

AMENDMENT NO. 3333

At the appropriate place, insert the following:

SEC. . HAZARDOUS MATERIALS.

In the case of a state that, as of the date of enactment of this Act, has in force and effect State hazardous material transportation laws that are inconsistent with federal hazardous material transportation laws with respect to intrastate transportation of agricultural production materials for transportation from agricultural retailer to farm, farm to farm, and from farm to agricultural retailer, within a 100-mile air radius, such inconsistent laws may remain in force and effect for fiscal year 1999 only.

AMENDMENT NO. 3334

On page 79 of the bill, in line 21 before the period, insert: ''*Provided further,* That the Secretary, acting through the Administrator of the Federal Aviation Administration, shall by January 1, 1999, take such actions as may be necessary to ensure that each air carrier (as that term is defined in section 40102 of title 49 U.S.C.) prominently displays on every passenger ticket sold by any means or mechanism a statement that reflects the national average per passenger general fund subsidy based on the fiscal year 1997 general fund appropriation from the Federal Government to the Federal Aviation Administration: *Provided further,* That the Secretary of Transportation, acting through the Administrator of the Federal Highway Administration, shall take such actions as may be necessary to ensure the placement of signs, on each Federal-aid highway (as that term is defined in section 101 of title 23, U.S.C.) that states that, during fiscal year 1997, the Federal Government provided a general fund appropriation at a level verified by the Department of Transportation, for the subsidy of State and local highway construction and maintenance.

AMENDMENT NO. 3335

(Purpose: To require the National Transportation Safety Board to reimburse the State of New York and local counties in New York for certain costs associated with the crash of TWA Flight 800)

At the appropriate place in title III, insert the following:

SEC. 3 . REIMBURSEMENT FOR SALARIES AND EXPENSES.

The National Transportation Safety Board shall reimburse the State of New York and local counties in New York during the period beginning on June 12, 1997, and ending on September 30, 1999, an aggregate amount equal to $6,059,000 for costs (including salaries and expenses) incurred in connection with the crash of TWA Flight 800.

AMENDMENT NO. 3323, AS MODIFIED

(Purpose: To require the Secretary of Transportation to ensure that there is sufficient signage directing visitors to cemeteries of the National Cemetery System, and for other purposes)

At the appropriate place in title III, insert the following:

SEC. 3 . SIGNAGE ON HIGHWAYS WITH RESPECT TO THE NATIONAL CEMETERY SYSTEM.

(a) DEFINITIONS.—In this section:

(1) FEDERAL-AID HIGHWAY.—The term ''Federal aid highway'' has the meaning given that term in section 101 of title 23, United States Code.

(2) NATIONAL CEMETERY SYSTEM.—The term ''National Cemetery System'' means the National Cemetery System, which is managed by the Secretary of Veterans Affairs.

(3) STATE.—The term ''State'' has the meaning given that term in section 101 of title 23, United States Code.

(b) FEDERAL-AID HIGHWAYS.—The Secretary of Transportation may encourage States to take such action as may be necessary to ensure that, for each cemetery of the National Cemetery System that is located in the proximity of any Federal-aid highway, there is sufficient and appropriate signage along that highway to direct visitors to that cemetery.

(c) STATE HIGHWAYS.—Nothing in subsection (b) is intended to affect the provision of signage by a State along a State highway to direct visitors to a cemetery of the National Cemetery System.

Mr. SHELBY. Mr. President, I move to reconsider the vote.

Mr. LAUTENBERG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SHELBY. Mr. President, I know of no further amendments to the bill.

The PRESIDING OFFICER. If there are no further amendments, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. SHELBY. Mr. President, I ask unanimous consent that the yeas and nays be ordered on final passage.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. SHELBY. I ask unanimous consent that the vote occur on passage at 9:15 a.m. on Friday, and that paragraph 4 of rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SHELBY. In light of this agreement, there will be no further votes tonight. The next vote is scheduled for 9:15 a.m. Friday morning.

Mr. President, I ask unanimous consent that when the Senate completes action on S. 2307, the fiscal year 1999 transportation appropriations bill, that the bill not be engrossed and be held at the desk.

I further ask that when the Senate receives the House of Representatives companion measure, the Senate immediately proceed to its consideration; that all after the enacting clause be stricken and the text of S. 2307, as passed, be inserted in lieu thereof; that the House bill, as amended, be read for a third time and passed, the motion to reconsider the vote be laid upon the table, that the Senate insist on its amendments, request a conference with the House on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint conferees on the part of the Senate, and that the foregoing occur without any intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SHELBY. I further ask unanimous consent that when the Senate passes the House companion measure, as amended, the passage of S. 2307 be vitiated and the bill be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. SHELBY. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR TIM HUTCHINSON RECEIVES GOLDEN GAVEL AWARD

Mr. LOTT. Mr. President, yesterday, Senator HUTCHINSON presided his 100th hour of this Congress and, therefore, is the latest recipient of the Senate's Golden Gavel Award.

Senator HUTCHINSON and his scheduling staff have consistently adjusted their schedule to assist whenever presiding difficulties have occurred. For these honorable efforts and for the Senator's continued commitment to his presiding duties, we extend our thanks and congratulations.

CORRECTION OF THE RECORD

Mr. BYRD. Mr. President, in my speech of July 16, 1998, titled ''Anniversary of the Great Compromise,'' on page S. 8295, in the first column thereof, the word ''unilateral'' in the second line of the second full paragraph should be ''unicameral.'' ''Unicameral,'' instead of ''unilateral.''

I ask unanimous consent the permanent RECORD show the correction.

The PRESIDING OFFICER. Without objection, it is so ordered.

KIDS AND SEX

Mr. BYRD. Mr. President, I rise today to express my shock and utter amazement regarding the cover story in the June 15 issue of Time magazine. It is entitled ''Everything your kids already know about sex.''

Now, I know that any octogenarian like myself is going to be immediately viewed as a dinosaur and a prude on a

subject such as this, but I tell you that this article should alarm every parent and shake up every community in America.

The piece opens up with an account of a 14-year-old couple, who walk into a Teen Center in Salt Lake City, Utah (of all places) and inquire about steps which they might take to heighten their arousal during sex. This is a 14-year-old couple, I remind Senators. It continues with example after example of youngsters as young as 9 years of age who are experienced sexually, and who have had multiple sexual partners before ever reaching the legal age of consent. Here we are talking about youngsters as young as 9 years of age. Many of these sexually new-age babies (and that's what they are, babies) claim that they get all the information they need to be proficient in the sexual world through such prime time TV shows as ''Dawson Creek,'' which boasts of a character, Jen, who loses her virginity at 12, while drunk, or another favorite show, ''Buffy the Vampire Slayer'', in which Angel, a male vampire, ''turned bad'' after having sex with the 17-year-old Buffy.

What, in the name of common sense, I ask, is going on in this Nation? Why are we letting our kids watch this morally degrading, thoroughly demeaning, junk on the airwaves? Why in heaven's name don't the purveyors of such trash feel any sense of responsibility toward the youth of our nation?

Have the parents of these kids just given up trying to guide and protect them and teach them some sense of moral responsibility about their own bodies? I am afraid I have no answers, only legions of questions about what sort of a society is going to evolve from all of this unhealthy glorification of sex.

I know this much. We have got to find a way to inject some measure of spirituality into our culture, some sort of reverence for something besides erotica, and we have got to find some kind of counterpoint to the cheap, amoral, directionless, thoroughly disgusting popular mores which are blasted daily at our kids over the airwaves.

I believe one thing we could do in this Congress is to find an acceptable way to return prayer to our schools and to encourage religious values in the life of this nation.

A lot of people who believe this have been driven into a closet. They won't say these things probably because they will be viewed as old fuddy-duddies and as being behind the times and old-fashioned and all that. I know of no other course which might provide a strong counterpoint to the hedonistic viewpoint which so dominates everyday American life.

All of our poor children face the prospect of growing up, do they not, with no appreciation of anything but the seamy side of life and no understanding of the spiritual values that so enrich and refine human existence and have played such a vital and important and prominent part in the history of our country, history of our Nation since its beginning?

Does no one worry about the steady diet of crass perversion we are feeding to our youngsters? Surely the American people expect us to address the moral bankruptcy that is eating away at common decency in this Nation. We have spent weeks publicly gnashing our teeth about our children's health. We hear these speeches all the time here about our children's health, and rightly so. Rightly so. And the evils of smoking, and again rightly so. We should. But what about their mental health? What about their spiritual health? I hear little said on these subjects. What about the sexually transmitted diseases which such casual sexual behavior fosters? I tell you, I am worried, and I believe we need to come to grips with the ugly reality of a society that is sliding further into decadence and decay right before our very eyes.

On February 6, of last year, I introduced a constitutional amendment that could foster voluntary prayer in our schools and in public assemblies. I believe that it may do so without doing violence to the prerogatives of those who, as is their right, do not wish to pray. The amendment is simple, and I read it: ''Nothing in this Constitution, or amendments thereto, shall be construed to prohibit or require voluntary prayer in public schools, or to prohibit or require voluntary prayer at public school extracurricular activities.''

I hope that the Judiciary Committee of the Senate—and I urge the Judiciary Committee of the Senate—will at least hold hearings on this matter. I am sure they could find some time on the calendar to hold hearings on this important subject, if not this year, certainly next year.

We have reached a point of crisis in our land, and to continue to ignore the mounting evidence is blatantly irresponsible on the part of those of us who claim to be leaders.

I know that there are concerns about the first amendment, and I hesitate to offer an amendment that would, in effect, amend the first amendment in some respect, but I am worried a great deal more about the destruction of our Nation. As far as I am concerned, if something about the first amendment needed to be modified or changed to save this very Nation, then I am willing to at least discuss it and debate it and make a determination on whether we should. I do not view the first amendment as being absolutely sacrosanct. I am becoming very concerned about the trend that we see happening in this country and about the direction in which the Nation is going and in considerable measure because of some of the interpretations of the Constitution, some of the interpretations of the first amendment that we have seen emanating from our courts.

I urge all Members of the Senate and all parents to read the Time magazine piece and wake up and smell the coffee. The alarm bells are ringing all over America, and we have got to come to grips with what is happening and try to answer the call.

Now, I will not be around on this globe many more years perhaps, but I do have children and I have grandchildren. Incidentally, I have a grandson who acquired his Ph.D. in physics yesterday at the University of Virginia. And he has a brother just 3 years older than himself who secured his Ph.D. in physics from the University of Virginia 3 years ago. So these are outstanding examples of the fine young people we have in this country, wholesome young people. They are not all bad, by any means. Most of them are not. But we do not often enough hear about the good things our young people are doing. They are in the laboratories. They are in the libraries. They are studying, trying to get ahead, and we are not as aware of what they are doing as we are of those who make mistakes, and we all make mistakes, but of those who perhaps are not doing as well.

I am concerned about the future of the Nation. I am concerned for my own posterity's sake, as I say. I do not have the answers. A blind man can see that something bad is happening to our society. One does not have to travel far to find out what is causing a large part of it. One has only to go to the living room and turn on that tube and watch for a day the junk that has been programmed. They will see from what source many of our problems are emanating.

I ask unanimous consent that the article entitled ''Where'd You Learn That?'' be printed in the RECORD.

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

[From Time Magazine]

WHERE'D YOU LEARN THAT?—AMERICAN KIDS ARE IN THE MIDST OF THEIR OWN SEXUAL REVOLUTION, ONE LEAVING MANY PARENTS FEELING CONFUSED AND VIRTUALLY POWERLESS

(By Ron Stodghill II)

The cute little couple looked as if they should be sauntering through Great Adventure or waiting in line for tokens at the local arcade. Instead, the 14-year-olds walked purposefully into the Teen Center in suburban Salt Lake City, Utah. They didn't mince words about their reason for stopping in. For quite some time, usually after school and on weekends, the boy and girl had tried to heighten their arousal during sex. Flustered yet determined, the pair wanted advice on the necessary steps that might lead them to a more fulfilling orgasm. His face showing all the desperation of a lost tourist, the boy spoke for both of them when he asked frankly, ''How do we get to the G-spot?''

Whoa. Teen Center nurse Patti Towle admits she was taken aback by the inquiry. She couldn't exactly provide a road map. Even more, the destination was a bit scandalous for a couple of ninth-graders in the heart of Mormon country. But these kids had clearly already gone further sexually than many adults, so Towle didn't waste time preaching the gospel of abstinence. She gave her young adventurers some reading material on the subject, including the classic

women's health book Our Bodies, Ourselves, to help bring them closer in bed. She also brought up the question of whether a G-spot even exists. As her visitors were leaving. Towle offered them more freebies: ''I sent them out the door with a billion condoms.''

G-spots. Orgasms. Condoms. We all know kids say and do the darndest things, but how they have changed! One teacher recalls a 10-year-old raising his hand to ask her to define oral sex. He was quickly followed by an 8-year-old girl behind him who asked, ''Oh, yeah, and what's anal sex?'' These are the easy questions. Ronda Sheared, who teaches sex education in Pinellas County, Fla., was asked by middle school students about the second kweif, which the kids say is the noise a vagina makes during or after sex. ''And how do you keep it from making this noise?''

There is more troubling behavior in Denver. School officials were forced to institute a sexual-harassment policy owing to a sharp rise in lewd language, groping, pinching and bra-snapping incidents among sixth-, seventh- and eighth-graders. Sex among kids in Pensacola, Fla., became so pervasive that students of a private Christian junior high school are now asked to sign cards vowing not to have sex until they marry. But the cards don't mean anything, says a 14-year-old boy at the school. ''It's broken promises.''

It's easy enough to blame everything on television and entertainment, even the news. At a Denver middle school, boys rationalize their actions this way: ''If the President can do it, why can't we?'' White House sex scandals are one thing, but how can anyone avoid Viagra and virility? Or public discussions of sexually transmitted diseases like AIDS and herpes? Young girls have lip-synched often enough to Alanis Morissette's big hit of a couple of years ago, You Oughta Know, to have found the sex nestled in the lyric. But it's more than just movies and television and news. Adolescent curiosity about sex is fed by a pandemic openness about it—in the school-yard, on the bus, at home when no adult is watching. Just eavesdrop at the mall one afternoon, and you'll hear enough pubescent sexcapades to pen the next few episodes of Dawson's Creek, the most explicit show on teen sexuality, on the WB network, Parents, always the last to keep up, are now almost totally pre-empted. Chris (not his real name), 13, says his parents talked to him about sex when he was 12 but he had been indoctrinated earlier by a 17-year-old cousin.

In any case, he gets his full share of information from the tube. ''You name the show, and I've heard about it. Jerry Springer, MTV, Dawson's Creek, HBO After Midnight . . .'' Stephanie (not her real name), 16, of North Lauderdale, Fla., who first had sex when she was 14, claims to have slept with five boyfriends and is considered a sex expert by her friends. She says, ''You can learn a lot about sex from cable. It's all mad-sex stuff.'' She sees nothing to condemn. ''If you're feeling steamy and hot, there's only one thing you want to do. As long as you're using a condom, what's wrong with it? Kids have hormones too.''

In these steamy times, it is becoming largely irrelevant whether adults approve of kids' sowing their oats—or knowing so much about the technicalities of the dissemination. American adolescents are in the midst of their own kind of sexual revolution—one that has left many parents feeling confused, frightened and almost powerless. Parents can search all they want for common ground with today's kids, trying to draw parallels between contemporary carnal knowledge and an earlier generation's free-love crusades, but the two movements are quite different. A desire to break out of the old-fashioned strictures fueled the '60s movement, and its participants made sexual freedom a kind of new religion. That sort of reverence has been replaced by a more consumerist attitude. In a 1972 cover story, TIME declared, ''Teenagers generally are woefully ignorant about sex.'' Ignorance is no longer the rule. As a weary junior high counselor in Salt Lake City puts it, ''Teens today are almost nonchalant about sex. It's like we've been to the moon too many times.''

The good news about their precocious knowledge of the mechanics of sex is that a growing number of teens know how to protect themselves, at least physically. But what about their emotional health and social behavior? That's a more troublesome picture. Many parents and teachers—as well as some thoughtful teenagers—worry about the desecration of love and the subversion of mature relationships. Says Debra Haffner, president of the Sexuality Information and Education Council of the United States: ''We should not confuse kids' pseudo-sophistication about sexuality and their ability to use the language with their understanding of who they are as sexual young people or their ability to make good decisions.''

One ugly side effect is a presumption among many adolescent boys that sex is an entitlement—an attitude that fosters a breakdown of respect for oneself and others. Says a seventh-grade girl: ''The guy will ask you up front. If you turn him down, you're a bitch. But if you do it, you're a ho. The guys are after us all the time, in the halls, everywhere. You scream, 'Don't touch me!'' but it doesn't do any good.'' A Rhode Island Rape Center study of 1,700 sixth- and ninth-graders found 65% boys and 57% of girls believing it acceptable for a male to force a female to have sex if they've been dating for six months.

Parents who are aware of this cultural revolution seem mostly torn between two approaches: preaching abstinence or suggesting prophylactics—and thus condoning sex. Says Cory Hollis, 37, a father of three in the Salt Lake City area: ''I don't want to see my teenage son ruin his life. But if he's going to do it, I told him that I'd go out and get him the condoms myself.'' Most parents seem too squeamish to get into the subtleties of instilling sexual ethics. Nor are schools up to the job of moralizing. Kids say they accept their teachers' admonitions to have safe sex but tune out other stuff. ''The personal-development classes are a joke,'' says Sarah, 16, of Pensacola. ''Even the teacher looks uncomfortable. There is no way anybody is going to ask a serious question.'' Says Shana, a 13-year-old from Denver: ''A lot of it is old and boring. They'll talk about not having sex before marriage, but no one listens. I use that class for study hall.''

Shana says she is glad ''sex isn't so taboo now, I mean with all the teenage pregnancies.'' But she also says that ''it's creepy and kind of scary that it seems to be happening so early, and all this talk about it.'' She adds, ''Girls are jumping too quickly. They figure if they can fall in love in a month, then they can have sex in a month too.'' When she tried discouraging a classmate from having sex for the first time, the friend turned to her and said, ''My God, Shana. It's just sex.''

Three powerful forces have shaped today's child prodigies: a prosperous information age that increasingly promotes proudcts and entertains audiences by titillation; aggressive public-policy initiatives that loudly preach sexual responsibility, further desensitizing kids to the subject; and the decline of two-parent households, which leaves adolescents with little supervision. Thus kids are not only bombarded with messages about sex—many of them contradictory—but also have more private time to engage in it than did previous generations. Today more than half of the females and three-quarters of the males ages 15 to 19 have experienced sexual intercourse, according to the Commission on Adolescent Sexual Health. And while the average age at first intercourse has come down only a year since 1970 (currently it's 17 for girls and 16 for boys), speed is of the essence for the new generation. Says Haffner: ''If kids today are going to do more than kiss, they tend to move very quickly toward sexual intercourse.''

The remarkable—and in ways lamentable—product of youthful promiscuity and higher sexual IQ is the degree to which kids learn to navigate the complex hypersexual world that reaches our seductively to them at every turn. One of the most positive results: the incidence of sexually transmitted diseases and of teen age pregnancy is declining. Over the past few years, kids have managed to chip away at the teenage birthrate, which in 1991 peaked at 62.1 births per 1,000 females. Since then the birthrate has dropped 12%, to 54.7. Surveys suggest that as many as two-thirds of teenagers now use condoms, a proportion that is three times as high as reported in the 1970s. ''We're clearly starting to make progress,'' says Dr. John Santelli, a physician with the Centers for Disease Control and Prevention's division of adolescent and school health. ''And the key statistics bear that out.'' Even if they've had sex, many kinds are learning to put off having more till later; they are also making condom use during intercourse nonnegotiable; and, remarkably, the fleeting pleasures of lust may even be wising up some of them to a greater appreciation of love.

For better or worse, sex-filled television helps shape young opinion. In Chicago, Ryan, an 11-year-old girl, intently watches a scene from one of her favorite TV dramas, *Dawson's Creek*. She listens as the character Jen, who lost her virginity at 12 while drunk, confesses to her new love, Dawson, ''Sex doesn't equal happiness. I can't apologize for my past.'' Ryan is quick to defend Jen. ''I think she was young, but if I were Dawson, I would believe she had changed. She acts totally different now.'' But Ryan is shocked by an episode of her other favorite show, Buffy the Vampire Slayer, in which Angel, a male vampire, ''turned bad'' after having sex with the 17-year-old Buffy. ''That kinda annoyed me,'' says Ryan. ''What would have happened if she had had a baby? Her whole life would have been thrown out the window.'' As for the fallen Angel: ''I am so mad! I'm going to take all my pictures of him down now.''

Pressed by critics and lobbies, television has begun to include more realistic story lines about sex and its possible consequences. TV writers and producers are turning to groups like the Kaiser Family Foundation, an independent health-policy think tank, for help in adding more depth and accuracy to stories involving sex. Kaiser has consulted on daytime soaps General Hospital and One Life to Live as well as the prime time drama ER on subjects ranging from teen pregnancy to coming to terms with a gay high school athlete. Says Matt James, a Kaiser senior vice president: ''We're trying to work with them to improve the public-health content of their shows.''

And then there's real-life television. MTV's Loveline, an hour-long Q.-and-A. show featuring sex guru Drew Pinsky (see accompanying story), in drawing raves among teens for its informative sexual content. Pinsky seems to be almost idolized by some youths. ''Dr. Drew has some excellent advice,'' says Keri, an eighth-grader in Denver. ''It's not just sex, it's real life. Society makes you say you've got to look at shows like Baywatch, but I'm sick of blond bimbos. They're so fake. Screenwriters ought to get a life.''

With so much talk of sex in the air, the extinction of the hapless, sexually naive kid seems an inevitability. Indeed, kids today as young as seven to 10 are picking up the first details of sex even in Saturday-morning cartoons. Brett, a 14-year-old in Denver, says it doesn't matter to him whether his parents chat with him about sex or not because he gets so much from TV. Whenever he's curious about something sexual, he channel-surfs his way to certainty. ''If you watch TV, they've got everything you want to know,'' he says. ''That's how I learned to kiss, when I was eight. And the girl told me, 'Oh, you sure know how to do it.'''

Even if kids don't watch certain television shows, they know the programs exist and are bedazzled by the forbidden. From schoolyard word of mouth, eight-year-old Jeff in Chicago has heard all about the foul-mouthed kids in the raunchily plotted South Park, and even though he has never seen the show, he can describe certain episodes in detail. (He is also familiar with the AIDS theme of the musical Rent because he's heard the CD over and over.) Argentina, 16, in Detroit, says, ''TV makes sex look like this big game.'' Her friend Michael, 17, adds, 'They make sex look like Monopoly or something. You have to do it in order to get to the next level.''

Child experts say that by the time many kids hit adolescence, they have reached a point where they aren't particularly obsessed with sex but have grown to accept the notion that solid courtships—or at least strong physical attractions—potentially lead to sexual intercourse. Instead of denying it, they get an early start preparing for it—and playing and perceiving the roles prescribed for them. In Nashville, 10-year-old Brantley whispers about a classmate, ''There's this girl I know, she's nine years old, and she already shaves her legs and plucks her eyebrows, and I've heard she's had sex. She even has bigger boobs than my mom!''

The playacting can eventually lead to discipline problems at school. Alan Skriloff, assistant superintendent of personnel and curriculum for New Jersey's North Brunswick school system, notes that there has been an increase in mock-sexual behavior in buses carrying students to school. He insists there have been no incidents of sexual assault but, he says, ''we've deal with kids simulating sexual intercourse and simulating masturbation. It's very disturbing to the other children and to the parents, obviously.'' Though Skriloff says that girls are often the initiators of such conduct, in most school districts the aggressors are usually boys.

Nan Stein, a senior researcher at the Wesley College Center for Research on Women, believes sexual violence and harassment is on the rise in schools, and she says, ''It's happening between kids who are dating or want to be dating or used to date.'' Linda Osmundson, executive director of the Center Against Spouse Abuse in St. Petersburg, Fla., notes that ''it seems to be coming down to younger and younger girls who feel that if they don't pair up with these guys, they'll have no position in their lives. They are pressured into lots of sexual activity.'' In this process of socialization, ''no'' is becoming less and less an option.

In such a world, schools focus on teaching scientific realism rather than virginity. Sex-Ed teachers tread lightly on the moral questions of sexual intimacy while going heavy on the risk of pregnancy or a sexually transmitted disease. Indeed, health educators in some school districts complain that teaching abstinence to kids today is getting to be a futile exercise. Using less final terms like ''postpone'' or ''delay'' helps draw some kids in, but semantics often isn't the problem. In a Florida survey, the state found that 75% of kids had experienced sexual intercourse by the time they reached 12th grade, with some 20% of the kids having had six or more sexual partners. Rick Colonno, father of a 16-year-old son and 14-year-old daughter in Arvada, Colo., views sex ed in schools as a necessary evil to fill the void that exists in many homes. Still, he's bothered by what he sees as a subliminal endorsement of sex by authorities. ''What they're doing,'' he says, ''is preparing you for sex and then saying, 'But don't have it.'''

With breathtaking pragmatism, kids look for ways to pursue their sex life while avoiding pregnancy or disease. Rhonda Sheared, the Florida sex-ed teacher, says a growing number of kids are asking questions about oral and anal sex because they've discovered that it allows them to be sexually active without risking pregnancy. As part of the Pinellas County program, students in middle and high school write questions anonymously, and, as Sheared says, ''they're always looking for the loophole.''

A verbatim sampling of some questions:

''Can you get AIDS from fingering a girl it you have no cuts? Through your fingernails?''

''Can you get AIDS from '69'?''

''If you shave your vagina or penis, can that get rid of crabs?''

''If yellowish stuff comes out of a girl, does it mean you have herpes, or can it just happen if your period is due, along with abdominal pains?''

''When sperm hits the air, does it die or stay alive for 10 days?''

Ideally, most kids say, they would prefer their parents do the tutoring, but they realize that's unlikely. For years psychologists and sociologists have warned about a new generation gap, one created not so much by different morals and social outlooks as by career-driven parents, the economic necessity of two incomes leaving parents little time for talks with their children. Recent studies indicate that many teens think parents are the most accurate source of information and would like to talk to them more about sex and sexual ethics but can't get their attention long enough. Shana sees the conundrum this way: ''Parents haven't set boundaries, but they are expecting them.''

Yet some parents are working harder to counsel their kids on sex. Cathy Wolf, 29, of North Wales, Pa., says she grew up learning about sex largely from her friends and from reading controversial books. Open-minded and proactive, she says she has returned to a book she once sought out for advice, Judy Blume's novel Are You There God? It's Me, Margaret, and is reading it to her two boys, 8 and 11. The novel discusses the awkwardness of adolescence, including sexual stirrings. ''That book was forbidden to me as a kid,'' Wolf says. ''I'm hoping to give them a different perspective about sex, to expose them to this kind of subject matter before they find out about it themselves.'' Movies and television are a prod and a challenge to Wolf. In Grease, which is rated PG and was recently re-released, the character Rizzo ''says something about 'sloppy seconds,' you know, the fact that a guy wouldn't want to do it with a girl who had just done it with another guy. There's also another point where they talk about condoms. Both Jacob and Joel wanted an explanation, so I provided it for them.''

Most kids, though, lament that their parents aren't much help at all on sexual matters. They either avoid the subject, miss the mark by starting the discussion too long before or after the sexual encounter, or just plain stonewall them. ''I was nine when I asked my mother the Big Question,'' says Michael, in Detroit. ''I'll never forget. She took out her driver's license and pointed to the line about male or female. 'That is sex,' she said.'' Laurel, a 17-year-old in Murfreesboro, Tenn., wishes her parents had taken more time with her to shed light on the subject. When she was six and her sister was nine, ''my mom sat us down, and we had the sex talk,'' Laurel says. ''But when I was 10, we moved in with my dad, and he never talked about it. He would leave the room if a commercial for a feminine product came on TV.'' And when her sister finally had sex, at 16, even her mother's vaunted openness crumbled. ''She talked to my mom about it and ended up feeling like a whore because even though my mom always said we could talk to her about anything, she didn't want to hear that her daughter had slept with a boy.''

Part of the problem for many adults is that they aren't quite sure how they feel about teenage sex. A third of adults think adolescent sexual activity is wrong, while a majority of adults think it's O.K. and, under certain conditions, normal, healthy behavior, according to the Alan Guttmacher Institute, a nonprofit, reproductive-health research group. In one breath, parents say they perceive it as a public-health issue and want more information about sexual behavior and its consequences, easier access to contraceptives and more material in the media about responsible human and sexual interaction. And in the next breath, they claim it's a moral issue to be resolved through preaching abstinence and the virtues of virginity and getting the trash off TV. ''You start out talking about condoms in this country, and you end up fighting about the future of the American family,'' say Sarah Brown, director of the Campaign Against Teen Pregnancy. ''Teens just end up frozen like a deer in headlights.''

Not all kids are happy with television's usurping the role of village griot. Many say they've become bored by—and even sent—sexual themes that seem pointless and even a distraction from the information or entertainment they're seeking. ''It's like everywhere,'' says Ryan, a 13-year-old seventh-grader in Denver, ''even in *Skateboarding* [magazine]. It's become so normal it doesn't even affect you. On TV, out of nowhere, they'll begin talking about masturbation.'' Another Ryan, 13, in the eighth grade at the same school, agrees: ''There's sex in the cartoons and messed-up people on the talk shows—'My lover sleeping with my best friend,' I can remember the jumping-condom ads. There's just too much of it all.''

Many kids are torn between living up to a moral code espoused by their church and parents and trying to stay true to the swirling laissez-faire. Experience is making many sadder but wiser. The shame, anger or even indifference stirred by early sex an lead to prolonged abstinence. Chandra, a 17-year-old in Detroit, says she had sex with a boyfriend of two years for the first time at 15 despite her mother's constant pleas against it. She says she wishes she had heeded her mother's advice ''One day I just decided to do it,'' she says. ''Afterward, I was kind of mad that I let it happen. And I was sad because I knew my mother wouldn't have approved.'' Chandra stopped dating the boy more than a year ago and hasn't had sex since. ''It would have to be someone I really cared about,'' she says. ''I've had sex before, but I'm not a slut.''

With little guidance from grownups, teens have had to discover for themselves that the ubiquitous sexual messages must be tempered with caution and responsibility. It is quite clear, even to the most sexually experienced youngsters, just how dangerous a little information can be. Stephanie in North Lauderdale, who lost her virginity two years ago, watches with concern as her seven-year-

old sister moves beyond fuzzy thoughts of romance inspired by *Cinderella or Aladdin* into sexual curiosity. ''She's always talking about pee-pees, she sees somebody on TV kissing and hugging or something, and she says, 'Oh, they had sex,' I think she's going to find out about this stuff before I did.'' She pauses. ''We don't tell my sister anything,'' she says, ''but she's not a naive child.''

Mr. BYRD. I yield the floor.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, July 22, 1998, the federal debt stood at $5,536,743,281,758.09 (Five trillion, five hundred thirty-six billion, seven hundred forty-three million, two hundred eighty-one thousand, seven hundred fifty-eight dollars and nine cents).

One year ago, July 22, 1997, the federal debt stood at $5,366,067,000,000 (Five trillion, three hundred sixty-six billion, sixty-seven million).

Five years ago, July 22, 1993, the federal debt stood at $4,340,981,000,000 (Four trillion, three hundred forty billion, nine hundred eighty-one million).

Ten years ago, July 22, 1988, the federal debt stood at $2,552,070,000,000 (Two trillion, five hundred fifty-two billion, seventy million) which reflects a debt increase of nearly $3 trillion—$2,984,673,281,758.09 (Two trillion, nine hundred eighty-four billion, six hundred seventy-three million, two hundred eighty-one thousand, seven hundred fifty-eight dollars and nine cents) during the past 10 years.

RECOGNITION OF NEWT HEISLEY

Mr. CAMPBELL. Mr. President, I begin my statement today describing a powerful and emotional sight that moves us to the core of our faith and beliefs about America and about those who have served in the Armed Forces of our nation.

Many of us have visited one or more of the military academies that train our future military leaders. These academies have varied missions and yet all of them share in the critical task of developing leaders for their particular service and our country. On the grounds of each academy is a chapel, a spectacular place that at once identifies itself as a place of worship.

In each chapel, a place has been reserved for the Prisoners of War and the Missing in Action from their particular branch of service. A pew has been set aside and marked by a candle, a powerful, symbolic reminder that not all have returned from battle. This hallowed place has been set aside so that all POWs and MIAs are remembered with the dignity and honor they deserve. It is a moving and emotional moment to pause at this reserved pew, to be encouraged by the burning candle, to recall the valor and sacrifice of those soldiers, sailors or pilots, and to be inspired today by what they have done.

Back in 1970, a wife of a soldier missing in action made a simple request to have a flag designed for a small group of families whose loved ones were prisoners or missing in action in Southeast Asia. As a member of the National League of Families she felt the organization needed a symbol. This symbol, a black and white flag, with a silhouette of a bowed head set against a guard tower and a single strand of barb wire, was designed by Newt Heisley.

Congress has officially recognized the National League of Families POW/MIA flag. This flag has become a powerful symbol to all Americans that we have not forgotten—and will not forget. Since its creation, the flag has flown over numerous state and federal buildings, and has even been adopted by similar organizations in Kuwait, Chechnya, Bosnia, and other countries.

Newt Heisley made the sketch of this symbol over a couple of days in a New Jersey advertising studio, never imagining the impact the design he created almost 27 years ago would have. Mr. Heisley used the inspiration of his ill son returning from Marine training at Quantico, Virginia for the silhouette. Otherwise the flag was just a quick sketch that wasn't even supposed to be black and white. Mr. Heisley planned on adding colors but the black and white motif remained.

Mr. Heisley, first realized how popular the symbol had become when he moved to Colorado Springs in 1972. Only two years after he made the design he was touring the Air Force Academy when he saw the flag on display at the visitors center. Today, the flag is a national symbol that is seen on everything from ball caps to bumper stickers.

A veteran of World War II, Mr. Heisley knows of the importance of his design. We must never forget those who gave their lives for our country. Mr. Heisley never felt the need to profit from the POW/MIA flag design. The image was never copyrighted and today is used by many companies and organizations. Mr. Heisley was simply glad to create a symbol that honors veterans and the sacrifices they made for our country and freedom.

Mr. President, the United States has fought in many wars and thousands of Americans who served in those wars were captured by the enemy or listed as missing in action. In 20th Century wars alone, more than 147,000 Americans were captured and became Prisoners of War; of that number more than 15,000 died while in captivity. When we add to this number those who are still missing in action, we realize the tremendous importance of their presence through the POW/MIA flag. The POW/MIA flag is a forceful reminder that we care not only for them, but also for their families who personally carry with them the burden of sacrifice. We want them to know that they do not stand alone, that we stand with them and beside them, and remember the loyalty and devotion of those who served.

As a veteran who served in Korea, I personally know that the remembrance of another's sacrifice in battle is one of the highest and most noble acts we can offer. Newt Heisley has inspired this remembrance and honor and I thank him, personally, for this tremendous symbol that shall endure forever.

MESSAGES FROM THE HOUSE

At 3:32 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 1260. An act to amend the Securities Act of 1933 and Securities Exchange Act of 1934 to limit the conduct of securities class actions under State law, and for other purposes.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 6) to extend the authorization of programs under the Higher Education Act of 1965, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints the following Members as the managers of the conference on the part of the House:

For consideration of the House bill (except section 464), and Senate amendment (except sections 484 and 799C), and modifications committed to conference: Mr. GOODLING, Mr. MCKEON, Mr. PETRI, Mr. GRAHAM, Mr. SOUDER, Mr. PETERSON of Pennsylvania, Mr. CLAY, Mr. KILDEE, Mr. MARTINEZ, and Mr. ANDREWS.

For consideration of section 464 of the House bill, and sections 484 and 799 C of the Senate amendment, and modifications committed to conference: Mr. GOODLING, Mr. TALENT, Mr. SHAW, Mr. CAMP, AND Mr. LEVIN.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 3616) to authorize appropriations for fiscal 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints the following Members as the managers of the conference on the part of the House:

From the Committee on National Security, for consideration of the House bill, and the Senate amendment, and modifications committed to conference: Mr. SPENCE, Mr. STUMP, Mr. HUNTER, Mr. KASICH, Mr. BATEMAN, Mr. HANSEN, Mr. WELDON of Pennsylvania, Mr. HEFLEY, Mr. SAXTON, Mr. BUYER, Mrs. FOWLER, Mr. MCHUGH, Mr. WATTS of Oklahoma, Mr. THORNBERRY, Mr. CHAMBLISS, Mr. JONES, Mr. PAPPAS, Mr. RILEY, Mr. SKELTON, Mr. SISISKY, Mr. SPRATT, Mr. ORTIZ, Mr. PICKETT, Mr.

EVANS, Mr. TAYLOR of Mississippi, Mr. ABERCROMBIE, Mr. MEEHAM, Ms. HARMAN, Mr. MCHALE, Mr. KENNEDY of Rhode Island, Mr. ALLEN, Mr. SNYDER, and Mr. MALONEY of Connecticut.

As additional conferees from the Permanent Select Committee on Intelligence, for consideration of matters within the jurisdiction of that committee under clause 2 of rule XLVIII: Mr. GOSS, Mr. LEWIS of California, and Mr. DICKS.

As additional conferees from the Committee on Banking and Financial Services, for consideration of section 1064 of the Senate amendment: Mr. LEACH, Mr. CASTLE, and Mr. LAFALCE.

As additional conferees from the Committee on Commerce, for consideration of sections 601, 3136, 3151, 3154, 3201, 3401, and 3403–3407 of the House bill, and sections 321, 601, 1062, 3133, 3140, 3142, 3144, 3201, and title XXXVIII of the Senate amendment, and modifications committed to conference: Mr. BLILEY, Mr. DAN SCHAEFER of Colorado, and Mr. DINGELL; provided, that Mr. OXLEY is appointed in lieu of Mr. DAN SCHAEFER of Colorado for consideration of section 321 of the Senate amendment; provided further, that Mr. BILIRAKIS is appointed in lieu of Mr. DAN SCHAEFER of Colorado for consideration of section 601 of the House bill, and section 601 of the Senate amendment; provided further, that Mr. TAUZIN is appointed in lieu of Mr. DAN SCHAEFER of Colorado for consideration of section 1062 and title XXXVIII of the Senate amendment.

As additional conferees from the Committee on Education and the Workforce, for consideration of sections 361, 364, 551, and 3151 of the House bill, and sections 522, 643, and 1055 of the Senate amendment, and modifications committed to conference: Mr. PETRI, Mr. RIGGS, and Mr. ROEMER.

As additional conferees from the Committee on Government Reform and Oversight, for consideration of sections 368, 729, 1025, 1042, and 1101–1106 of the House bill, and sections 346, 623, 707, 805, 806, 813, 814, 815, 816, 1101–1105, 3142, 3144, 3145, 3161–3172 and 3510 of the Senate amendment, and modifications committed to conference: Mr. BURTON of Indiana, Mr. MICA, and Mr. WAXMAN; provided, that Mr. HORN is appointed in lieu of Mr. MICA for consideration of section 368 of the House bill, and sections 346, 623, 707, 805, 806, 813, 814, 815, and 816 of the Senate amendment.

As additional conferees from the Committee on International Relations, for consideration of sections 233, 1021, 1043, 1044, 1201, 1204, 1205, 1201, 1211, 1213, 1216, and title XIII of the House bill, and sections 326, 332, 1013, 1041, 1042, 1074, 1084, 3506, 3601, 3602, and 3901–3904 of the Senate amendment, and modifications committed to conference: Mr. GILMAN, Mr. BEREUTER, and Mr. HAMILTON.

As additional conferees from the Committee on International Relations, for consideration of sections 1207, 1208, 1209, and 1212 of the House bill, and modifications committed to conference: Mr. GILMAN, Mr. BEREUER, Mr. SMITH of New Jersey, Mr. BURTON of Indiana, Mr. ROHRABACHER, Mr. HAMILTON, Mr. GEJDENSON, and Mr. LANTOS.

As additional conferees from the Committee on the Judiciary, for consideration of sections 1045 and 2812 of the House bill, and section 1077 of the Senate amendment, and modifications committed to conference: Mr. HYDE, Mr. BRYANT and Mr. CONYERS.

As additional conferees from the Committee on Resources, for consideration of sections 601, 2812, and 3404–3407 of the House bill, and sections 601, 2828, and title XXIX of the Senate amendment, and modifications committed to conference: Mr. YOUNG of Alaska, Mr. TAUZIN, and Mr. MILLER of California.

As additional conferees from the Committee on Science, for consideration of sections 3135 and 3140 of the Senate amendment, and modifications committed to conference: Mr. SENSENBRENNER, Mr. CALVERT, and Mr. BROWN of California.

As additional conferees from the Committee on Transportation and Infrastructure, for consideration of sections 552, 601, 1411, and 143 of the House bill, and sections 323, 601, 604, and 1080 of the Senate amendment, and modifications committed to conference: Mr. SHUSTER, Mr. BOEHLERT, and Mr. CLEMENT.

As additional conferees from the Committee on Veterans' Affairs, for consideration of sections 556 and 1046 of the House bill, and sections 618, 619, 644, and 1082 of the Senate amendment, and modifications committed to conference: Mr. SMITH of New Jersey, Mr. BILIRAKIS, and Mr. RODRIGUEZ.

As additional conferees from the Committee on Ways and Means, for consideration of the XXXVII and XXXVIII of the Senate amendment, and modifications committed to conference: Mr. CRANE, Mr. THOMAS of California, and Mr. MATSUI.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–6126. A communication from the Executive Director of the District of Columbia Financial Responsibility and Management Assistance Authority, transmitting, pursuant to law, the Authority's report on third quarter obligations and expenditures of non-appropriated funds for fiscal year 1998; to the Committee on Governmental Affairs.

EC–6127. A communication from the Director of the Office of Surface Mining Reclamation and Enforcement, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Indiana Regulatory Program'' (No. IN–130–FOR) received on July 21, 1998; to the Committee on Energy and Natural Resources.

EC–6128. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, certification of a proposed Manufacturing License Agreement with the United Kingdom for the production of machine gun conversion kits (DTC 17–98) received on July 21, 1998; to the Committee on Foreign Relations.

EC–6129. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, certification of a proposed Manufacturing License Agreement with Taiwan involving the transfer of aircraft engines to the Czech Republic (DTC 1–98) received on July 21, 1998; to the Committee on Foreign Relations.

EC–6130. A communication from the Assistant Secretary of Commerce and Commissioner of Patents and Trademarks, transmitting, pursuant to law, the report of a rule entitled ''Revision of Patent Fees for Fiscal Year 1999'' (RIN0651–AA96) received on July 20, 1998; to the Committee on the Judiciary.

EC–6131. A communication from the Chief of the Regulations Division, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Posting of Signs and Written Notification to Purchasers of Handguns'' (RIN1512–AB68) received on July 21, 1998; to the Committee on the Judiciary.

EC–6132. A communication from the Secretary of the Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule regarding investment advisers with principal offices and places of business in Colorado or Iowa (RIN3235–AH22) received on July 20, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–6133. A communication from the General Counsel of the Federal Emergency Management Agency, transmitting, pursuant to law, the report of two rules regarding the National Flood Insurance Program (Docket FEMA–7689, RIN3067–AC85) received on July 21, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–6134. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the Board's mid-year Monetary Policy Report; to the Committee on Banking, Housing, and Urban Affairs.

EC–6135. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property'' (Rev. Rul. 98–36) received on July 20, 1998; to the Committee on Finance.

EC–6136. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Treatment of Loans With Below-Market Interest Rates'' (Rev. Rul. 98–34) received on July 20, 1998; to the Committee on Finance.

EC–6137. A communication from the Chief of Staff of the Office of the Commissioner of Social Security, transmitting, pursuant to law, the report of a rule regarding referral of cases for quality review (RIN0960–AE53) received on July 15, 1998; to the Committee on Finance.

EC–6138. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Capsaicin; Exemption from the Requirement of a tolerance'' (FRL5799–7) received on July 16, 1998; to the Committee on Environment and Public Works.

EC–6139. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the

report of a rule entitled ''National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers'' (FRL6112–7) received on July 16, 1998; to the Committee on Environment and Public Works.

EC–6140. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Tebuconazole; Extension of Tolerances for Emergency Exemptions'' (FRL6015–9) received on July 16, 1998; to the Committee on Environment and Public Works.

EC–6141. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; Kentucky: Adoption of General Conformity Regulations'' (FRL6130–3) received on July 21, 1998; to the Committee on Environment and Public Works.

EC–6142. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule regarding clean air reasonably available control technology requirements in Kentucky (FRL6126–1) received on July 21, 1998; to the Committee on Environment and Public Works.

EC–6143. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule regarding the Prevention of Significant Deterioration of air quality in Kentucky (FRL6125–8) received on July 21, 1998; to the Committee on Environment and Public Works.

EC–6144. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of State Implementation Plans and Redesignation of the South Coast Air Basin in California to Attainment for Nitrogen Dioxide'' (FRL6127–1) received on July 21, 1998; to the Committee on Environment and Public Works.

EC–6145. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''OMB Approval Numbers Under the Paperwork Reduction Act: Technical Correction'' (FRL6125–1) received on July 21, 1998; to the Committee on Environment and Public Works.

EC–6146. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule regarding disapproval of the State Implementation Plan for Arizona's Phoenix PM–10 Moderate Area (FRL6129–4) received on July 21, 1998; to the Committee on Environment and Public Works.

EC–6147. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Public Availability of Information: Electronic FOIA Amendment'' (RIN2105–AC69) received on July 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6148. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Dornier Model 328–100 Series Airplanes'' (Docket 98–NM–133–AD) received on July 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6149. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Raytheon Aircraft Company 90, 100, 200, and 300 Series Airplanes'' (Docket 97–CE–92–AD) received on July 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6150. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A320 and Model A321 Series Airplanes'' (Docket 94–NM–94–AD) received on July 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6151. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A320–111 and –211 Series Airplanes'' (Docket 97–NM–160–AD) received on July 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6152. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; British Aerospace Model BAe 146 and Model Avro 146–RJ Series Airplanes'' (Docket 97–NM–02–AD) received on July 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6153. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Dassault Model Mystere-Falcon 50 Series Airplanes'' (Docket 96–NM–230–AD) received on July 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6154. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Aerospatiale Model ATR42 and ATR72 Series Airplanes'' (Docket 98–NM–149–AD) received on July 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6155. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Saab Model SAAB SF340A and SAAB SF340B Series Airplanes'' (Docket 98–NM–117–AD) received on July 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6156. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Class D and Establishment of Class E Airspace; Yuma MCAS-Yuma International Airport, AZ; Correction'' (Docket 98–AWP–14) received on July 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6157. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Ukiah, CA'' (Docket 98–AWP–11) received on July 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6158. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Porterville, CA'' (Docket 98–AWP–2) received on July 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6159. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments'' (Docket 29282) received on July 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6160. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments'' (Docket 29281) received on July 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6161. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments'' (Docket 29280) received on July 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6162. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; McDonnell Douglas Model MD-11 Series Airplanes'' (Docket 98–NM–209–AD) received on July 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6163. A communication from the Director of the United States Arms Control and Disarmament Agency, transmitting, an Executive Summary and Annexes to the U.S. Arms Control and Disarmament Agency's 1997 Annual Report; to the Committee on Foreign Relations.

EC–6164. A communication from the Deputy Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries Off West Coast States and in the Eastern Pacific; Pacific Coast Groundfish Fishery; Management Measures for Nontrawl Sablefish'' (RIN0648–AJ27) received on July 22, 1998; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THOMPSON, from the Committee on Governmental Affairs: Special Report entitled '''Slamming'—The Authorized Switching of Long-Distance Telephone Service'' (Rept. No. 105–259).

By Mr. MCCAIN, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 1699: A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Billie–B–II* (Rept. No. 105–260).

S. 1731: A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Falls Point* (Rept. No. 105–261).

By Mr. MCCAIN, from the Committee on Commerce, Science, and Transportation, with an amendment and an amendment to the title:

S. 1732: A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Vesterhaven* (Rept. No. 105–262).

EXECUTIVE REPORTS OF COMMITTEES

The following executive report of committee was submitted on July 22, 1998:

By Mr. CHAFEE, from the Committee on Environment and Public Works:

Nikki Rush Tinsley, of Maryland, to be Inspector General, Environmental Protection Agency.

(The above nomination was reported with the recommendation that she be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

The following executive reports of committees were submitted on July 23, 1998:

By Mr. HELMS, from the Committee on Foreign Relations:

Richard Nelson Swett, of New Hampshire, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Denmark.

Arthur Louis Schechter, of Texas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Commonwealth of The Bahamas.

FEDERAL CAMPAIGN CONTRIBUTION REPORT

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Nominee Richard Nelson Swett.

Post: Ambassador to Denmark.

Contributions, amount, date, and donee:

Self: Dick Swett, $100.00, 5/21/94, Verge for Congress.

Spouse: Katrina Swett, $200.00, 1/11/91, Keefe for Congress; $50.00, 7/28/91, N.H. Democratic Party.

Children: Chelsea Swett, $1.50, 6/27/90, Swett for Congress; $2.00, 3/31/92, Swett for Congress; Sebastian Swett, $1.25, 8/20/90, Swett for Congress; $5.00, 5/01/92, Swett for Congress. Keaton Swett, None. Chanteclaire Swett, None. Kismet Swett, None. Atticus Swett, None. Sunday Swett, None.

Parents: Ann Swett, $200.00, 6/29/90, Swett for Congress; $100.00, 2/07/96, NH Democratic Party; $25.00, 5/09/96, DCCC; $20.00, 5/14/96, National Dem. Committee; $1,000.00, 6/29/96, Swett for Senate; $25.00, 7/17/96, DCCC; $50.00, 9/07/96; Keefe for Congress; $1,000.00, 9/17/96, Swett for Senate; $20.00, 10/1/96, Dem. National Committee. Phil Swett, $100.00, 6/29/90, Swett for Congress; $100.00, 10/31/91, Swett for Congress; $200.00, 10/13/92, Swett for Congress; $100.00, 11/10/93, Swett for Congress; $200.00, 3/18/94, Swett for Congress.

Grandparents: Henry Parkhurst, None. Elizabeth Parkhurst, None. Floyd Swett, None. Wilemina Swett, None.

Brothers and spouses: Jay Swett, None. Philip Swett Jr., None. Theresa Swett, $200.00, 10/18/96, Swett for Senate.

Sisters and spouses: Gail Swett Yeo, $100.00, 9/26/94, Swett for Congress; $100.00, 10/15/96, Swett for Senate. Jonathan Yeo, $100.00, 10/15/96, Swett for Senate. Barbara Swett Burt, $300.00, 10/11/96, Swett for Senate, $30.00, 11/03/94, Friends of Tom Andrews, $31.00, 4/08/96, Maine Democratic Party. Richard Burt, None.

Dick Swett for Congress Committee Contributions as follows: $15.00, 3/22/90, Grafton Democrats; $175.00, 10/12/90, Cheshire County Democrats; $1,000.00, 5/01/91, New Hampshire Democratic Party; $2,500.00, 9/06/91, New Hampshire Democratic Party*; $100.00, 9/12/91, Salem Democrats; $100.00, 9/12/91, Merrimack County Democrats; $45.00, 1/9/92, Belknap County Democrats; $1,000.00, 2/14/92, New Hampshire Democratic Party; $100.00, 5/06/92, Coos County Democratic Committee; $250.00, 6/15/92, New Hampshire Democratic Party; $50.00, 8/17/92, New Hampshire Democratic Party; $50.00, 9/1/92, New Hampshire Democratic Party; $200.00, 9/05/92, Salem Democrats; $150.00, 9/24/92, New Hampshire Democratic Party; $6,000.00, 10/2/92, New Hampshire Democratic Party*; $150.00, 10/26/92, New Hampshire Democratic Party*; $1,000.00, 10/29/92, Preston for Congress; $5,000.00, 12/22/92, Democratic Cong. Campaign Comm.; $1,500.00, 3/19/93, New Hampshire Democratic Party; $1,800.00, 7/2/93, New Hampshire Democratic Party*; $200.00, 8/3/93, Hillsborough Democratic Party; $200.00, 8/7/93, Manchester Democratic Committee; $2,000.00, 8/27/93, New Hampshire Democratic Party*; $2,500.00, 10/14/93, New Hampshire Democratic Party*; $500.00, 10/21/93, Berlin Democratic Committee; $2,000.00, 1/11/94, New Hampshire Democratic Party; $2,500.00, 2/4/94, Democratic Cong. Campaign Comm.; $500.00, 3/14/94, Nashua Presidential Host Account; $150.00, 3/17/94, Merrimack County Democrats; $5,000.00, 5/4/94, New Hampshire Democratic Party*; $2,000.00, 8/8/94, Democratic Cong. Campaign Comm.; $6,000.00, 8/19/94, New Hampshire Democratic Party*; $7,700.00, 8/31/94, New Hampshire Democratic Party*; $100.00, 9/1/94, Hillsborough County Democratic Comm.; $5,000.00, 11/3/94, New Hampshire Democratic Party*; $4,000.00, 11/4/94, New Hampshire Democratic Party*.

Swett for Senate Committee Contributions as follows: $1,000.00, 3/16/95, New Hampshire Democratic Party; $100.00, 4/25/95, Democratic Committee of Hopkinton; $100.00, 8/14/95, Belknap County Democrats; $95.00, 9/6/95, Laconia City Democratic Committee; $105.00, 9/21/95, Democratic City Committee; $100.00, 1/17/96, Cheshire County Democrats; $750.00, 1/24/96, New Hampshire Democratic Party; $40.00, 3/20/96, Merrimack County Democrats; $50.00, 3/29/96, Carroll County Democrats; $25.00, 4/12/96, Cheshire County Democrats; $75.00, 5/14/96, New Hampshire Democratic Party; $30.00, 8/1/96, Concord City Democrats; $100.00, 9/13/96, Stafford County Democratic Committee; $18,000.00, 11/26/96, New Hampshire Democratic Party*; $15,000.00, 3/06/97, New Hampshire Democratic Party*; $500.00, 6/12/97, Archi Pac; $1,000.00, 1/2/98, Jane Frederick for Congress.

*These contributions were Transfers of surplus funds 2USC SEC 439.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Nominee: Arthur Louis Schechter.

Post: Ambassador to the Bahamas.

Contributions, amount, date, and donee:

1. Self: See Attached.

2. Spouse: Joyce Proler Schechter, See Attached.

3. Children and spouses names: Leslie Rose Schechter Karpas and Hedley Karpas, See Attached; Jennifer Paige Schechter Rosen and Alan Rosen, See Attached.

4. Parents names: Helen and Morris Schechter, deceased.

5. Grandparents names: Miriam and Solomon Schechter, deceased.

6. Brothers and spouses names: Adolph Joe Schechter and wife Joyce, See Attached. Dr. Robert Samuel Schechter and wife Mary Ethel, None.

7. Sisters and spouses names: None.

National political contributions

[Arthur L. Schechter]

1/93–12/93:	
Robb for Senate	$1,000
DSCC	11,000
Bob Krueger	2,000
Jim Mattox	1,000
Gene Green	1,000

National political contributions—Continued

Sheila Jackson Lee	1,000
Kerrey for U.S. Senate	250
Martin Frost Campaign	250
Wilson Committee (primary)	250
Sam Gejdenson Re-election	500
Jeff Bingaman Campaign	500
1/94–12/94:	
DNC—(transferred to non-fed)	10,000
Ken Bentsen	1,000
Lloyd Doggett	1,000
Lloyd Doggett	1,000
Sheila Jackson Lee	1,000
Paul Colbert (primary)	1,000
DSCC	6,000
DSCC (transferred to non-fed)	5,000
Kennedy for Senate	1,000
DNC (Non Federal)	25,000
Hyatt for Senate	1,000
Lautenberg Committee	500
Friends of Bob Carr	250
Mike Synar for Congress	500
Citizens for Senator Wofford	500
Sam Coppersmith for U.S. Senate	250
Sam Gejdenson Re-election Comm.	250
Wilson Committee (general)	200
Gene Green Congressional	500
Effective Government Comm.	250
1/95–12/95:	
DNC (non-federal)	25,000
Tom Daschle	1,000
DNC	10,000
DNC (transferred to non-fed)	10,000
DNC (non-federal)	5,000
Ken Bentsen (primary)	1,000
Ken Bentsen (general)	1,000
John Odam	1,000
DCCC	5,000
Lloyd Doggett (primary)	1,000
Lloyd Doggett (general)	1,000
Clinton/Gore '96 Primary	1,000
Gene Green	1,000
DSCC	5,000
People for Wilhelm	1,000
Citizens for Harkin	250
1/96–12/96:	
Martin Frost	1,000
DNC (transferred to non-fed)	20,000
Tom Daschle (general)	1,000
Nick Lampson (general)	1,000
DNC Non-Federal	30,000
Effective Government	1,000
DSCC	6,000
Lefty Morris	1,000
DSCC	1,000
John Bryant	1,000
Ken Bentsen	1,000
Jim Chapman	1,000
Tim Johnson for S. Dakota	500
Sam Gejdenson	500
Eddie Bernice Johnson	250
1/97–6/97:	
DNC	10,000
DSCC	10,000
John Breaux	1,000
DCCC (non-federal)	1,000
Texas Democratic Party	1,000
Rodriquez for U.S. Congress	300
Mary Moore for Senate	250
7/97–Present	0

[Joyce P. Schechter]

1/93–12/93:	
Jim Mattox	$1,000
Bob Krueger	1,000
Bob Krueger (run-off)	1,000
1/94–12/94:	
Lloyd Doggett	1,000
Lloyd Doggett	1,000
Sheila Jackson Lee (primary)	1,000
Paul Colbert (primary)	1,000
Ken Bentsen	1,000
1/95–12/95:	
Ken Bentsen	1,000
Clinton/Gore '96 Primary	1,000

National political contributions—Continued

1/96–12/96:
- Effective Government 1,000
- DNC 5,000
- Tom Daschle 1,000
- Emily's List 1,000
- John Bryant 1,000
- Friends of Carl Levin 250

7/97–12/97:
- Fritz Hollings for Senate 1,000

1/98–Present:
- Bob Kerrey for Senate 1,000
- John Kerry Campaign 1,000
- Senator Chris Dodd Campaign .. 500

[Leslie Rose Schechter Karpas]

1/93–12/93:
- Bob Krueger 1,000

1/94–12/94:
- Paul Colbert (primary) 1,000
- Jim Mattox (primary) 1,000
- Carrin Patman 1,000
- Sheila Jackson Lee (general) 500
- Ken Bentsen (general) 500

1/95–12/95:
- Clinton/Gore '96 1,000

1/96–12/96:
- Gene Green 1,000
- Jim Chapman 2,000
- Ken Bentsen 1,000
- Nick Lampson for Congress 500

7/97–12/97 ..... -0-

1/98–Present:
- Dick Gephardt Campaign 1,000

[Hedley Karpas]

1/95–12/95:
- Clinton/Gore '96 Primary 1,000

1/96–Present ..... -0-

[Jennifer Paige Schechter Rosen]

1/94–12/94:
- Jim Chapman 1,000
- Ken Bentsen 1,000
- Martin Frost 1,000
- Fisher for Senate 1,000
- Paul Colbert 1,000
- Jim Mattox 1,000
- Sheila Jackson Lee 500
- Coleman for Congress 250
- Gene Green Congressional 500

1/95–12/95:
- Sheila Jackson Lee (primary) .. 1,000
- Lefty Morris 1,000
- Clinton/Gore '96 Primary 1,000

1/96–12/96:
- Sheila Jackson Lee 1,000
- Victor Morales 1,000
- Martin Frost 1,000
- Gene Green 1,000
- John Bryant 1,000
- Nick Lampson 1,000
- Friends of Tom Strickland 500
- John Wertheim for Congress 250

1/97–Present ..... -0-

[Alan M. Rosen]

1/95–12/95:
- Clinton/Gore '96 Primary 1,000

1/96–12/96:
- Nick Lampson for Congress 100
- DNC 300

1/97–Present ..... -0-

[Adolph Joseph Schechter & Joyce Schechter]

1/96–12/96
- Lefty Morris for Congress 100

1/97–Present ..... -0-

[Dr. Robert Schechter & Mary Ethel Schechter]

None

PART B—FINANCIAL INFORMATION AMENDED ANSWER TO NUMBER 6

6. Political Contributions—List all financial contributions of $1,000 or more per annum made by you, your spouse or other members of your immediate family to any local, state or national party committee, to any individual candidate or to any multicandidate committee within the last five years.

Answer: In order to update this answer from the previous files of June 5, 1997, and to correct any inadvertent oversights, I am filing the attached amendment.

Members of my immediate family are as follows: my wife, Joyce Proler Schechter; daughters—Leslie Rose Schechter Karpas and husband, Hedley Karpas, and Jennifer Paige Schechter Rosen and husband, Alan M. Rosen; and my brothers—Adolph Joe Schechter and wife, Joyce, and Dr. Robert S. Schechter and wife, Mary Ethel.

Both my parents and grandparents are deceased.

Political contributions within the last five years are attached.

*Any corrections are indicated by asterisk (*) and bold type.

Political Contributions

[Arthur L. Schechter]

6/92–12/92:

National:
- DNC $10,000
- DNC (transferred to non-fed) 10,000
- Feinstein for Senate 1,000
- Texas Unity 92 5,000

State:
- Garry Mauro 1,000
- Sue Schechter 3,000
- Ronnie Harrison 1,000
- Ann Richards 1,000 .....

Local:
- Gaynelle Jones (Judge) 1,000
- Scott Link (Judge) 1,000
- Judge Rose Spector 1,000
- Judge John Ackerman 1,000
- Katie Kennedy for Judge 1,000

1/93–12/93

National:
- Robb for Senate 1,000
- DSCC 11,000
- Bob Krueger 2,000
- Jim Mattox 1,000
- Gene Green 1,000
- Sheila Jackson Lee 1,000

State:
- Texas Democratic Party 5,000
- Bob Bullock 1,000
- Garry Mauro 5,000
- Craig Eiland 1,000
- Ann Richards 25,000
- Lloyd Doggett 5,000

Local:
- Harris County Democratic 1,000
- David Mincberg 2,000
- Rene Hass 5,000
- Ed Cogburn 1,000
- Susan Sousson 1,000
- Judge West 1,000
- Peavy 1,150
- Eric Andell 1,000
- Leta Parks 1,000
- Mickey Farrow 1,000
- Bob Lanier 5,000

1/94–12/94

National:
- DNC—(transferred to non-fed) 10,000
- Ken Bentsen 1,000
- Lloyd Doggett 1,000
- Lloyd Doggett 1,000
- Sheila Jackson Lee 1,000
- Paul Colbert (primary) 1,000
- DSCC 6,000
- DSCC (transferred to non-fed) 5,000
- Kennedy for Senate 1,000
- DNC (non-federal) 25,000
- Hyatt for Senate 1,000

State:
- Bob Bullock 3,500
- Garry Mauro 8,500
- Martha Whitehead 1,000
- Craig Eiland 1,000
- Mike Martin 6,000
- Ann Richards 26,000

Local:
- Elinor Tinsely 1,000
- Patrice Barron for Judge 2,000

Political Contributions—Continued
- Lupe Salinas for Judge 1,000
- Jack Lee for Judge 1,000
- Rene Haas for Judge 1,000
- Michael O'Connor for Judge .. 2,500
- Frank Carmona for Judge 1,000
- Alice Oliver-Parrott for Judge 2,500
- Helen Cassidy for Judge 2,000
- Ed Cogburn for Judge 1,000
- Jimmy Carroll for Judge 2,000
- JohnKirtley for Judge 1,500

1/95–12/95

National:
- DNC (non-federal) 25,000
- Tom Daschle (general) 1,000
- DNC 10,000
- DNC (transferred to non-fed) 10,000
- DNC (non-federal) 5,000
- Ken Bentsen (primary) 1,000
- Ken Bentsen (general) 1,000
- John Odam 1,000
- DCCC 5,000
- Lloyd Doggett (primary) 1,000
- Lloyd Doggett (general) 1,000
- Clinton/Gore '96 Primary 1,000
- Gene Green 1,000
- DSCC 5,000
- People for Wilhelm 1,000

State:
- Garry Mauro 1,000
- 21st Century Democrats 20,000
- John Whitmire 2,000

Local:
- David Ballard 1,000
- Judson Robinson 1,000
- Harris County Dem. Pty. 5,000
- Norma Venso 1,000
- David Garner 1,000

1/96–12/96

National:
- Martin Frost 1,000
- DNC (transferred to non-fed) 20,000
- Tom Daschle (general) 1,000
- Nick Lampson (general) 1,000
- DNC (non-federal) 30,000
- Effective Government 1,000
- DSCC 6,000
- Lefty Morris 1,000
- DSCC 1,000
- John Bryant 1,000
- * Ken Bentsen 1,000
- *Jim Chapman 1,000

State:
- 21st Century Democrats 33,000
- Garry Mauro 3,000
- Bob Bullock 1,500
- Texas Senate Dem. Comm. 1,000

Local:
- David Garner 2,000
- Larry Edrozo 1,000

1/97–6/97

National:
- DNC 10,000
- DSCC 10,000
- John Breaux 1,000
- DCCC (non-federal) 1,000
- Texas Democratic Party 1,000

State:
- 21st Century Democrats 10,000

7/97 to present ..... -0-

[Joyce P. Schechter]

6/92–12/92

National:
- Carol Moseley Braun 1,000
- Dianne Feinstein 1,000

1/93–12/93

National:
- Jim Mattox 1,000
- Bob Krueger 1,000
- Bob Krueger (run-off) 1,000

State:
- Texas Democratic Party 3,000
- Paul Colbert 1,000

1/94–12/94

National:
- *Lloyd Doggett 2,000

Political Contributions—Continued

Sheila Jackson Lee (primary) 1,000
Paul Colbert (primary) 1,000
Ken Bentsen 1,000
1/95–12/95
National:
Ken Bentsen 1,000
Clinton/Gore '96 Primary 1,000
1/96–12/96
National:
Effective Government 1,000
DNC 5,000
Tom Daschle 1,000
Emily's List 1,000
John Bryant 1,000
7/97 to 12/97
Local:
Lee Brown for Mayor 3,000
Sylvia Garcia for Comptroller 1,000
Sue Schechter Campaign 2,000
National:
*Fritz Hollings for Senate 1,000
1/98 to Present
National:
Bob Kerrey for Senate 1,000
John Kerry Campaign 1,000
Senator Dodd Campaign 500
State:
John Sharp for Lt. Governor 500

[Leslie Rose Schechter Karpas]

1/93–12/93
National:
Bob Krueger 1,000
1/94–12/94
National:
Paul Colbert (primary) 1,000
Jim Mattox (primary) 1,000
Carrin Patman 1,000
1/95–12/95
National:
Clinton/Gore '96 1,000
1/96–12/96
National:
Gene Green 1,000
Jim Chapman 2,000
*Ken Bentsen 1,000
*7/97 to 12/97 0
1/98 to Present
National:
Dick Gephardt Campaign 1,000

[Hedley Karpas]

1/95–12/95
National:
Clinton/Gore '96 Primary 1,000
*1/96 to Present 0

[Jennifer Paige Schechter Rosen]

1/94–12/94
National:
Jim Chapman 1,000
Ken Bentsen 1,000
Martin Frost 1,000
Fisher for Senate 1,000
Paul Colbert 1,000
Jim Mattox 1,000
1/95–12/95
National:
Sheila Jackson Lee (primary) 1,000
Lefty Morris 1,000
Clinton/Gore '96 Primary 1,000
1/96–12/96
National:
Sheila Jackson Lee 1,000
Victor Morales 1,000
Martin Frost 1,000
Gene Green 1,000
John Bryant 1,000
Nick Lampson 1,000
*1/97 to Present .....

James Howard Holmes, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Latvia.

Nominee: James Howard Holmes.

Post: Ambassador to the Republic of Latvia.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, and the information contained in this report is complete and accurate.

Contributions, amount, date, and donee:

1. Self, none.
2. Spouse, none.
3. Children and spouses names, none.
4. Parents names, father, deceased, mother: none.
5. Grandparents names, deceased.
6. Brothers and spouses names, none.
7. Sisters and spouses names, none.

Steven Robert Mann, of Pennsylvania, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Turkmenistan.

Nominee Steven Robert Mann

Post Turkmenistan.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee:

1. Self, $50.00, 11/94, Robb for Senate campaign.
2. Spouse, Janice M. Soreth, none.
3. Children and spouses, names, Natalia, David, none.
4. Parents names, John Mann (stepfather), deceased; Elizabeth Mann, deceased; Robert Snyderman (father) deceased.
5. Grandparents names, William and Ethel Bodensieck, deceased; John and Anna Mann, deceased; Snyderman grandparents, deceased.
6. Brothers and spouses names, none.
7. Sisters and spouses names, Elizabeth and Peter Simoes, none.

John Bruce Craig, of Pennsylvania, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Sultanate of Oman.

Nominee: John B. Craig.

Post: Ambassador, Sultanate of Oman.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. to the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee;

1. Self, none.
2. Spouse, Gerre Lee J. Craig, none.
3. Children and spouses names, Jason N. Craig, none.
4. Parents names, Margaret F. Craig, (deceased), Owen J. Craig, none.
5. Grandparents names, Paris and Minerva Engle Fridy, decreased; O.J. Gertrude Beutler Craig, decreased.
6. Brothers and spouses names, Charles and Suzanne Craig, none.
7. Sisters and spouses names, none.

Elizabeth Davenport McKune, of Virginia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the State of Qatar.

Nominee: Elizabeth McKune.

Post: State of Qatar.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee;

1. Self, $100, July 1996 Presidential Campaign, Democratic National Committee.
2. Spouse, none, Democratic National Committee
3. Children and spouses names, N/A.
4. Parents names, Clarence Davenport, $50, July 1996 Presidential Campaign, '';Democratic National Committee names, Yolande Davenport, $100, July 1996 Presidential Campaign, ''; Democratic National Committee Yolanda Davenport, $12.60 Democrats 2000, '';Democratic National Committee
5. Grandparents names, all deceased.
6. Brothers and spouses, names Stephen and Mary Davenport, none. Richard and Tina Davenport, none.
7. Sisters and spouses, names, none.

David Michael Satterfield, of Virginia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Lebanon.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Nominee: David M. Satterfield.

Post: Ambassador to Lebanon.

Contributions, Amount, Date, and Donee:

1. Self, None.
2. Spouse; None.
3. Children and spouses names, Victoria Satterfield, none, Alexander Satterfield, none.
4. Parents names, Betty G. Kemp, none.
5. Grandparents names, none.
6. Brothers and spouses names, none.
7. Sisters and spouses names, Nancy Goldstein, none, Barry Goldstein, none.

Melissa Foelsch Wells, of Connecticut, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Estonia.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Nominee: Melissa Wells.

Post: Estonia.

Contributions, Amount, Date, and Donee.

1. Self, none.
2. Spouse, Alfred W. Wells, none.
3. Children and spouses names*, Gregory C. Wells, Christopher S. (wife Fatima Wells,) none.
4. Parents names, Miliza Korjus and Kuno Foelsch, all deceased.
5. Grandparents, names, all deceased.
6. Brothers and spouses names, Richard Foelsch, and Ernest Foelsch, none.
7. Sisters and spouses names, none.

Richard E. Hecklinger, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Thailand.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform

me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Nominee: Richard E. Hecklinger.

Post: Bangkok.

Contributions, Amount, Date, and Donee.

1. Self, none.

2. Spouse, none.

3. Children and spouses names, none.

4. Parents names, Dorothy K. Hecklinger, none, Clarence F. Hecklinger (deceased).

5. Grandparents names, all deceased.

6. Brothers and spouses names, Fred and Margaret Hecklinger, none.

7. Sisters and spouses names, none.

Theodore H. Kattouf, of Maryland, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the United Arab Emirates.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Nominee: Theodore H. Kattouf.

Post: United Arab Emirates.

Contributions, Amount, Date, and Donee.

1. Self, Theodore H. Kattouf, none.

2. Spouse, Jeannie M. Kattouf, none.

3. Children and spouses, Jennifer Morningstar, none, Jack Morningstar, none, Jonathan Kattouf, none, Paul Kattouf, none, Michael Kattouf, none.

4. Parents, Habab Kattouf, deceased, Victoria Kattouf, none.

5. Grandparents, all deceased.

6. Brothers and spouses, George Kattouf, none, Melanie (Noel) Kattouf, none, Greg Kattouf, none.

7. Sisters and spouses, Sylvia Hanna, none, Nicholas Hanna, none.

Bert T. Edwards, of Maryland, to be Chief Financial Officer, Department of State.

David G. Carpenter, of Virginia, to be an Assistant Secretary of State.

David G. Carpenter, of Virginia, to be Director of the Office of Foreign Missions, and to have the rank of Ambassador during his tenure of service.

Charles F. Kartman, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, for the rank of Ambassador during his tenure of service as Special Envoy for the Korean Peace Talks.

William B. Milam, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Islamic Republic of Pakistan.

Nominee: William B. Milam.

Post Ambassador to Pakistan.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee.

1. Self, none.

2. Spouse (separated), none.

3. Children and spouses names, Erika L. Milam, none.

4. Parents names, Burl V. Miliam deceased 1963; Alice V. Milam (nee Pierce), deceased 1977.

5. Grandparents names, William A. Pierce, deceased 1951; Martha Ellen, Ellen (Cowls), deceased 1940; Alfred Miliam, deceased 1938; Grace (Eads) Milam, deceased ca. 1946.

6. Brothers and spouses names, Robert D. Milam, none; Joyce N. Milam, none; Carlin R. Milam, none; and Howard P. Milam, none; Doris N. Milan, none.

7. Sisters and spouses names, no sisters.

Mary Beth West, of the District of Columbia, a Career Member of the Senior Executive Service, for the rank of Ambassador during her tenure of service as Deputy Assistant Secretary of State for Oceans, Fisheries and Space.

Jonathan H. Spalter, of the District of Columbia, to be an Associate Director of the United States Information Agency.

Hugh Q. Parmer, of Texas, to be an Assistant Administrator of the Agency for International Development.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. HELMS. Madam President, for the Committee on Foreign Relations, I also report favorably two nomination lists in the Foreign Service which were printed in full in the RECORDS of June 18, 1998 and July 15, 1998, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORDS, of June 18, 1998 and July 15, 1998, at the end of the Senate proceedings.)

In the Foreign Service nomination beginning Homi Jamshed, and ending Joseph E. Zadrozny, Jr., which nominations were received by the Senate and appeared in the RECORD of June 18, 1998.

In the Foreign Service nominations beginning Robert James Bigart, Jr., and ending Carol J. Urban, which nominations were received by the Senate and appeared in the RECORD of July 15, 1998.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DORGAN:

S. 2345. A bill to amend section 3681 of title 18, United States Code, relating to the special forfeiture of collateral profits of a crime; to the Committee on the Judiciary.

By Mr. ALLARD (for himself, Mr. D'AMATO, Mr. FAIRCLOTH, Mr. HAGEL, Mr. ENZI, Mr. BENNETT, Mr. MACK, Mr. SHELBY, and Mr. GRAMS):

S. 2346. A bill to amend the Internal Revenue Code of 1986 to expand S corporation eligibility for banks, and for other purposes; to the Committee on Finance.

By Mr. HARKIN:

S. 2347. A bill to provide for a coordinated effort to combat methamphetamine abuse, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BURNS:

S. 2348. A bill to amend the Communications Act of 1934 to reduce telephone rates, provide advanced telecommunications services to schools, libraries, and certain helath care facilities, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. MCCAIN:

S. 2349. A bill to authorize appropriations for the hazardous materials transportation program, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SPECTER (for himself and Mr. SANTORUM):

S. 2350. A bill to clarify the application of toll restrictions to Delaware River Port Authority bridges; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. COVERDELL (for himself, Mr. CRAIG, and Mr. ENZI):

S. Con. Res. 109. A concurrent resolution expressing the sense of the Congress that executive departments and agencies must maintain the division of governmental responsibilities between the national government and the States that was intended by the framers of the Constitution, and must ensure that the principles of federalism established by the framers guide the executive departments and agencies in the formulation and implementation of policies; to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DORGAN:

S. 2345. A bill to amend section 2681 of title 18, United States Code, relating to the special forfeiture of collateral profits of a crime; to the Committee on the Judiciary.

FEDERAL SON OF SAM LEGISLATION

Mr. DORGAN. Mr. President, today, I am introducing a bill to correct problems with the Federal ''Son of Sam'' law, as those problems were perceived by the United States Supreme Court. The New York statute analyzed by the Supreme Court, as well as the Federal statute which I seek to amend, forfeited the proceeds from any expressive work of a criminal, and dedicated those proceeds to the victims of the perpetrator's crime. Because of constitutional deficiencies cited by the Court, the Federal statute has never been applied, and without changes, it is highly unlikely that it ever will be. Without this bill, criminals can become wealthy from the fruits of their crimes, while victims and their families are exploited.

The bill I now introduce attempts to correct constitutional deficiencies cited by the Supreme Court in striking down New York's Son of Sam law. In its decision striking down New York's law, the Court found the statute to be both over inclusive and under inclusive: Over inclusive because the statute included all expressive works, no matter how tangentially related to the crime; under inclusive because the statute only included expressive works, not other forms of property.

To correct the deficiencies perceived by the Court, this bill changes significantly the concepts of the Federal statute. Because the Court criticized the statute for singling out speech, this bill is all encompassing: It includes various types of property related to the crime from which a criminal might profit. Because the Court criticized the statute for being over inclusive, including the proceeds from all works, no matter how remotely connected to the crime, this bill limits the property to be forfeited to the enhanced value of property attributable to the offense. Because the Court found fault with the statute for not requiring a conviction, this bill requires a conviction.

The bill also attempts to take advantage of the long legal history of forfeiture. Pirate ships and their contents were once forfeited to the government. More recent case law addresses the concept of forfeiting any property used in the commission of drug related crimes, or proceeds from those crimes. Hopefully, courts interpreting this statute will look to this legal history and find it binding or persuasive.

The bill utilizes the Commerce Clause authority of Congress to forfeit property associated with State crimes. This means that if funds are transferred through banking channels, if UPS or FedEx are used, if the airwaves are utilized, or if the telephone is used to transfer the property, to transfer funds, or to make a profit, the property can be forfeited. In State cases, this bill allows the State attorney general to proceed first. We do not seek to preempt State law, only to see that there is a law in place which will ensure that criminals do not profit at the expense of their victims and the families of victims.

One last improvement which this bill makes over the former statutes: The old statute included only crimes which resulted in physical harm to another; this bill includes other crimes. Examples of crimes probably not included under the old statute, but included here are terrorizing, kidnaping, bank robbery, and embezzlement.

Mr. President, our Federal statute, enacted to ensure that criminals not profit at the expense of their victims and victim's families, is not used today because it is perceived to be unconstitutional. I believe victims of crime deserve quick action on this bill, drafted to ensure that they are not the source of profits to those who committed crimes against them. I ask for your support.

By Mr. ALLARD (for himself, Mr. D'AMATO, Mr. FAIRCLOTH, Mr. HAGEL, Mr. ENZI, Mr. BENNETT, Mr. MACK, Mr. SHELBY, and Mr. GRAMS):

S. 2346. A bill to amend the Internal Revenue Code of 1986 to expand S corporation eligibility for banks, and for other purposes; to the Committee on Finance.

THE SMALL BUSINESS AND FINANCIAL INSTITUTIONS TAX RELIEF ACT OF 1998

● Mr. ALLARD. Mr. President, today I am pleased to introduce legislation that will expand and improve Subchapter S of the Internal Revenue Code. I am joined in this effort by Senators D'AMATO, FAIRCLOTH, HAGEL, ENZI, BENNETT, MACK, SHELBY, and GRAMS.

The Subchapter S provisions of the Internal Revenue Code reflect the desire of Congress to eliminate the double tax burden on small business corporations. Pursuant to that desire, Subchapter S has been liberalized a number of times, most recently in 1996. This legislation contains several provisions that will make the Subchapter S election more widely available to small businesses in all sectors. It also contains several provisions of particular benefit to community banks that may be contemplating a conversion to Subchapter S. Financial institutions were first made eligible for the Subchapter S election in 1996. This legislation builds on and clarifies the Subchapter S provisions applicable to financial institutions.

Mr. President, as Congress considers credit union legislation and financial modernization legislation, it is important that we explore ways in which we can ensure that the tax and regulatory burden on our community bankers remains reasonable. This legislation is reflective of that desire.

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

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

S. 2346

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 ''Small Business and Financial Institutions Tax Relief Act of 1998''.

SEC. 2. EXPANSION OF S CORPORATION ELIGIBLE SHAREHOLDERS TO INCLUDE IRAS.

(a) IN GENERAL.—Section 1361(c)(2)(A) of the Internal Revenue Code of 1986 (relating to certain trusts permitted as shareholders) is amended by inserting after clause (v) the following:

''(vi) A trust described in section 408(a).''

(b) TREATMENT AS SHAREHOLDER.—Section 1361(c)(2)(B) of the Internal Revenue Code of 1986 (relating to treatment as shareholders) is amended by adding at the end the following:

''(vi) In the case of a trust described in clause (vi) of subparagraph (A), the individual for whose benefit the trust was created shall be treated as a shareholder.''

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

SEC. 3. EXCLUSION OF INVESTMENT SECURITIES INCOME FROM PASSIVE INCOME TEST FOR BANK S CORPORATIONS.

(a) IN GENERAL.—Section 1362(d)(3)(C) of the Internal Revenue Code of 1986 (relating to passive investment income defined) is amended by adding at the end the following:

''(v) EXCEPTION FOR BANK INVESTMENT SECURITIES INCOME.—In the case of a bank (as defined in section 581), the term 'passive investment income' shall not include interest on investment securities held by a bank.''

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

SEC. 4. INCREASE IN NUMBER OF ELIGIBLE SHAREHOLDERS TO 150.

(a) IN GENERAL.—Section 1361(b)(1)(A) of the Internal Revenue Code of 1986 (defining small business corporation) is amended by striking ''75'' and inserting ''150''.

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

SEC. 5. TREATMENT OF DIRECTOR QUALIFYING STOCK.

(a) IN GENERAL.—Section 1361(c) of the Internal Revenue Code of 1986 (relating to special rules for applying subsection (b)) is amended by adding at the end the following:

''(7) DIRECTOR QUALIFYING STOCK.—

''(A) IN GENERAL.—For purposes of subsection (b)(1)(D), director qualifying stock shall not be treated as a second class of stock.

''(B) DIRECTOR QUALIFYING STOCK DEFINED.—For purposes of this paragraph, the term 'director qualifying stock' means any stock held by any director of a bank (as defined in section 581) as mandated by banking regulatory requirements.''

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

SEC. 6. BAD DEBT CHARGE OFFS IN YEARS AFTER ELECTION YEAR TREATED AS ITEMS OF BUILT IN LOSS.

The Secretary of the Treasury shall modify Regulation 1.1374–4(f) for taxable years beginning after December 31, 1998, with respect to bad debt deductions under section 166 of the Internal Revenue Code of 1986 by allowing such deductions to be properly taken into account throughout the recognition period (as defined in section 1374(d)(7) of such Code).

SEC. 7. INCLUSION OF BANKS IN 3-YEAR S CORPORATION RULE FOR CORPORATE PREFERENCE ITEMS.

(a) IN GENERAL.—Section 1363(b) of the Internal Revenue Code of 1986 (relating to computation of corporation's taxable income) is amended by adding at the end the following new flush sentence:

''Paragraph (4) shall apply to any bank whether such bank is an S corporation or a qualified subchapter S subsidiary.''

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

SMALL BUSINESS AND FINANCIAL INSTITUTIONS TAX RELIEF ACT OF 1998—LEGISLATION TO EXPAND AND IMPROVE SUBCHAPTER S

Subchapter S of the Internal Revenue Code was first enacted in 1958 to reduce the tax burden on small business corporations. The Subchapter S provisions have been liberalized a number of times over the last two decades, most significantly in 1982, and again in 1996. This liberalization reflects a desire on the part of Congress to relieve the tax burden on small business. S corporations do not pay corporate level income taxes, earnings are passed through to the shareholder level where income taxes are paid, thus eliminating the double taxation of corporations. By contrast, Subchapter C corporations pay corporate level income taxes on earnings, and shareholders pay income taxes again on those same earnings when they are passed through as dividends.

This proposed S corporation improvement legislation would be helpful to many small

businesses, but a number of its provisions are particularly applicable to banks.

Congress made S corporation status available to small banks for the first time in the 1996 ''Small Business Job Protection Act'' but many small banks are having trouble qualifying under the current rules. The proposed legislation:

Increases the number of S corporation eligible shareholders from 75 to 150.

Permits S corporation shares to be held as Individual Retirement Accounts (IRAs).

S corporations are restricted in the amount of passive investment income they may generate. This bill makes clear that any interest on investments maintained by a bank for liquidity and safety and soundness purposes shall not be ''passive'' income.

S corporations may only have one class of stock. This bill provides that any stock that bank directors must hold under banking regulations shall not be a disqualifying second class of stock.

Banks that are converting to S corporations must recapture any accumulated bad debt reserve. This bill permits banks to deduct bad debt charge offs over the same number of years that the accumulated bad debt reserve must be recaptured.

S corporations that convert from C corporations are denied certain interest deductions (preference items) for up to three years following the conversion, at the end of three years the deductions are allowed. The bill clarifies that this Three Year S Corporation Rule for certain interest deduction preference items applies to S corporation banks, thereby providing equitable treatment for S corporation banks.●

By Mr. HARKIN:

S. 2347. A bill to provide for a coordinated effort to combat methamphetamine abuse, and for other purposes; to the Committee on Labor and Human Resources.

COMPREHENSIVE METHAMPHETAMINE CONTROL ACT OF 1998

● Mr. HARKIN. Mr. President, methamphetamine is fast becoming the leading illegal addictive drug in this nation. From quiet suburbs, to city streets, to the corn rows of Iowa, meth is destroying thousands of lives every year. A majority of those lives, unfortunately, are our children's.

Methamphetamine is now commonly referred to as Iowa's illegal drug of choice. This drug is reaching epidemic proportions as it sweeps from the west coast, ravages through the Midwest, and is now beginning to reach the east. The trail of destruction of human life as a result of methamphetamine addiction is running across America from coast to coast. To illustrate the violence it elicits in people, methamphetamine is cited as a contributing factor in 80 percent of domestic violence cases in Iowa and a leading factor in a majority of violent crimes.

In 1996, I was proud to be an original cosponsor of the Methamphetamine Control Act which has done some good. However, in talking to local law enforcement and concerned citizens across Iowa, it is obvious that the methamphetamine problem has exploded beyond anything we envisioned in 1996.

The number of meth arrests, court cases, and confiscation of labs continues to escalate. In the Midwest alone, the number of clandestine meth labs confiscated and destroyed for 1998 is on pace to triple the number confiscated and destroyed in 1997. The cost of clean-up for each lab ranges from $5,000 to $90,000. This cost is being absorbed by communities who are not prepared, or experienced with the dangers of drug trafficking.

Additionally, these clandestine meth labs create an enormous amount of hazardous waste. For every 1 pound of methamphetamine produced, there are 5 to 6 pounds of hazardous waste as a by-product. This waste is highly toxic and often seeps into the ground where eventually it ends up in our drinking water supply.

The dangers posed to law enforcement officers also are greatly increased by these labs. Many peddlers of meth are now what they call ''kitchen'' labs. Meth pushers are now simply using mobile homes or even pick-up trucks to produce their drugs. Combining many volatile chemicals in an uncontrolled environment, meth labs are time bombs to police officers and communities everywhere.

Mr. President, today I am introducing the Comprehensive Methamphetamine Control Act of 1998. My legislation takes a comprehensive, common sense approach in battling this growing epidemic. It calls for an increase in resources to law enforcement working through the High Intensity Drug Trafficking Area (HIDTA) program and establishes swift and certain penalties for those producing and peddling meth.

Also, my legislation expands school and community-based prevention efforts at the local level—targeting those areas that need it the most. Finally, this proposal calls on the National Institute on Drug Abuse to find exactly what makes methamphetamine so very addictive—especially to our young people—and the best methods for beating the addiction.

Mr. President, I believe that we have a window of opportunity as a nation to take a stand right now to defeat this scourge. Everyday, meth infiltrates our city streets and suburbs, leading more and more people down a path of personal destruction. Families are being devastated and communities are fighting an uphill battle against this powerful drug. The time is now to make a stand to protect our communities and schools by passing this legislation.

I ask unanimous consent that the bill and a summary of the legislation be printed in the RECORD.

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

S. 2347

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

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the ''Comprehensive Methamphetamine Abuse Reduction Act''.

SEC. 2. EXPANDING METHAMPHETAMINE ABUSE PREVENTION EFFORTS.

Section 515 of the Public Health Service Act (42 U.S.C. 290bb-21) is amended by adding at the end the following:

''(e) PREVENTION OF METHAMPHETAMINE ABUSE AND ADDICTION.—

''(1) GRANTS.—The Director of the Center for Substance Abuse Prevention (referred to in this section as the 'Director') may make grants to and enter into contracts and cooperative agreements with public and non-profit private entities to enable such entities—

''(A) to carry out school-based programs concerning the dangers of methamphetamine abuse and addiction, using methods that are effective and evidence-based; and

''(B) to carry out community-based methamphetamine abuse and addiction prevention programs that are effective and evidence-based.

''(2) USE OF FUNDS.—Amounts made available under a grant, contract or cooperative agreement under paragraph (1) shall be used for planning, establishing, or administering methamphetamine prevention programs in accordance with paragraph (3).

''(3) PREVENTION PROGRAMS AND ACTIVITIES.—

''(A) IN GENERAL.—Amounts provided under this subsection may be used—

''(i) to carry out school-based programs that are focused on those districts with high or increasing rates of methamphetamine abuse and addiction and targeted at populations which are most at risk to start methamphetamine abuse;

''(ii) to carry out community-based prevention programs that are focused on those populations within the community that are most at-risk for methamphetamine abuse and addiction;

''(iii) to assist local government entities to conduct appropriate methamphetamine prevention activities;

''(iv) to train and educate State and local law enforcement officials on the signs of methamphetamine abuse and addiction and the options for treatment and prevention;

''(v) for planning, administration, and educational activities related to the prevention of methamphetamine abuse and addiction;

''(vi) for the monitoring and evaluation of methamphetamine prevention activities, and reporting and disseminating resulting information to the public; and

''(vii) for targeted pilot programs with evaluation components to encourage innovation and experimentation with new methodologies.

''(B) PRIORITY.—The Director shall give priority in making grants under this subsection to rural and urban areas that are experiencing a high rate or rapid increases in methamphetamine abuse and addiction.

''(4) ANALYSES AND EVALUATION.—

''(A) IN GENERAL.—Not less than $500,000 of the amount available in each fiscal year to carry out this subsection shall be made available to the Director, acting in consultation with other Federal agencies, to support and conduct periodic analyses and evaluations of effective prevention programs for methamphetamine abuse and addiction and the development of appropriate strategies for disseminating information about and implementing these programs.

''(B) ANNUAL REPORTS.—The Director shall submit to the Committee on Labor and Human Resources and Committee on Appropriations of the Senate and the Committee on Commerce and Committee on Appropriations of the House of Representatives, an annual report with the results of the analyses and evaluation under subparagraph (A).

''(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out paragraph (1), $20,000,000 for fiscal

year 1999, and such sums as may be necessary for each succeeding fiscal year.''.

SEC. 3. EXPANDING CRIMINAL PENALTIES AND LAW ENFORCEMENT FUNDING.

(a) SWIFT AND CERTAIN PUNISHMENT OF METHAMPHETAMINE LABORATORY OPERATORS.—

(1) FEDERAL SENTENCING GUIDELINES.—

(A) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate Federal sentencing guidelines or amend existing Federal sentencing guidelines for any offense relating to the manufacture, attempt to manufacture, or conspiracy to manufacture amphetamine or methamphetamine in violation of the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.) in accordance with this paragraph.

(B) REQUIREMENTS.—In carrying out this paragraph, the United States Sentencing Commission shall, with respect to each offense described in subparagraph (A)—

(i) increase the base offense level for the offense—

(I) by not less than 3 offense levels above the applicable level in effect on the date of enactment of this Act; or

(II) if the resulting base offense level after an increase under subclause (II) would be less than level 27, to not less than level 27; or

(ii) if the offense created a substantial risk of danger to the health and safety of another person (including any Federal, State, or local law enforcement officer lawfully present at the location of the offense, increase the base offense level for the offense—

(I) by not less than 6 offense levels above the applicable level in effect on the date of enactment of this Act; or

(II) if the resulting base offense level after an increase under clause (i) would be less than level 30, to not less than level 30.

(C) EMERGENCY AUTHORITY TO SENTENCING COMMISSION.—The United States Sentencing Commission shall promulgate the guidelines or amendments provided for under this paragraph as soon as practicable after the date of enactment of this Act in accordance with the procedure set forth in section 21(a) of the Sentencing Act of 1987 (Public Law 100–182), as though the authority under that Act had not expired.

(2) EFFECTIVE DATE.—The amendments made pursuant to this subsection shall apply with respect to any offense occurring on or after the date that is 60 days after the date of enactment of this Act.

(b) INCREASED RESOURCES FOR LAW ENFORCEMENT.—There are authorized to be appropriated to the Office of National Drug Control Policy to combat the trafficking of methamphetamine in areas designated by the Director of National Drug Control Policy as high intensity drug trafficking areas—

(1) $25,000,000 for fiscal year 1999; and

(2) such sums as may be necessary for each of fiscal years 2000 through 2004.

SEC. 4. TREATMENT OF METHAMPHETAMINE ABUSE.

Section 507 of the Public Health Service Act (42 U.S.C. 290bb) is amended by adding at the end the following:

''(d) TREATMENT OF METHAMPHETAMINE ABUSE AND ADDICTION.—

''(1) GRANTS.—The Director of the Center for Substance Abuse Treatment (referred to in this section as the 'Director') may make grants to and enter into contracts and cooperative agreements with public and non-profit private entities for the purpose of expanding activities for the treatment of methamphetamine abuse and addiction.

''(2) USE OF FUNDS.—Amounts made available under a grant, contract or cooperative agreement under paragraph (1) shall be used for planning, establishing, or administering methamphetamine treatment programs in accordance with paragraph (3).

''(3) TREATMENT PROGRAMS AND ACTIVITIES.—

''(A) IN GENERAL.—Amounts provided under this subsection may be used for—

''(i) evidence-based programs designed to assist individuals to quit their use of methamphetamine and remain drug-free;

''(ii) training in recognizing methamphetamine abuse and addiction for health professionals, including physicians, nurses, dentists, health educators, public health professionals, and other health care providers;

''(iii) training in methamphetamine treatment methods for health plans, health professionals, including physicians, nurses, dentists, health educators, public health professionals, and other health care providers;

''(iv) planning, administration, and educational activities related to the treatment of methamphetamine abuse and addiction;

''(v) the monitoring and evaluation of methamphetamine treatment activities, and reporting and disseminating resulting information to health professionals and the public;

''(vi) targeted pilot programs with evaluation components to encourage innovation and experimentation with new methodologies; and

''(vii) coordination with the Center for Mental Health Services on the connection between methamphetamine abuse and addiction and mental illness.

''(B) PRIORITY.—The Director shall give priority in making grants under this subsection to rural and urban areas that are experiencing a high rate or rapid increases in methamphetamine abuse and addiction.

''(4) ANALYSES AND EVALUATION.—

''(A) IN GENERAL.—Not more than $1,000,000 of the amount available in each fiscal year to carry out this subsection shall be made available to the Director, acting in consultation with other Federal agencies, to support and conduct periodic analyses and evaluations of effective treatments for methamphetamine abuse and addiction and the development of appropriate strategies for disseminating information about and implementing treatment services.

''(B) ANNUAL REPORT.—The Director shall submit to the Committee on Labor and Human Resources and Committee on Appropriations of the Senate and the Committee on Commerce and Committee on Appropriations of the House or Representatives, an annual report with the results of the analyses and evaluation conducted under subparagraph (A).

''(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out paragraph (1), $40,000,000 for fiscal year 1999, and such sums as may be necessary for each succeeding fiscal year.''.

SEC. 5. EXPANDING METHAMPHETAMINE RESEARCH.

Section 464N of the Public Health Service Act (42 U.S.C. 285o-2) is amended by adding at the end the following:

''(c) METHAMPHETAMINE RESEARCH.—

''(1) GRANTS.—The Director of the Institute may make grants to expand interdisciplinary research relating to methamphetamine abuse and addiction and other biomedical, behavioral and social issues related to methamphetamine abuse and addiction.

''(2) USE OF FUNDS.—Amounts made available under a grant under paragraph (1) may be used to conduct interdisciplinary research on methamphetamine abuse and addiction, including research on—

''(A) the effects of methamphetamine abuse on the human body;

''(B) the addictive nature of methamphetamine and how such effects differ with respect to different individuals;

''(C) the connection between methamphetamine abuse and mental illness;

''(D) the identification and evaluation of the most effective methods of prevention of methamphetamine abuse and addiction;

''(E) the identification and development of the most effective methods of treatment of methamphetamine addiction, including pharmacological treatments;

''(F) risk factors for methamphetamine abuse;

''(G) effects of methamphetamine abuse and addiction on pregnant women and their fetuses;

''(H) cultural, social, behavioral, neurological and psychological reasons that individuals abuse methamphetamine, or refrain from abusing methamphetamine.

''(3) RESEARCH RESULTS.—The Director shall promptly disseminate research results under this subsection to Federal, State and local entities involved in combating methamphetamine abuse and addiction.

''(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out paragraph (1), $16,000,000 for fiscal year 1999, and such sums as may be necessary for each succeeding fiscal year.''.

COMPREHENSIVE METHAMPHETAMINE CONTROL ACT OF 1998—HIGHLIGHTS

Increased Resources for Law Enforcement. Two years ago, Senator HARKIN and other members of the Iowa Congressional delegation worked to provide Iowa law enforcement with enhanced support to fight the rise in methamphetamine abuse. Iowa (along with Missouri, Kansas, and Nebraska) was designated as a High Intensity Drug Trafficking Area (HIDTA). As a HIDTA, Iowa law enforcement has received funding to increase the number of federal prosecutors and state and local police available to crack down on meth. This legislation would expand HIDTA funding to combat methamphetamine abuse from $8 million to $25 million, allowing law enforcement officials to significantly expand their efforts and make our communities safer.

Swift and Certain Punishment of Meth Lab Operators. Federal, state and local law enforcement officials have been working hard to prosecute those found to be making methamphetamine. However, because of the great number of cases in Iowa and other states and the inflexibility of current laws, there are often long delays in prosecution. Therefore, this legislation includes a recommendation by the Midwest HIDTA to provide for swifter and more certain punishment of these offenders. It would direct the U.S. Sentencing Commission to increase the penalties for those convicted of manufacturing, attempting to manufacture or conspiracy to manufacture methamphetamine. It would also increase jail time for meth lab cases where the offense created a substantial danger to the health and safety to others, including law enforcement personnel.

Stepping Up Community-Based Prevention Efforts. Critical to any successful comprehensive effort to combat methamphetamine is a strong school and community-based prevention program. This legislation authorizes an additional $20 million to fund expanding school and community-based prevention efforts at the state and local level. Funds are to be targeted to rural and other areas, like Iowa, that are experiencing high or rapid increases in methamphetamine abuse. Funds would be used for education of children, parents, local law enforcement,

businesses and others about the dangers of methamphetamine and on how to identify likely users and producers of the drug.

Expanded Treatment to Fight Meth Addiction. Also critical to a successful effort to combat methamphetamine abuse is a well-designed, adequately funded treatment program for those who become addicted to the drug. Once again, funds would be targeted to rural and other areas, like Iowa, that are experiencing high or rapid increases in methamphetamine abuse. Funds would be used to develop and evaluate effective treatment methods for methamphetamine abusers, to train health professionals about effective treatment methods and to help individuals quit their use of the drug. The bill would encourage targeted pilot programs to develop new and innovative treatment methods.

Expanded Research to Develop Improved Prevention and Treatment Strategies. While there are a number of local programs and strategies that are working to combat meth, additional research is needed to develop improved approaches. Our legislation calls on the National Institute on Drug Abuse (NIDA) to fund research to identify and evaluate the most effective methods of treatment and prevention, as well as the biomedical, neurological and physiological causes and effects of methamphetamine abuse and addiction. In addition, NIDA would be required to promptly disseminate their research results to Federal, State and local organizations involved in combating meth abuse.

By Mr. MCCAIN:

S. 2349. A bill to authorize appropriations for the hazardous materials transportation program, and for other purposes; to the Committee on Commerce, Science, and Transportation.

HAZARDOUS MATERIALS TRANSPORTATION REAUTHORIZATION ACT OF 1998

● Mr. MCCAIN. Mr. President, today I am introducing the Hazardous Materials Transportation Reauthorization Act of 1998. This legislation is identical to the reauthorizing provisions approved by the Senate earlier this year under Subtitle B of Title III of S. 1173, the Intermodal Surface Transportation Efficiency Act of 1998.

Mr. President, the Commerce Committee spent considerable time and effort developing and debating the safety provisions that were incorporated into the ISTEA reauthorization bill, ultimately entitled the Transportation Equity Act for the 21st Century—TEA—21 (P.L. 105–178). Once in conference with our House counterparts, we were faced with many difficult decisions and compromises. The one area that we did not reach agreement regarded the provisions associated with the Hazardous Materials Transportation programs administered by the Research and Special Programs Administration (RSPA) of the Department of Transportation.

Since the House had not acted to reauthorize this program in its version of ISTEA reauthorizing legislation, we found ourselves unable to reach agreement on including it in the conference report. Therefore, the Senate must again take action to reauthorize the Hazardous Materials Transportation Act.

Mr. President, I want to stress that this bill I am introducing today is identical to the hazardous materials reauthorization the Senate passed earlier this year. The legislation proposing reauthorizes funding for programs that ensure the safe transportation of hazardous materials. It also includes a number of provisions requested by the Administration that are intended to strengthen and improve the hazardous materials transportation program. And again Mr. President, I will reiterate, this bill is identical to the proposal passed by the Senate on March 12, 1998.

Mr. President, it is very important for the Congress to complete its work and reauthorize all of our nation's critical transportation safety programs. Therefore, I will be seeking to move this legislation through the Commerce, Science, and Transportation Committee in the very near future.●

By Mr. SPECTER (for himself and Mr. SANTORUM):

S. 2350. A bill to clarify the application of toll restrictions to Delaware River Port Authority bridges; to the Committee on the Judiciary.

DELAWARE RIVER PORT AUTHORITY COMPACT CLARIFICATION

● Mr. SPECTER. Mr. President, I introduce noncontroversial legislation which is essential to the ability of the Delaware River Port Authority to raise funds in the bond markets. Specifically, this bill clarifies that the 1987 law which repealed the thirty-year limit on bridge toll collection set by the General Bridge Act of 1946 also applies to the Delaware River Port Authority's bridges in Southeastern Pennsylvania and Southern New Jersey. It is arguable that this legislation is not necessary and that a court would construe the 1987 law in the Port Authority's favor. However, to assure certainty for the financial markets and entities considering purchasing bonds issued by the Port Authority, I believe it is worthwhile for Congress to adopt legislation making this technical clarification.

By way of background, for many years, federal regulations governed the collection of tolls on bridges throughout the nation. Then, in the 1987 highway bill, congress repealed section 506 of the 1946 General Bridge Act which imposed a 30-year time limit on the collection of tolls. The bridges owned and operated by the Delaware River Port Authority, however, are governed by a 1952 public law by which Congress ratified the Pennsylvania-New Jersey compact establishing the Port Authority. Section 3 of that public law provided that the Port Authority's bridges were expressly exempt from the 30-year limit of the General Bridge Act and were instead subject to a 50-year limit on the collection of tolls.

A strong case could be made that any existing statutory limit on the Port Authority was implicitly repealed by the 1987 highway bill because the limit in the 1952 compact legislation was drafted as an exception to a law that is no longer in effect (i.e., Section 506 of the General Bridge Act of 1946). However, since the 1952 Port Authority provision has not been technically repealed, I am proposing legislation to correct this oversight.

The legislative history of the Section 3 of the Port Authority compact legislation also suggests that the 50-year toll-collection limit should no longer apply. Instead of having a lesser restriction than the 30-year limit, as was intended by Congress, if the 50-year limit were enforced, the Port Authority would be subject to a more stringent limitation on toll collection than all other American bridges. Accordingly, I believe that my legislation is consistent with the intent behind the 1987 highway law to deregulate the collection of tolls nationwide.

The Port Authority is authorized to pledge its revenue, including that from tolls, to secure debts. To obtain financing for future economic development and to preserve the bridges it owns and operates, the Port Authority must have a guaranteed revenue stream. Although a court very likely would rule that the fifty-year limit on toll collection was implicitly repealed by the Highway Act of 1987, without direct legislation to that effect, the Port Authority's bond counsel suggests it will be unable to borrow in the financial markets.

The importance of ensuring this borrowing ability is reflected in the Port Authority's essential role in the economic development of Southeastern Pennsylvania and Southern New Jersey. The Port Authority owns and operates the Benjamin Franklin, Betsy Ross, Commodore Barry, and Walt Whitman bridges as well as the mass transit PATCO High Speed Line. The Port Authority is involved in port unification through another of its subsidiaries, the Port of Philadelphia and Camden. Finally, the Port Authority has been instrumental in regional development and the commercial revitalization of the Philadelphia-Camden waterfront. Its programs include the addition of public attractions at Penns Landing and the Camden Aquarium as well as low-interest loans to expand Philadelphia's American Street Enterprise Zone.

Given the importance of revitalizing the Delaware River region, I urge my colleagues to support this legislation.●

ADDITIONAL COSPONSORS

S. 397

At the request of Mrs. BOXER, her name was added as a cosponsor of S. 397, a bill to amend chapters 83 and 84 of title 5, United States Code, to extend the civil service retirement provisions of such chapter which are applicable to law enforcement officers, to inspectors of the Immigration and Naturalization Service, inspectors and canine enforcement officers of the United States Customs Service, and revenue officers of the Internal Revenue Service.

S. 852

At the request of Mr. LOTT, the names of the Senator from Pennsylvania [Mr. SANTORUM] and the Senator from Texas [Mrs. HUTCHISON] were added as cosponsors of S. 852, a bill to establish nationally uniform requirements regarding the titling and registration of salvage, nonrepairable, and rebuilt vehicles.

S. 943

At the request of Mr. SPECTER, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 943, a bill to amend title 49, United States Code, to clarify the application of the Act popularly known as the ''Death on the High Seas Act'' to aviation accidents.

S. 1251

At the request of Mr. D'AMATO, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 1251, a bill to amend the Internal Revenue Code of 1986 to increase the amount of private activity bonds which may be issued in each State, and to index such amount for inflation.

S. 1252

At the request of Mr. D'AMATO, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 1252, a bill to amend the Internal Revenue Code of 1986 to increase the amount of low-income housing credits which may be allocated in each State, and to index such amount for inflation.

S. 1459

At the request of Mr. GRASSLEY, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 1459, a bill to amend the Internal Revenue Code of 1986 to provide a 5-year extension of the credit for producing electricity from wind and closed-loop biomass.

S. 1734

At the request of Mrs. HUTCHISON, the name of the Senator from Colorado [Mr. ALLARD] was added as a cosponsor of S. 1734, a bill to amend the Internal Revenue Code of 1986 to waive the income inclusion on a distribution from an individual retirement account to the extent that the distribution is contributed for charitable purposes.

S. 1924

At the request of Mr. MACK, the names of the Senator from Kentucky [Mr. MCCONNELL] and the Senator from Rhode Island [Mr. CHAFEE] were added as cosponsors of S. 1924, a bill to restore the standards used for determining whether technical workers are not employees as in effect before the Tax Reform Act of 1986.

S. 2017

At the request of Mr. D'AMATO, the name of the Senator from New Hampshire [Mr. GREGG] was added as a cosponsor of S. 2017, a bill to amend title XIX of the Social Security Act to provide medical assistance for breast and cervical cancer-related treatment services to certain women screened and found to have breast or cervical cancer under a Federally funded screening program.

S. 2110

At the request of Mr. BIDEN, the name of the Senator from Louisiana [Ms. LANDRIEU] was added as a cosponsor of S. 2110, a bill to authorize the Federal programs to prevent violence against women, and for other purposes.

S. 2213

At the request of Mr. FRIST, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of S. 2213, a bill to allow all States to participate in activities under the Education Flexibility Partnership Demonstration Act.

S. 2222

At the request of Mr. GRASSLEY, the name of the Senator from North Carolina [Mr. FAIRCLOTH] was added as a cosponsor of S. 2222, a bill to amend title XVIII of the Social Security Act to repeal the financial limitation on rehabilitation services under part B of the Medicare Program.

S. 2259

At the request of Mr. MURKOWSKI, the name of the Senator from Montana [Mr. BAUCUS] was added as a cosponsor of S. 2259, 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. 2265

At the request of Mr. TORRICELLI, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 2265, a bill to amend the Social Security Act to waive the 24-month waiting period for medicare coverage of individuals disabled with amyotrophic lateral sclerosis (ALS), to provide medicare coverage of drugs used for treatment of ALS, and to amend the Public Health Service Act to increase Federal funding for research on ALS.

S. 2267

At the request of Mr. D'AMATO, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 2267, a bill to amend the Internal Revenue Code of 1986 to grant relief to participants in multiemployer plans from certain section 415 limits on defined benefit pension plans.

S. 2291

At the request of Mr. GRAMS, the names of the Senator from North Carolina [Mr. HELMS] and the Senator from North Carolina [Mr. FAIRCLOTH] were added as cosponsors of S. 2291, a bill to amend title 17, United States Code, to prevent the misappropriation of collections of information.

S. 2295

At the request of Mr. MCCAIN, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 2295, a bill to amend the Older Americans Act of 1965 to extend the authorizations of appropriations for that Act, and for other purposes.

S. 2323

At the request of Mr. GRASSLEY, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 2323, a bill to amend title XVIII of the Social Security Act to preserve access to home health services under the medicare program.

SENATE CONCURRENT RESOLUTION 103

At the request of Mr. MOYNIHAN, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of Senate Concurrent Resolution 103, A concurrent resolution expressing the sense of the Congress in support of the recommendations of the International Commission of Jurists on Tibet and on United States policy with regard to Tibet.

SENATE RESOLUTION 193

At the request of Mr. REID, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of Senate Resolution 193, a resolution designating December 13, 1998, as ''National Children's Memorial Day.''

SENATE RESOLUTION 199

At the request of Mr. TORRICELLI, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of Senate Resolution 199, a resolution designating the last week of April of each calendar year as ''National Youth Fitness Week.''

SENATE RESOLUTION 257

At the request of Mr. MURKOWSKI, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of Senate Resolution 257, a resolution expressing the sense of the Senate that October 15, 1998, should be designated as ''National Inhalant Abuse Awareness Day.''

AMENDMENT NO. 3013

At the request of Mr. CAMPBELL the name of the Senator from Colorado [Mr. ALLARD] was added as a cosponsor of amendment No. 3013 intended to be proposed to S. 1112, a bill to require the Secretary of the Treasury to mint coins in commemoration of Native American history and culture.

AMENDMENT NO. 3266

At the request of Mr. KYL the names of the Senator from Indiana [Mr. COATS], the Senator from Wyoming [Mr. ENZI], the Senator from Missouri [Mr. BOND], and the Senator from Kentucky [Mr. MCCONNELL] were added as cosponsors of amendment No. 3266 proposed to S. 2260, an original bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1999, and for other purposes.

SENATE CONCURRENT RESOLUTION 109—EXPRESSING THE SENSE OF CONGRESS RELATIVE TO EXECUTIVE DEPARTMENTS AND AGENCIES, NATIONAL POLICIES, AND FEDERALISM

Mr. COVERDELL (for himself, Mr. CRAIG, and Mr. ENZI) submitted the following concurrent resolution; which

was referred to the Committee on Governmental Affairs:

S. CON. RES. 109

Whereas federalism is rooted in the knowledge that our political liberties are best assured by limiting the size and scope of the national government;

Whereas the people of the States created the national government when they delegated to it those enumerated governmental powers relating to matters beyond the competence of the individual States;

Whereas all other sovereign powers, save those expressly prohibited the States by the Constitution, are reserved to the States or to the people as the tenth amendment to the Constitution requires;

Whereas the people of the States are free, subject only to restrictions in the Constitution itself or in constitutionally authorized Act of Congress, to define the moral, political, and legal character of their lives;

Whereas in most areas of governmental concern, the States uniquely possess the constitutional authority, resources, and the competence to discern the sentiments of the people and to govern accordingly;

Whereas the nature of our constitutional system encourages a healthy diversity in the public policies adopted by the people of the several States according to their own conditions, needs, and desires;

Whereas acts of the national government, whether executive, legislative, or judicial in nature, that exceed the enumerated powers of that government under the Constitution violate the principle of federalism established by the framers;

Whereas policies of the national government should recognize the responsibility of, and should encourage opportunities for, individuals, families, neighborhoods, local governments, and private associations to achieve their personal, social, and economic objectives through cooperative effort; and

Whereas in the absence of clear constitutional or statutory authority, the presumption of sovereignty should rest with the individual States: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That executive departments and agencies should adhere, to the extent permitted by law, to the following criteria when formulating and implementing policies that have federalism implications:

(1) There should be strict adherence to constitutional principles. Executive departments and agencies should closely examine the constitutional and statutory authority supporting any Federal action that would limit the policymaking discretion of the States, and should carefully assess the necessity for such action. To the extent practicable, the States should be consulted before any such action is implemented.

(2) Federal action limiting the policymaking discretion of the States should be taken only where constitutional authority for the action is clear and certain, and the national activity is necessitated by the presence of a problem of national scope.

(3) It is important to recognize the distinction between problems of national scope (which may justify Federal action) and problems that are merely common to the States (which will not justify Federal action because individual States, acting individually or together, can effectively manage such issues).

(4) Constitutional authority for Federal action is clear and certain only when authority for the action may be found in a specific provision of the Constitution, when there is no provision in the Constitution prohibiting Federal action, and when the action does not encroach upon authority reserved to the States.

(5) With respect to national policies administered by the States, the national government should grant the States the maximum administrative discretion possible. Intrusive Federal oversight of State administration is neither necessary nor desirable.

(6) When undertaking to formulate and implement policies that have federalism implications, executive departments and agencies should—

(A) encourage States to develop their own policies to achieve program objectives and to work with appropriate officials in other States;

(B) refrain, to the maximum extent possible, from establishing uniform, national standards for programs and, when possible, defer to the States to establish standards; and

(C) when national standards are required, consult with appropriate officials and organizations representing the States in developing those standards.

(7) The following special requirements for preemption of State law should be observed:

(A) To the extent permitted by law, executive departments and agencies should construe, in regulations and otherwise, a Federal statute to preempt a State law only when the statute contains an express preemption provision, when there is some other firm and palpable evidence compelling the conclusion that the Congress intended preemption of State law, or when the exercise of State authority directly conflicts with the exercise of Federal authority under the Federal statute.

(B) If a Federal statute does not preempt State law, executive departments and agencies should construe any authorization in the statute for the issuance of regulations as authorizing preemption of State law by rulemaking only when the statute expressly authorizes issuance of preemptive regulations or when there is some other firm and palpable evidence compelling the conclusion that the Congress intended to delegate to the department or agency the authority to issue regulations preempting State law.

(C) Any regulatory preemption of State law should be restricted to the minimum level necessary to achieve the objectives of the statute pursuant to which the regulations are promulgated.

(D) When an executive department or agency foresees the possibility of a conflict between State law and federally protected interests within its area of regulatory responsibility, the department or agency should consult, to the extent practicable, with appropriate officials and organizations representing the States in an effort to avoid such a conflict.

(E) When an executive department or agency proposes to act through adjudication or rulemaking to preempt State law, the department or agency should provide all affected States notice and an opportunity for appropriate participation in the proceedings.

Mr. COVERDELL. Mr. President, I rise today to speak on a concurrent resolution I have submitted, the subject of which is important not only to my constituents, but to anyone who stands by the Constitution of the United States. Ironically, while in England last May President Clinton, with little fanfare or media attention, issued Executive Order (EO) 13083. EO 13083 in both its letter and intent seeks to give executive departments and agencies greater preemptive authority over State and local law in the administration of Executive Branch policies. Ultimately this action is an attempt by the President to promote an agenda by circumventing Congress while subverting the Constitution and the principles of a limited federal government that the Framers were so careful to express in writing this document.

Mr. President, as members of Congress we have each taken an oath to uphold the Constitution. The President has done the same. And as we all know, the Constitution is our nation's most important document. It establishes the way our government works; it establishes the freedoms American citizens enjoy; and it provides for protections of those freedoms.

The Framers understood that individual freedom and centralized power are incompatible. Thus they set out not only to decentralize our federal government, but also to balance the power held at the national level with the power held by individual states. The Tenth Amendment to the Constitution explicitly expresses this intent. It states ''The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.'' I believe that sentence is perfectly clear, yet our Federal Government continues to grow in size and scope. All three branches of the government are to blame.

Is this a reason, however, to allow continued federal infringement into state matters? Must we not at some point ask ourselves where we draw the line? I believe we must if we hope to preserve the meaning of the Constitution.

EO 13083 sacrifice states rights and Constitutional principles to empower further the Federal Government. It does so by broadly defining ''matters of national or multi-state scope that justify Federal action.'' These loosely defined ''matters'' include any matter of concern that is not confined by a single state's boundaries; any matter involving a ''need for national standards;'' any matter in which ''decentralization increases the costs of government;'' any matter in which ''States would be reluctant to impose necessary regulations because of fears that regulated business activity will relocate to other states;'' and any matter related to ''Federally owned or managed property or natural resources, trust obligation or international organizations.'' Such ambiguous terms give this Administration tremendous leeway to implement policies through executive order that might meet resistance in Congress—policies that deserve full consideration by Congress before becoming law. Indeed, a number of recent newspaper articles demonstrate the President's desires to move an agenda without Congressional approval. The President's EO would allow circumvention of Congress while trampling the Tenth Amendment. Mr. President, we should be wary of this.

This is why I submit today a concurrent resolution expressing the sense of

Congress that the intent of the Framers must guide federal executive departments and agencies when carrying out policies with federalism implications. Through this concurrent resolution Congress would reaffirm the principles of federalism the Framers used in writing the Constitution and express its sense regarding the criteria federal agencies should use in formulating and implementing policies that have federalism implications. Mr. President, I find it difficult when one looks at this resolution in a constitutional context, which is the context in which we must evaluate this issue, to disagree with its findings and the criteria it establishes. I believe this Congress must make a statement on where it stands with the Executive Branch's attempts to encroach, through executive order, on states rights. This resolution is an opportunity for Congress to do so.

Mr. President, I ask through this resolution that each of us reaffirm the pledges we made when we first entered office. I ask that we recognize the importance of local and state governments, their abilities to solve their problems on their own terms and the powers given the states by the Constitution. I ask that we honor the Framers' intent to limit the power of the Federal government.

A number of organizations representing elected officials in all levels of local government have voiced objections to EO 13083. These include the National Governors' Association, the National Conference of State Legislatures, the Council of State Governments, the National Association of Counties, the U.S. Conference of Mayors, the National League of Cities and the International City/County Management Association. These groups are opposed to this order not only because of its content but because no official from state or local government was consulted in the drafting of the order. Mr. President, I submit for the RECORD a July 16, 1998, Washington Post article that describes the frustration these groups have with the Administration's lack of consultation. I find it strange that the Administration did not consult with the very groups this Executive Order would most affect.

This is not a political issue. This resolution seeks to address an executive action that strikes at the very foundation of our government and of our Constitutional values. The means by which the Clinton Administration hopes to achieve its objectives are an affront to the Constitution, the Congress, and the American people at large. It is the intent of this Executive Order issued by the President to subvert the will of Congress and the will of the people through executive decree. I cannot imagine this is how the Framers intended our Federal democracy to work and I urge Congress to remind the executive branch that it is more important to return to the principles established in our Constitution than to continue the trend of increasing federal authority.

Mr. President, I ask unanimous consent that the Los Angeles Times article be printed in the RECORD.

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

[From the Los Angeles Times, Sat., July 4, 1998]

CLINTON TO BYPASS CONGRESS IN BLITZ OF EXECUTIVE ORDERS

(By Elizabeth Shogren)

Policy: President will use strategy to move his domestic agenda past GOP resistance. He starts today with announcement of warning labels for unpasteurized juices

WASHINGTON.—Frustrated by a GOP—controlled Congress that lately has rebuffed him on almost every front, President Clinton plans a blitz of executive orders during the next few weeks, part of a White House strategy to make progress on Clinton's domestic agenda with or without congressional help.

His first unilateral strike will come today. According to a draft of Clinton's weekly radio address obtained by The Times, he plans to announce a few federal regulation requiring warning labels on containers of fruit and vegetable juices that have not been pasteurized. Congress has not fully funded Clinton's $101-million food safety initiative, which among other things would pay for inspectors to ensure that tainted foods from other countries do not reach American consumers.

After that initiative, Clinton will take executive actions later in the week that are intended to improve health care and cut juvenile crime, according to a senior White House official. While not far-reaching, Clinton's proposals are intended to make gradual progress on largely popular social reforms until Republicans in Congress start to cooperate—or lose power after the November elections.

''He's ready to work with Congress if they will work with him. But if they choose partisanship, he will choose progress,'' said Rahm Emanuel, senior policy advisor to the president. The power to issue executive orders originally was intended to give presidents rule-making authority over the executive branch. But many have used it instead for sweeping public policy decisions.

Fresh from what aides view as a triumphant trip to China, Clinton is reportedly eager to exercise his executive powers to the hilt.

''He always comes back from these trips with a big head of steam, and this trip has been especially remarkable,'' said Paul Begala, another senior advisor. ''This president has a very strong sense of the powers of the presidency, and is willing to use all of them.''

Mindful of the recent Supreme Court decision striking down the line-item veto authority Clinton won last term, the president also hopes his executive-order offensive will pressure Congress to enact his legislative priorities, Emanuel said. ''I am doing what I can to protect our families from contaminated food,'' Clinton says in the draft of today's radio address. ''But Congress must do its part.''

The latest series of executive orders is illustrative of a president who has used his unilateral authority more robustly and frequently than most of his predecessors.

Just last month, after the Senate rejected sweeping anti-smoking legislation, Clinton announced a survey on what cigarette brands teenagers smoke—in hopes of shaming the tobacco companies into getting serious about cutting teen smoking.

On the same day, eager to make health care fixes that Congress has not, he announced new coverage under the Medicare health insurance program for the elderly and charged federal agencies with signing up millions more poor children for Medicaid.

Some in Congress have argued that Clinton's use of executive authority has gone too far, and several outside critics agree. ''Clinton is pushing the envelope,'' says David Schoenbrod, a professor at New York Law School who is an expert in the field. ''He's consistently trying to take more power than Congress gives him.''.

With most of his executive orders, no matter how incremental, Clinton hopes to prod Congress to pass more ambitious versions. For instance, last year he extended broader family leave provisions for federal employees while pushing Congress to pass legislation to provide similar opportunities for all other workers.

Clinton forewarned the country about his zeal for exercising executive powers in his 1992 acceptance speech at the Democratic National Convention, saying: ''President Bush: If you won't use your power to help people, step aside, I will.'' Of course, other presidents have used executive authority to meet their policy goals. Abraham Lincoln used it to declare the slaves free. Franklin D. Roosevelt used it to help set up the New Deal. Harry S. Truman used it to integrate the armed forces. But Clinton has rewritten the manual on how to use executive powers with gusto, some professors and analysts argue. His formula includes pressing the limits of his regulatory authority, signing executive orders and using other unilateral means to obtain his policy priorities when Congress fails to embrace them.

Clearly, the growing antagonism between the president and Congress makes it likely that Clinton will continue to govern by fiat.

''It depends on the political environment whether presidents push their limits or not,'' said Marci Hamilton, professor of constitutional law at Cardozo Law School in New York. ''Clinton has more incentive to do it because he's stuck with a Congress that is not politically aligned with him.'' This is all the more true this year, since Congress feels empowered to ignore the president as a result of the legal crisis he faces because of independent counsel Kenneth W. Starr's investigation.

''This president has extraordinary lame-duck status,'' Hamilton added. ''There is very little incentive for Congress to go along with him. A president who has a strong working relationship and looks powerful to Congress is less likely to push the limits.'' But analysts charge that Congress continues to create the problem by ceding so much authority to the president. In one recent example, Congress directed the Federal Communications Commission to subsidize the wiring of schools, libraries and rural health care facilities for high-speed Internet access, but did not provide the money to do so. Now it blames the FCC for passing on costs to telephone companies, which are in turn passing on costs to consumers.

''The bottom line is the Congress gave the administration power to do this. But they'd like to have it both ways,'' said Jeremy Taylor, ''They want to say: 'I voted for universal Internet service, but I did not vote for a tax hike to pay for it.' It's this lack of responsibility on the part of Congress that has transformed American politics.''

AMENDMENTS SUBMITTED

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

NICKLES (AND OTHERS) AMENDMENT NO. 3272

Mr. NICKLES (for himself, Mr. INHOFE, and Mr. SESSIONS) proposed an amendment to the bill (S. 2260) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1999, and for other purposes; as follows:

At the appropriate place in title II, insert the following:

SEC. 2___. COMPENSATION OF ATTORNEYS.

(a) CONTROLLED SUBSTANCES ACT.—Section 408(q)(10) of the Controlled Substances Act (21 U.S.C. 848(q)(10)) is amended—

(1) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(2) by inserting after subparagraph (A) the following:

''(B)(i) Notwithstanding any other provision of law, the amount of compensation paid to each attorney appointed under this subsection shall not exceed, for work performed by that attorney during any calendar month, an amount determined to be the amount of compensation (excluding health and other employee benefits) that the United States Attorney for the district in which the action is to be prosecuted receives for the calendar month that is the subject to a request for compensation made in accordance with this paragraph.

''(ii) The court shall grant an attorney compensation for work performed during any calendar month at a rate authorized under subparagraph (A), except that such compensation may not be granted for any calendar month in an amount that exceeds the maximum amount specified in clause (i).''.

(b) ADEQUATE REPRESENTATION OF DEFENDANTS.—Section 3006A(d)(3) of title 18, United States Code, is amended—

(1) by striking ''Payment'' and inserting the following:

''(A) IN GENERAL.—Subject to subparagraph (B), payment''; and

(2) by adding at the end the following:

''(B) MAXIMUM PAYMENTS.—The payments approved under this paragraph for work performed by an attorney during any calendar month may not exceed a maximum amount determined under section 408(q)(10)(B) of the Controlled Substances Act (21 U.S.C. 848(q)(10)(B)).''.

BINGAMAN (AND DOMENICI) AMENDMENT NO. 3273

Mr. BINGAMAN (for himself and Mr. DOMENICI) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place, insert:

Notwithstanding any rights already conferred under the Trademark Act, Section 2 of the Act entitled ''An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes,'' approved July 5, 1946, commonly referred to as the Trademark Act of 1946 (15 U.S.C. 1052(b)), is amended in subsection (b) by inserting ''or of any federally recognized Indian tribe,'' after ''State or municipality,''.

DEWINE (AND LEAHY) AMENDMENT NO. 3274

Mr. GREGG (for Mr. DEWINE for himself and Mr. LEAHY) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place, insert the following:

SECTION 1. SHORT TITLE; DEFINITIONS.

(a) SHORT TITLE.—This Act may be cited as the ''Local Government Law Enforcement Block Grant Act of 1998''.

(b) DEFINITIONS.—In this Act:

(1) DIRECTOR.—The term ''Director'' means the Director of the Bureau of Justice Assistance of the Department of Justice.

(2) JUVENILE.—The term ''juvenile'' means an individual who is 17 years of age or younger.

(3) LAW ENFORCEMENT EXPENDITURES.—The term ''law enforcement expenditures'' means the current operation expenditures associated with police, prosecutorial, legal, and judicial services, and corrections as reported to the Bureau of the Census.

(4) PART 1 VIOLENT CRIMES.—The term ''part 1 violent crimes'' means murder and nonnegligent manslaughter, forcible rape, robbery, and aggravated assault as reported to the Federal Bureau of Investigation for purposes of the Uniform Crime Reports.

(5) PAYMENT PERIOD.—The term ''payment period'' means each 1-year period beginning on October 1 of any year in which a grant under this Act is awarded.

(6) STATE.—The term ''State'' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands, except that American Samoa, Guam, and the Northern Mariana Islands shall be considered as 1 State and that, for purposes of section 5(a), 33 percent of the amounts allocated shall be allocated to American Samoa, 50 percent to Guam, and 17 percent to the Northern Mariana Islands.

(7) UNIT OF LOCAL GOVERNMENT.—The term ''unit of local government'' means—

(A) a county, township, city, or political subdivision of a county, township, or city, that is a general purpose unit of local government, as determined by the Secretary of Commerce for general statistical purposes, including a parish sheriff in the State of Louisiana;

(B) the District of Columbia and the recognized governing body of an Indian tribe or Alaska Native village that carries out substantial governmental duties and powers; and

(C) the Commonwealth of Puerto Rico, in addition to being considered a State, for the purposes set forth in section 2(a)(2).

SEC. 2. PAYMENTS TO LOCAL GOVERNMENTS.

(a) PAYMENT AND USE.—

(1) PAYMENT.—The Director shall pay to each unit of local government that qualifies for a payment under this Act an amount equal to the sum of any amounts allocated to such unit under this Act for each payment period. The Director shall pay such amount from amounts appropriated to carry out this Act.

(2) USE.—Amounts paid to a unit of local government under this section shall be used by the unit for reducing crime and improving public safety, including but not limited to, 1 or more of the following purposes:

(A)(i) Hiring, training, and employing on a continuing basis new, additional law enforcement officers and necessary support personnel.

(ii) Paying overtime to presently employed law enforcement officers and necessary support personnel for the purpose of increasing the number of hours worked by such personnel.

(iii) Procuring equipment, technology, and other material directly related to basic law enforcement functions.

(B) Enhancing security measures—

(i) in and around schools; and

(ii) in and around any other facility or location that is considered by the unit of local government to have a special risk for incidents of crime.

(C) Establishing crime prevention programs that may, though not exclusively, involve law enforcement officials and that are intended to discourage, disrupt, or interfere with the commission of criminal activity, including neighborhood watch and citizen patrol programs, sexual assault and domestic violence programs, and programs intended to prevent juvenile crime.

(D) Establishing or supporting drug courts.

(E) Establishing early intervention and prevention programs for juveniles to reduce or eliminate crime.

(F) Enhancing the adjudication process of cases involving violent offenders, including the adjudication process of cases involving violent juvenile offenders.

(G) Enhancing programs under subpart 1 of part E of the Omnibus Crime Control and Safe Streets Act of 1968.

(H) Establishing cooperative task forces between adjoining units of local government to work cooperatively to prevent and combat criminal activity, particularly criminal activity that is exacerbated by drug or gang-related involvement.

(I) Establishing a multijurisdictional task force, particularly in rural areas, composed of law enforcement officials representing units of local government, that works with Federal law enforcement officials to prevent and control crime.

(J) Establishing or supporting programs designed to collect, record, retain, and disseminate information useful in the identification, prosecution, and sentencing of offenders, such as criminal history information, fingerprints, DNA tests, and ballistics tests.

(3) DEFINITIONS.—In this subsection—

(A) the term ''violent offender'' means a person charged with committing a part I violent crime; and

(B) the term ''drug courts'' means a program that involves—

(i) continuing judicial supervision over offenders with substance abuse problems who are not violent offenders; and

(ii) the integrated administration of other sanctions and services, which shall include—

(I) mandatory periodic testing for the use of controlled substances or other addictive substances during any period of supervised release or probation for each participant;

(II) substance abuse treatment for each participant;

(III) probation, or other supervised release involving the possibility of prosecution, confinement, or incarceration based on noncompliance with program requirements or failure to show satisfactory progress; and

(IV) programmatic, offender management, and aftercare services such as relapse prevention, vocational job training, job placement, and housing placement.

(b) PROHIBITED USES.—Notwithstanding any other provision of this Act, a unit of local government may not expend any of the funds provided under this Act to purchase, lease, rent, or otherwise acquire—

(1) tanks or armored personnel carriers;

(2) fixed wing aircraft;

(3) limousines;

(4) real estate;

(5) yachts;

(6) consultants; or

(7) vehicles not primarily used for law enforcement;

unless the Attorney General certifies that extraordinary and exigent circumstances exist that make the use of funds for such purposes essential to the maintenance of public safety and good order in such unit of local government. With regard to paragraph (2), such circumstances shall be deemed to exist with respect to a unit of local government in a rural State, as defined in section 1501 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796bb), upon certification by the chief law enforcement officer of the unit of local government that the unit of local government is experiencing an increase in production or cultivation of a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act), and that the fixed wing aircraft will be used in the detection, disruption, or abatement of such production or cultivation.

(c) TIMING OF PAYMENTS.—The Director shall pay each unit of local government that has submitted an application under this Act not later than the later of—

(1) 90 days after the date that the amount is available; or

(2) the first day of the payment period if the unit of local government has provided the Director with the assurances required by section 4(c).

(d) ADJUSTMENTS.—

(1) IN GENERAL.—Subject to paragraph (2), the Director shall adjust a payment under this Act to a unit of local government to the extent that a prior payment to the unit of local government was more or less than the amount required to be paid.

(2) CONSIDERATIONS.—The Director may increase or decrease under this subsection a payment to a unit of local government only if the Director determines the need for the increase or decrease, or if the unit requests the increase or decrease, not later than 1 year after the end of the payment period for which a payment was made.

(e) RESERVATION FOR ADJUSTMENT.—The Director may reserve a percentage of not more than 2 percent of the amount under this section for a payment period for all units of local government in a State if the Director considers the reserve is necessary to ensure the availability of sufficient amounts to pay adjustments after the final allocation of amounts among the units of local government in the State.

(f) REPAYMENT OF UNEXPENDED AMOUNTS.—

(1) REPAYMENT REQUIRED.—A unit of local government shall repay to the Director, by not later than 27 months after receipt of funds from the Director, any amount that is—

(A) paid to the unit from amounts appropriated under the authority of this section; and

(B) not expended by the unit within 2 years after receipt of such funds from the Director.

(2) PENALTY FOR FAILURE TO REPAY.—If the amount required to be repaid is not repaid, the Director shall reduce payment in future payment periods accordingly.

(3) DEPOSIT OF AMOUNTS REPAID.—Amounts received by the Director as repayments under this subsection shall be deposited in a designated fund for future payments to units of local government. Any amounts remaining in such designated fund after 5 years following the date of enactment of this Act shall be applied to the Federal deficit or, if there is no Federal deficit, to reducing the Federal debt.

(g) NONSUPPLANTING REQUIREMENT.—Funds made available under this Act to units of local government shall not be used to supplant State or local funds, but shall be used to increase the amount of funds that would, in the absence of funds made available under this Act, be made available from State or local sources.

(h) MATCHING FUNDS.—The Federal share of a grant received under this Act may not exceed 90 percent of the costs of a program or proposal funded under this Act. No funds provided under this Act may be used as matching funds for any other Federal grant program.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this Act $750,000,000 for each of fiscal years 1998 through 2003.

(b) OVERSIGHT ACCOUNTABILITY AND ADMINISTRATION.—Not more than 3 percent of the amount authorized to be appropriated under subsection (a) for each of the fiscal years 1998 through 2003 shall be available to the Attorney General for studying the overall effectiveness and efficiency of the provisions of this Act, and assuring compliance with the provisions of this Act and for administrative costs to carry out the purposes of this Act. From the amount described in the preceding sentence, the Bureau of Justice Assistance shall receive such sums as may be necessary for the actual costs of administration and monitoring. The Attorney General shall establish and execute an oversight plan for monitoring the activities of grant recipients. Such sums are to remain available until expended.

(c) FUNDING SOURCE.—Appropriations for activities authorized in this Act may be made from the Violent Crime Reduction Trust Fund.

(d) TECHNOLOGY ASSISTANCE.—Of the amount appropriated under subsection (a) for each of fiscal years 1998 through 2003, the Attorney General shall reserve—

(1) 3 percent for use by the Bureau of Justice Statistics for information and identification technology, including the Integrated Automated Fingerprint Identification System (IAFIS), DNA, and ballistics systems; and

(2) 3 percent for use by the National Institute of Justice in assisting units of local government to identify, select, develop, modernize, and purchase new technologies for use by law enforcement.

(e) AVAILABILITY.—The amounts appropriated under subsection (a) shall remain available until expended.

SEC. 4. QUALIFICATION FOR PAYMENT.

(a) IN GENERAL.—The Director shall issue regulations establishing procedures under which a unit of local government is required to provide notice to the Director regarding the proposed use of funds made available under this Act.

(b) PROGRAM REVIEW.—The Director shall establish a process for the ongoing evaluation of projects developed with funds made available under this Act.

(c) GENERAL REQUIREMENTS FOR QUALIFICATION.—A unit of local government qualifies for a payment under this Act for a payment period only if the unit of local government submits an application to the Director and establishes, to the satisfaction of the Director, that—

(1) the unit of local government has established a local advisory board that—

(A) includes, but is not limited to, a representative from—

(i) the local police department or local sheriff's department;

(ii) the local prosecutor's office;

(iii) the local court system;

(iv) the local public school system; and

(v) a local nonprofit, educational, religious, or community group active in crime prevention or drug use prevention or treatment;

(B) has reviewed the application; and

(C) is designated to make nonbinding recommendations to the unit of local government for the use of funds received under this Act;

(2) the chief executive officer of the State has had not less than 20 days to review and comment on the application prior to submission to the Director;

(3)(A) the unit of local government will establish a trust fund in which the government will deposit all payments received under this Act; and

(B) the unit of local government will use amounts in the trust fund (including interest) during a period not to exceed 2 years from the date the first grant payment is made to the unit of local government;

(4) the unit of local government will expend the payments received in accordance with the laws and procedures that are applicable to the expenditure of revenues of the unit of local government;

(5) the unit of local government will use accounting, audit, and fiscal procedures that conform to guidelines, which shall be prescribed by the Director after consultation with the Comptroller General of the United States and as applicable, amounts received under this Act shall be audited in compliance with the Single Audit Act of 1984;

(6) after reasonable notice from the Director or the Comptroller General of the United States to the unit of local government, the unit of local government will make available to the Director and the Comptroller General of the United States, with the right to inspect, records that the Director reasonably requires to review compliance with this Act or that the Comptroller General of the United States reasonably requires to review compliance and operation;

(7) a designated official of the unit of local government shall make reports the Director reasonably requires, in addition to the annual reports required under this Act;

(8) the unit of local government will spend the funds made available under this Act only for the purposes set forth in section 2(a)(2);

(9) the unit of local government will achieve a net gain in the number of law enforcement officers who perform nonadministrative public safety service if such unit uses funds received under this Act to increase the number of law enforcement officers as described under section 2(a)(2)(A);

(10) the unit of local government—

(A) has an adequate process to assess the impact of any enhancement of a school security measure that is undertaken under section 2(a)(2)(B), or any crime prevention programs that are established under subparagraphs (C) and (E) of section 2(a)(2), on the incidence of crime in the geographic area where the enhancement is undertaken or the program is established;

(B) will conduct such an assessment with respect to each such enhancement or program; and

(C) will submit an annual written assessment report to the Director; and

(11) the unit of local government has established procedures to give members of the Armed Forces who, on or after October 1, 1990, were or are selected for involuntary separation (as described in section 1141 of title 10, United States Code), approved for separation under section 1174a or 1175 of such title, or retired pursuant to the authority provided under section 4403 of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102–484; 10 U.S.C. 1293 note), a suitable preference in the employment of persons as additional law enforcement officers or support personnel using funds made available under this Act. The nature and extent of such employment preference shall be jointly

established by the Attorney General and the Secretary of Defense. To the extent practicable, the Director shall endeavor to inform members who were separated between October 1, 1990, and the date of enactment of this Act of their eligibility for the employment preference.

(d) SANCTIONS FOR NONCOMPLIANCE.—

(1) IN GENERAL.—If the Director determines that a unit of local government has not complied substantially with the requirements or regulations prescribed under subsections (a) and (c), the Director shall notify the unit of local government that if the unit of local government does not take corrective action within 60 days of such notice, the Director will withhold additional payments to the unit of local government for the current and future payment periods until the Director is satisfied that the unit of local government—

(A) has taken the appropriate corrective action; and

(B) will comply with the requirements and regulations prescribed under subsections (a) and (c).

(2) NOTICE.—Before giving notice under paragraph (1), the Director shall give the chief executive officer of the unit of local government reasonable notice and an opportunity for comment.

(e) MAINTENANCE OF EFFORT REQUIREMENT.—A unit of local government qualifies for a payment under this Act for a payment period only if the unit's expenditures on law enforcement services (as reported by the Bureau of the Census) for the fiscal year preceding the fiscal year in which the payment period occurs were not less than 90 percent of the unit's expenditures on such services for the second fiscal year preceding the fiscal year in which the payment period occurs.

SEC. 5. ALLOCATION AND DISTRIBUTION OF FUNDS.

(a) STATE SET-ASIDE.—

(1) IN GENERAL.—Of the total amounts appropriated for this Act for each payment period, the Director shall allocate for units of local government in each State an amount that bears the same ratio to such total as the average annual number of part 1 violent crimes reported by such State to the Federal Bureau of Investigation for the 3 most recent calendar years for which such data is available, bears to the number of part 1 violent crimes reported by all States to the Federal Bureau of Investigation for such years.

(2) MINIMUM REQUIREMENT.—Each State shall receive not less than 0.5 percent of the total amounts appropriated under section 3 under this subsection for each payment period.

(3) PROPORTIONAL REDUCTION.—If amounts available to carry out paragraph (2) for any payment period are insufficient to pay in full the total payment that any State is otherwise eligible to receive under paragraph (1) for such period, then the Director shall reduce payments under paragraph (1) for such payment period to the extent of such insufficiency. Reductions under the preceding sentence shall be allocated among the States (other than States whose payment is determined under paragraph (2)) in the same proportions as amounts would be allocated under paragraph (1) without regard to paragraph (2).

(b) LOCAL DISTRIBUTION.—

(1) IN GENERAL.—From the amount reserved for each State under subsection (a), the Director shall allocate among units of local government an amount that bears the same ratio to the aggregate amount of such funds as

(A) the product of—

(i) two-thirds; multiplied by

(ii) the ratio of the average annual number of part 1 violent crimes in such unit of local government for the 3 most recent calendar years for which such data is available, to the sum of such violent crime in all units of local government in the State; and

(B) the product of—

(i) one-third; multiplied by

(ii) the ratio of the law enforcement expenditure, for such unit of local government for the most recent year for which such data are available, to such expenditures for all units of local government in the State.

(2) EXPENDITURES.—The allocation any unit of local government shall receive under paragraph (1) for a payment period shall not exceed 100 percent of law enforcement expenditures of the unit for such payment period.

(3) REALLOCATION.—The amount of any unit of local government's allocation that is not available to such unit by operation of paragraph (2) shall be available to other units of local government that are not affected by such operation in accordance with this subsection.

(4) LOCAL GOVERNMENTS WITH ALLOCATIONS OF LESS THAN $10,000.—If under paragraph (1) a unit of local government is allotted less than $10,000 for the payment period, the amount allotted shall be transferred to the chief executive officer of the State who shall distribute such funds among State police departments that provide law enforcement services to units of local government and units of local government whose allotment is less than such amount in a manner that reduces crime and improves public safety.

(5) SPECIAL RULE.—If a unit of local government in the State has been annexed since the date of the collection of the data used by the Director in making allocations pursuant to this section, the Director shall pay the amount that would have been allocated to such unit of local government to the unit of local government that annexed it.

(c) GRANTS TO INDIAN TRIBES.—Notwithstanding subsections (a) and (b), of the amount appropriated under section 3(a) in each of fiscal years 1998 through 2003, the Attorney General shall reserve 0.3 percent for grants to Indian tribal governments performing law enforcement functions, to be used for the purposes described in section 2. To be eligible to receive a grant with amounts set aside under this subsection, an Indian tribal government shall submit to the Attorney General an application in such form and containing such information as the Attorney General may by regulation require.

(d) UNAVAILABILITY AND INACCURACY OF INFORMATION.—

(1) DATA FOR STATES.—For purposes of this section, if data regarding part 1 violent crimes in any State for the 3 most recent calendar years is unavailable, insufficient, or substantially inaccurate, the Director shall utilize the best available comparable data regarding the number of violent crimes for such years for such State for the purposes of allocation of any funds under this Act.

(2) POSSIBLE INACCURACY OF DATA FOR UNITS OF LOCAL GOVERNMENT.—In addition to the provisions of paragraph (1), if the Director believes that the reported rate of part 1 violent crimes or legal expenditure information for a unit of local government is insufficient or inaccurate, the Director shall—

(A) investigate the methodology used by such unit to determine the accuracy of the submitted data; and

(B) when necessary, use the best available comparable data regarding the number of violent crimes or legal expenditure information for such years for such unit of local government.

SEC. 6. UTILIZATION OF PRIVATE SECTOR.

Funds or a portion of funds allocated under this Act may be utilized to contract with private, nonprofit entities or community-based organizations to carry out the purposes specified under section 2(a)(2).

SEC. 7. PUBLIC PARTICIPATION.

(a) IN GENERAL.—A unit of local government expending payments under this Act shall hold not less than 1 public hearing on the proposed use of the payment from the Director in relation to its entire budget.

(b) VIEWS.—At the hearing, persons shall be given an opportunity to provide written and oral views to the unit of local government authority responsible for enacting the budget.

(c) TIME AND PLACE.—The unit of local government shall hold the hearing at a time and place that allows and encourages public attendance and participation.

SEC. 8. ADMINISTRATIVE PROVISIONS.

The administrative provisions of part H of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3782 et seq.), shall apply to this Act and for purposes of this section any reference in such provisions to title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) shall be deemed to be a reference to this Act.

KERRY (AND HAGEL) AMENDMENT NO. 3275

Mr. KERREY (for himself and Mr. HAGEL) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 135, after line 11, insert the following:

SEC. 423. TEMPORARY PROHIBITION ON IMPLEMENTATION OR ENFORCEMENT OF PUBLIC WATER SYSTEM TREATMENT REQUIREMENTS FOR COPPER ACTION LEVEL.

(a) IN GENERAL.—None of the funds made available by this or any other Act for any fiscal year may be used by the Administrator of the Environmental Protection Agency to implement or enforce the national primary drinking water regulations for lead and copper in drinking water promulgated under the Safe Drinking Water Act (42 U.S.C. 300f et seq.), to the extent that the regulations pertain to the public water system treatment requirements related to the copper action level, until—

(1) the Administrator and the Director of the Centers for Disease Control and Prevention jointly conduct a study to establish a reliable dose-response relationship for the adverse human health effects that may result from exposure to copper in drinking water, that—

(A) includes an analysis of the health effects that may be experienced by groups within the general population (including infants) that are potentially at greater risk of adverse health effects as the result of the exposure;

(B) is conducted in consultation with interested States;

(C) is based on the best available science and supporting studies that are subject to peer review and conducted in accordance with sound and objective scientific practices; and

(D) is completed not later than 30 months after the date of enactment of this Act; and

(2) based on the results of the study and, once peer reviewed and published, the 2 studies of copper in drinking water conducted by the Centers for Disease Control and Prevention in the State of Nebraska and the State of Delaware, the Administrator establishes an action level for the presence of copper in drinking water that protects the public health against reasonably expected adverse effects due to exposure to copper in drinking water.

(b) CURRENT REQUIREMENTS.—Nothing in this section precludes a State from implementing or enforcing the national primary

drinking water regulations for lead and copper in drinking water promulgated under the Safe Drinking Water Act (42 U.S.C. 300f et seq.) that are in effect on the date of enactment of this Act, to the extent that the regulations pertain to the public water system treatment requirements related to the copper action level.

KERRY (AND OTHERS) AMENDMENT NO. 3276

Mr. KERRY (for himself, Mr. MCCAIN, Mr. KERREY, and Mr. HAGEL) proposed an amendment to the bill, S. 2260, supra; as follows:

Beginning on page 96, strike line 23 and all that follows through line 12 on page 100 and insert the following:

SEC. 405. None of the funds appropriated or otherwise made available by this Act may be obligated or expended to pay for any cost incurred for—

(1) opening or operating any United States diplomatic or consular post in the Socialist Republic of Vietnam that was not operating on July 11, 1995,

(2) expanding any United States diplomatic or consular post in the Socialist Republic of Vietnam that was operating on July 11, 1995, or

(3) increasing the total number of personnel assigned to United States diplomatic or consular posts in the Socialist Republic of Vietnam above the levels existing on July 11, 1995,

unless the President certifies within 60 days the following:

(A) Based upon all information available to the United States Government, the Government of the Socialist Republic of Vietnam is fully cooperating in good faith with the United States in the following:

(i) Resolving discrepancy cases, live sightings, and field activities.

(ii) Recovering and repatriating American remains.

(iii) Accelerating efforts to provide documents that will help lead to fullest possible accounting of prisoners of war and missing in action.

(iv) Providing further assistance in implementing trilateral investigations with Laos.

(B) The remains, artifacts, eyewitness accounts, archival material, and other evidence associated with prisoners of war and missing in action recovered from crash sites, military actions, and other locations in Southeast Asia are being thoroughly analyzed by the appropriate laboratories with the intent of providing surviving relatives with scientifically defensible, legal determinations of death or other accountability that are fully documented and available in unclassified and unredacted form to immediate family members.

GREGG (AND HOLLINGS) AMENDMENTS NOS. 3277–3279

Mr. GREGG (for himself and Mr. HOLLINGS) proposed three amendments to the bill, S. 2260, supra; as follows:

AMENDMENT NO. 3277

TITLE V—INDEPENDENT AGENCIES

FEDERAL COMMUNICATIONS COMMISSION

On page 105, at the end of line 22, insert the following: ''*Provided further,* That any two stations of that are primary affiliates of the same broadcast network within any given designated market area authorized to deliver a digital signal November 1, 1998 must be guaranteed access on the same terms and conditions by any multichannel video provider (including off-air, cable and satellite distribution).''

AMENDMENT NO. 3278

At the end of title IV, insert the following new sections:

SEC. . None of the funds appropriated or otherwise made available for this Act or any other Act for fiscal year 1999 or any fiscal year thereafter may be expended for the operation of a United States consulate or diplomatic facility in Jerusalem unless such consulate or diplomatic facility is under the supervision of the United States Ambassador to Israel.

SEC. . None of the funds appropriated or otherwise made available by this Act or any other Act for fiscal year 1999 or any fiscal year thereafter may be expended for the publication of any official government document which lists countries and their capital cities unless the publication identifies Jerusalem as the capital of Israel.

SEC. . For the purposes of the registration of birth, certification of nationality, or issuance of a passport of a United States citizen born in the city of Jerusalem, the Secretary of State shall, upon request of the citizen, record the place of birth as Israel.

AMENDMENT NO. 3279

At the end of the bill insert the following new title:

TITLE—

SECTION 1. SHORT TITLE.

This title may be cited as the ''National Whale Conservation Fund Act of 1998''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the populations of whales that occur in waters of the United States are resources of substantial ecological, scientific, socio-economic, and esthetic value;

(2) whale populations—

(A) form a significant component of marine ecosystems;

(B) are the subject of intense research;

(C) provide for a multimillion dollar whale watching tourist industry that provides the public an opportunity to enjoy and learn about great whales and the ecosystems of which the whales are a part; and

(D) are of importance to Native Americans for cultural and subsistence purposes;

(3) whale populations are in various stages of recovery, and some whale populations, such as the northern right whale (Eubaleana glacialis) remain perilously close to extinction;

(4) the interactions that occur between ship traffic, commercial fishing, whale watching vessels, and other recreational vessels and whale populations may affect whale populations adversely;

(5) the exploration and development of oil, gas, and hard mineral resources, marine debris, chemical pollutants, noise, and other anthropogenic sources of change in the habitat of whales may affect whale populations adversely;

(6) the conservation of whale populations is subject to difficult challenges related to—

(A) the migration of whale populations across international boundaries;

(B) the size of individual whales, as that size precludes certain conservation research procedures that may be used for other animal species, such as captive research and breeding;

(C) the low reproductive rates of whales that require long-term conservation programs to ensure recovery of whale populations; and

(D) the occurrence of whale populations in offshore waters where undertaking research, monitoring, and conservation measures is difficult and costly;

(7)(A) the Secretary of Commerce, through the Administrator of the National Oceanic and Atmospheric Administration, has research and regulatory responsibility for the conservation of whales under the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.); and

(B) the heads of other Federal agencies and the Marine Mammal Commission established under section 201 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1401) have related research and management activities under the Marine Mammal Protection Act of 1972 or the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(8) the funding available for the activities described in paragraph (8) is insufficient to support all necessary whale conservation and recovery activities; and

(9) there is a need to facilitate the use of funds from non-Federal sources to carry out the conservation of whales.

SEC. 3. NATIONAL WHALE CONSERVATION FUND.

Section 4 of the National Fish and Wildlife Establishment Act (16 U.S.C. 3703) is amended by adding at the end the following:

''(f)(1) In carrying out the purposes under section 2(b), the Foundation may establish a national whale conservation endowment fund, to be used by the Foundation to support research, management activities, or educational programs that contribute to the protection, conservation, or recovery of whale populations in waters of the United States.

''(2)(A) In a manner consistent with subsection (c)(1), the Foundation may—

''(i) accept, receive, solicit, hold, administer, and use any gift, devise, or bequest made to the Foundation for the express purpose of supporting whale conservation; and

''(ii) deposit in the endowment fund under paragraph (1) any funds made available to the Foundation under this subparagraph, including any income or interest earned from a gift, devise, or bequest received by the Foundation under this subparagraph.

''(B) To raise funds to be deposited in the endowment fund under paragraph (1), the Foundation may enter into appropriate arrangements to provide for the design, copyright, production, marketing, or licensing, of logos, seals, decals, stamps, or any other item that the Foundation determines to be appropriate.

''(C)(i) The Secretary of Commerce may transfer to the Foundation for deposit in the endowment fund under paragraph (1)—

''(I) any amount (or portion thereof) received by the Secretary under section 105(a)(1) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1375(a)(1)) as a civil penalty assessed by the Secretary under that section; or

''(II) any amount (or portion thereof) received by the Secretary as a settlement or award for damages in a civil action or other legal proceeding relating to damage of natural resources.

''(ii) The Directors of the Board shall ensure that any amounts transferred to the Foundation under clause (i) for the endowment fund under paragraph (1) are deposited in that fund in accordance with this subparagraph.

''(3) It is the intent of Congress that in making expenditures from the endowment fund under paragraph (1) to carry out activities specified in that paragraph, the Foundation should give priority to funding projects that address the conservation of populations of whales that the Foundation determines—

''(A) are the most endangered (including the northern right whale (Eubaleana glacialis)); or

''(B) most warrant, and are most likely to benefit from, research managment, or educational activities that may be funded with amounts made available from the fund.

''(g) In carrying out any action on the part of the Foundation under subsection (f), the Directors of the Board shall consult with the Administrator of the National Oceanic and Atmospheric Administration and the Marine Mammal Commission.''.

LIEBERMAN (AND OTHERS) AMENDMNT NO. 3280

Mr. LIEBERMAN (for himself, Mr. THOMAS, Mr. GRAHAM, Mr. LUGAR, Mr. BINGAMAN, Mr. MACK, Mr. DURBIN, Mr. INHOFE, Mr. KOHL, Mr. REID, Mr. BREAUX, Mr. BROWNBACK, Mr. CRAIG, and Mr. SMITH of Oregon) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place in title VI, insert the following new section:

SEC. 6___. SENSE OF THE SENATE REGARDING JAPAN'S RECESSION.

(a) FINDINGS.—Congress makes the following findings:

(1) The United States and Japan share common goals of peace, stability, democracy, and economic prosperity in East and Southeast Asia and around the world.

(2) Japan's economic and financial crisis represents a new challenge to United States-Japanese cooperation to achieve these common goals and threatens the economic stability of East and Southeast Asia and the United States.

(3) A strong United States-Japanese alliance is critical to stability in East and Southeast Asia.

(4) The importance of the United States-Japanese alliance was reaffirmed by the President of the United States and the Prime Minister of Japan in the April 1996 Joint Security Declaration.

(5) United States-Japanese bilateral military cooperation was enhanced with the revision of the United States Guidelines for Defense Cooperation in 1997.

(6) The Japanese economy, the second largest in the world and over 2 times larger than the economy in the rest of East Asia, has been growing at a little over 1 percent annually since 1991 and is currently in a recession with some forecasts suggesting that it will contract by 1.5 percent in 1998.

(7) The estimated $574,000,000,000 of problem loans in Japan's banking sector and other problems associated with an unstable banking sector remain the major roadblock to economic recovery in Japan.

(8) The recent weakness in the yen, following a 10 percent depreciation of the yen against the dollar over the last 5 months and a 45 percent depreciation since 1995, has placed competitive price pressures on United States industries and workers and is putting downward pressure on China and the rest of the economies in East and Southeast Asia to begin another round of competitive currency devaluations.

(9) Japan's current account surplus has increased by 60 percent over the last 12 months from 71,579,000,000 yen in 1996 to 114,357,000,000 yen in 1997.

(10) A period of deflation in Japan would lead to lower demand for United States products.

(11) The unnecessary and burdensome regulation of the Japanese market constrains Japanese economic growth and raises costs to business and consumers.

(12) Deregulating Japan's economy and spurring economic growth would ultimately benefit the Japanese people with a higher standard of living and a more secure future.

(13) Japan's economic recession is slowing the growth of the United States gross domestic product and job creation in the United States.

(14) Japan has made significant efforts to restore economic growth with a 16,000,000,000,000 yen stimulus package that includes 4,500,000,000,000 yen in tax cuts and 11,500,000,000,000 yen in government spending, a Total Plan to restore stability to the private banking sector, and joint intervention with the United States to strengthen the value of the yen in international currency markets.

(15) The people of Japan expressed deep concern about economic conditions and government leadership in the Upper House elections held on July 12, 1998.

(16) The Prime Minister of Japan tendered his resignation on July 13, 1998, to take responsibility for the Liberal Democratic Party's poor election results and to acknowledge the desire of the people of Japan for new leadership to restore economic stability.

(17) Japan's economic recession is having an adverse effect on the economy of the United States and is now seriously threatening the 9 years of unprecedented economic expansion in the United States.

(18) Japan's economic recession is having an adverse effect on the recovery of the East and Southeast Asian economies.

(19) The American people and the countries of East and Southeast Asia are looking for a demonstration of Japanese leadership and close United States-Japanese cooperation in resolving Japan's economic crisis.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the President, the Secretary of the Treasury, and the United States Trade Representative should emphasize the importance of financial deregulation, including banking reform, market deregulation, and restructuring bad bank debt as fundamental to Japan's economic recovery; and

(2) the President, the Secretary of the Treasury, the United States Trade Representative, the Secretary of Commerce, and the Secretary of State should communicate to the Japanese Government that the first priority of the new Prime Minister of Japan and his Cabinet should be to restore economic growth in Japan and promote stability in international financial markets.

BUMPERS AMENDMENT NO. 3281

Mr. GREGG (for Mr. BUMPERS) proposed an amendment the bill, S. 2260, supra; as follows:

At the appropriate place add the following:

SEC. .

(a) Add the following at the end of 8 U.S.C. 1153(b)(5)(C):

(iv) DEFINITION

(A) As used in this subsection the term 'capital' means cash, equipment, inventory, other tangible property, and cash equivalents, but shall not include indebtedness. Nothing in this subsection shall be construed to exclude documents, such as binding contracts, as evidence that a petitioner is in the process of investing capital as long as the capital is not in the form of indebtedness with a period that payback exceeds 2 months.

(B) Assets acquired, directly or indirectly, by unlawful means (such as criminal activities) shall not be considered capital for the purposes of this subsection. A petitioner's sworn declaration concerning lawful sources of capital shall constitute presumptive proof of lawful sources for the purposes of this subsection, although nothing herein shall preclude further inquiry, prior to approval of conditional lawful permanent resident status.

(b) This section shall not apply to any application filed prior to July 23, 1998.

FEINSTEIN AMENDMENT NO. 3282

Mrs. FEINSTEIN proposed an amendment to amendment No. 3258 proposed by Mr. SMITH of Oregon to the bill, S. 2260, supra; as follows:

On page 20, line 19, after the period, insert:

Independent contractors, agricultural associations and such similar entities shall be subject to a cap on the number of H2–A visas that they may sponsor at the discretion of the Secretary of Labor.

KENNEDY AMENDMENT NO. 3283

Mr. KENNEDY proposed an amendment to amendment No. 3258 proposed by Mr. SMITH of Oregon to the bill, S. 2260, supra; as follows:

At the end of the amendment add the following:

SEC. . PRESIDENTIAL AUTHORITY.

In implementing this title, the President of the United States shall not implement any provision that he deems to be in violation of any of the following principles:

Where the procedures for using the program are simple and the least burdensome for growers;

Which assures an adequate labor supply for growers in a predictable and timely manner;

That provides a clear and meaningful first preference for U.S. farm workers and a means for mitigating against the development of a structural dependency on foreign workers in an area or crop;

Which avoids the transfer of costs and risks from businesses to low wage workers;

That encourages longer periods of employment for legal U.S. workers; and

Which assures decent wages and working conditions for domestic and foreign farm workers, and that normal market forces work to improve wages, benefits, and working conditions.

GREGG (AND HOLLINGS) AMENDMENT NO. 3284

Mr. GREGG (for himself and Mr. HOLLINGS) proposed an amendment to the bill, S. 2260, supra; as follows:

TITLE I—DEPARTMENT OF JUSTICE

On page 2, line 24, insert ''forfeited'' after the first comma.

On page 45, line 17, insert ''13'' and insert ''286''.

On page 5 of the Bill, on lines 8 and 9, strike the following: ''National Consortium for First Responders'', and insert the following: ''National Domestic Preparedness Consortium''.

On page 27 of the Bill, on line 10, after the words ''unit of local government'', insert the words ''at the parish level''.

On page 29 of the Bill, on line 13 after ''Tribal Courts Initiative'', insert the following:

'', including $400,000 for the establishment of a Sioux Nation Tribal, Supreme Court''

On page 51 of the Bill, after line 9, insert the following:

SEC. 121. Section 170102 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14072) is amended—

(1) in subsection (a)(2), by striking ''or'';

(2) in subsection (g)(3), by striking ''minimally sufficient'' and inserting ''State sexual offender''; and

(3) by amending subsection (i) to read as follows:

''(i) PENALTY.—A person who is—

''(1) required to register under paragraph (1), (2), or (3) of subsection (g) of this section and knowingly fails to comply with this section;

''(2) required to register under a sexual offender registration program in the person's

State of residence and knowingly fails to register in any other State in which the person is employed, carries on a vocation, or is a student;

''(3) described in section 4042 (c)(4) of title 18, United States Code and knowingly fails to register in any State in which the person resides, is employed, carries on a vocation, or is a student following release from prison or sentencing to probation; or

''(4) sentenced by a court martial for conduct in a category specified by the Secretary of Defense under section 115(a)(8)(C) of title I of Public Law No. 105–119, and knowingly fails to register in any State in which the person resides, is employed, carries on a vocation, or is a student following release from prison or sentencing to probation, shall, in the case of a first offense under this subsection, be imprisoned for not more than 1 year and, in the case of a second of subsequent offense under this subsection, be imprisoned for not more than 10 years.''.

On page 51 of the Bill, after line 9, insert the following:

SEC. 123. (a) IN GENERAL.—Section 200108 of the Police Corps Act (42 U.S.C. 14097) is amended by striking subsection (b) and inserting the following:

''(b) TRAINING SESSIONS.—A participant in a State Police Corps program shall attend up to 24 weeks, but no less than 16 weeks, of training at a residential training center. The Director may approve training conducted in not more than 3 separate sessions.''.

(b) CONFORMING AMENDMENT.—Section 200108 (c) of the Police Corps Act (42 U.S.C. 14097 (c)) is amended by striking ''16 weeks of''.

(c) REAUTHORIZATION.—Section 200112 of the Police Corps Act (42 U.S.C. 14101) is amended by striking ''$20,000'' and all that follows before the period and inserting ''$50,000,000 for fiscal year 1999, $70,000,000 for fiscal year 2000, $90,000,000 for fiscal year 2001, and $90,000,000 for fiscal year 2002''.

TITLE II—DEPARTMENT OF COMMERCE AND RELATED AGENCIES

On page 66, line 5, strike the proviso ''*Provided further,* That $587,922,000 shall be made available for the Procurement, acquisition and construction account in fiscal year 1999:'' and insert in lieu thereof ''*Provided further,* That of the $10,500,000 available for the estuarine research reserve system, $2,000,000 shall be made available for the Office of response and restoration and $1,160,000 shall be made available for Navigation services, mapping and charting: *Provided further,* That of funds made available for the National Marine Fisheries Service information collection and analyses, $400,000 shall be made available to continue Atlantic Herring and Mackerel studies: *Provided further,* That of the $8,500,000 provided for the interstate fisheries commissions, $7,000,000 shall be provided to the Atlantic States Marine Fisheries Commission for the Atlantic Coastal Cooperative Fisheries Management Act, $750,000 shall be provided for the Atlantic Coastal Cooperative Statistics Program, and the remainder shall be provided to each of the three interstate fisheries commissions (including the ASMFC): *Provided further,* That within the Procurement, Acquisition and Construction account that $3,000,000 shall be made available for the National Estuarine Research Reserve construction * * * and $5,000,000 shall be made available for Great Bay land acquisition.''

On page 72, line 15, after ''(3)(L)'', replace the brackets with parentheses around the phrase ''as identified by the Governor'' and on line 16, before the period add a quotation mark.

TITLE V—INDEPENDENT AGENCIES

SMALL BUSINESS ADMINISTRATION

On page 116, line 17, change ''1998'' to ''1999'' and ''1999'' to ''2000''.

On page 117, line 6, strike ''to this appropriation and used for necessary expenses of the agency'' and insert in lieu thereof ''to and merged with the appropriations for salaries and expenses:''

On page 117, line 12, strike ''20 (n)(2)(B)'' and insert in lieu thereof ''20(d)(1)(B)(ii)''.

MOSELEY-BRAUN AMENDMENT NO. 3285

Mr. GREGG (for Ms. MOSELEY-BRAUN) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 51, between lines 9 and 10, insert the following:

SEC. 121. INTERNET PREDATOR PREVENTION.

(a) PROHIBITION AND PENALTIES.—Chapter 110 of title 18, United States Code, is amended by adding at the end the following:

''§ 2261. Publication of identifying information relating to a minor for criminal sexual purposes

''(a) DEFINITION OF IDENTIFYING INFORMATION RELATING TO A MINOR.—In this section, the term 'identifying information relating to a minor' includes the name, address, telephone number, social security number, or e-mail address of a minor.

''(b) PROHIBITION AND PENALTIES.—Whoever, through the use of any facility in or affecting interstate or foreign commerce (including any interactive computer service) publishes, or causes to be published, any identifying information relating to a minor who has not attained the age of 17 years, for the purpose of soliciting any person to engage in any sexual activity for which the person can be charged with criminal offense under Federal or State law, shall be imprisoned not less than 1 and not more than 5 years, fined under this title, or both.''.

(b) TECHNICAL AMENDMENT.—The analysis for chapter 110 of title 18, United States Code, is amended by adding at the end the following:

''2261. Publication of identifying information relating to a minor for criminal sexual purposes.''.

DODD AMENDMENT NO. 3286

Mr. GREGG (for Mr. DODD) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 135, between lines 11 and 12, insert the following:

SEC. 620. (a) REQUIREMENT.—Section 230 of the Communications Act of 1934 (47 U.S.C. 230) is amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

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

''(d) OBLIGATIONS OF INTERNET ACCESS PROVIDERS.—

''(1) IN GENERAL.—An Internet access provider shall, at the time of entering into an agreement with a customer for the provision of Internet access services, offer such customer (either for a fee or at no charge) screening software that is designed to permit the customer to limit access to material on the Internet that is harmful to minors.

''(2) DEFINITIONS.—As used in this subsection:

''(A) INTERNET ACCESS PROVIDER.—The term 'Internet access provider' means a person engaged in the business of providing a computer and communications facility through which a customer may obtain access to the Internet, but does not include a common carrier to the extent that it provides only telecommunications services.

''(B) INTERNET ACCESS SERVICES.—The term 'Internet access services' means the provision of computer and communications services through which a customer using a computer and a modem or other communications device may obtain access to the Internet, but does not include telecommunications services provided by a common carrier.''.

''(C) SCREENING SOFTWARE.—The term 'screening software' means software that is designed to permit a person to limit access to material on the Internet that is harmful to minors.''.

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply to agreements for the provision of Internet access services entered into on or after the date that is 6 months after the date of enactment of this Act.

SPECTER (AND OTHERS) AMENDMENT NO. 3287

Mr. GREGG (for Mr. SPECTER for himself, Mr. SANTORUM, and Mr. DURBIN) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place, insert:

SEC. . TRANSFER OF COUNTY.

(a) Section 118 of title 28, United States Code, is amended—

(1) in subsection (a) by striking ''Philadelphia, and Schuylkill'' and inserting ''and Philadelphia''; and

(2) in subsection (b) by inserting ''Schuylkill,'' after ''Potter,''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—This section and the amendments made by this section shall take effect 180 days after the date of the enactment of this Act.

(2) PENDING CASES NOT AFFECTED.—This section and the amendments made by this section shall not affect any action commenced before the effective date of this section and pending on such date in the United States District Court for the Eastern District of Pennsylvania.

(3) JURIES NOT AFFECTED.—This section and the amendments made by this section shall not affect the composition, or preclude the service, of any grand or petit jury summoned, impaneled, or actually serving on the effective date of this section.

BYRD AMENDMENT NO. 3288

Mr. GREGG (for Mr. BYRD) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place in title VI, insert the following new section:

SEC. ___. REPORT ON KOREAN STEEL SUBSIDIES.

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the United States Trade Representative (in this section referred to as the ''Trade Representative'') shall report to Congress on the Trade Representative's analysis regarding—

(1) whether the Korean Government provided subsidies to Hanbo Steel;

(2) whether such subsidies had an adverse effect on United States companies;

(3) the status of the Trade Representative's contacts with the Korean Government with respect to industry concerns regarding Hanbo Steel and efforts to eliminate subsidies; and

(4) the status of the Trade Representative's contacts with other Asian trading partners regarding the adverse effect of Korean steel subsidies on such trading partners.

(b) STATUS OF INVESTIGATION.—The report described in subsection (a) shall also include information on the status of any investigations initiated as a result of press reports that the Korean Government ordered Pohang Iron and Steel Company, in which the Government owns a controlling interest, to sell

steel in Korea at a price that is 30 percent lower than the international market prices.

MURKOWSKI (AND STEVENS) AMENDMENT NO. 3289

Mr. GREGG (for Mr. MURKOWSKI for himself and Mr. STEVENS) proposed an amendment to the bill, S. 2260, supra; as follows:

On Page 135, between lines 11 and 12, insert the following:

SEC. 620. Notwithstanding any other provision of law, no funds appropriated or otherwise made available for fiscal year 1999 by this Act or any other Act may be obligated or expended for purposes of enforcing any rule or regulation requiring the installation or operation aboard United States fishing industry vessels of the Global Maritime Distress and Safety System (GMDSS).

KYL AMENDMENTS NOS. 3290–3291

Mr. GREGG (for KYL) proposed two amendments to the bill, S. 2260, supra; as follows:

AMENDMENT NO. 3290

At the appropriate place, insert the following:

SEC. ___. SPECIAL MASTERS FOR CIVIL ACTIONS CONCERNING PRISON CONDITIONS.

Section 3626(f) of title 18, United States Code, is amended—

(1) by striking the subsection heading and inserting the following:

''(f) SPECIAL MASTERS FOR CIVIL ACTIONS CONCERNING PRISON CONDITIONS.—''; and

(2) in paragraph (4)—

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

(B) in subparagraph (A), as so designated, by adding at the end the following: ''In no event shall a court require a party to a civil action under this subsection to pay the compensation, expenses, or costs of a special master. Notwithstanding any other provision of law (including section 306 of the Act entitled 'An Act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1997,' contained in section 101(a) of title I of division A of the Act entitled 'An Act making omnibus consolidated appropriations for the fiscal year ending September 30, 1997' (110 Stat. 3009–201)) and except as provided in subparagraph (B), the requirement under the preceding sentence shall apply to the compensation and payment of expenses or costs of a special master for any action that is commenced, before, on, or after the date of enactment of the Prison Litigation Reform Act of 1995.''; and

(C) by adding at the end the following:

''(B) The payment requirements under subparagraph (A) shall not apply to the payment to a special master who was appointed before the date of enactment of the Prison Litigation Reform Act of 1995 (110 Stat. 1321–165 et seq.) of compensation, expenses, or costs relating to activities of the special master under this subsection that were carried out during the period beginning on the date of enactment of the Prison Litigation Reform Act of 1995 and ending on the date of enactment of this subparagraph.''.

AMENDMENT NO. 3291

On page 100, between lines 18 and 19, insert the following:

SEC. 407. (a) WAIVER OF FEES FOR CERTAIN VISAS.—

(1) REQUIREMENT.—

(A) IN GENERAL.—Notwithstanding any other provision of law and subject to subparagraph (B), the Secretary of State and the Attorney General shall waive the fee for the processing of any application for the issuance of a machine readable combined border crossing card and nonimmigrant visa under section 101(a)(15)(B) of the Immigration and Nationality Act in the case of any alien under 15 years of age where the application for the machine readable combined border crossing card and nonimmigrant visa is made in Mexico by a citizen of Mexico who has at least one parent or guardian who has a visa under such section or is applying for a machine readable combined border crossing card and nonimmigrant visa under such section as well.

(B) DELAYED COMMENCEMENT.—The Secretary of State and the Attorney General may not commence implementation of the requirement in subparagraph (A) until the later of—

(i) the date that is 6 months after the date of enactment of this Act; or

(ii) the date on which the Secretary sets the amount of the fee or surcharge in accordance with paragraph (3).

(2) PERIOD OF VALIDITY OF VISAS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), if the fee for a machine readable combined border crossing card and nonimmigrant visa issued under section 101(a)(15)(B) of the Immigration and Nationality Act has been waived under paragraph (1) for a child under 15 years of age, the machine readable combined border crossing card and nonimmigrant visa shall be issued to expire on the earlier of—

(i) the date on which the child attains the age of 15; or

(ii) ten years after its date of issue.

(B) EXCEPTION.—At the request of the parent or guardian of any alien under 15 years of age otherwise covered by subparagraph (A), the Secretary of State and the Attorney General may charge a fee for the processing of an application for the issuance of a machine readable combined border crossing card and nonimmigrant visa under section 101(a)(15)(B) of the Immigration and Nationality Act provided that the machine readable combined border crossing card and nonimmigrant visa is issued to expire as of the same date as is usually provided for visas issued under that section.

(3) RECOUPMENT OF COSTS RESULTING FROM WAIVER.—Notwithstanding any other provision of law, the Secretary of State shall set the amount of the fee or surcharge authorized pursuant to section 140(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 8 U.S.C. 1351 note) for the processing of machine readable combined border crossing cards and nonimmigrant visas at a level that will ensure the full recovery by the Department of State of the costs of processing all such combined border crossing cards and nonimmigrant visas, including the costs of processing such combined border crossing cards and nonimmigrant visas for which the fee is waived pursuant to this subsection.

(b) PROCESSING IN MEXICAN BORDER CITIES.—The Secretary of State shall continue, until at least October 1, 2003, or until all border crossing identification cards in circulation have otherwise been required to be replaced under section 104(b)(3) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (as added by section 116(b)(2) of this Act), to process applications for visas under section 101(a)(15)(B) of the Immigration and Nationality Act at the following cities in Mexico located near the international border with the United States: Nogales, Nuevo Laredo, Ciudad Acuna, Piedras Negras, Agua Prieta, and Reynosa.

GRAHAM AMENDMENT NO. 3292

Mr. GREGG (for Mr. GRAHAM) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 100, between lines 18 and 19, insert the following:

SEC. 407. (a) The purpose of this section is to protect the national security interests of the United States while studying the appropriate level of resources to improve the issuance of visas to legitimate foreign travelers.

(b) Congress recognizes the importance of maintaining quality service by consular officers in the processing of applications for nonimmigrant visas and finds that this requirement should be reflected in any timeliness standards or other regulations governing the issuance of visas.

(c) The Secretary of State shall conduct a study to determine, with respect to the processing of nonimmigrant visas within the Department of State—

(1) the adequacy of staffing at United States consular posts, particularly during peak travel periods;

(2) the adequacy of service to international tourism;

(3) the adequacy of computer and technical support to consular posts; and

(4) the appropriate standard to determine whether a country qualifies as a pilot program country under the visa waiver pilot program in section 217 of the Immigration and Nationality Act (8 U.S.C. 1187).

(d)(1) Not later than 120 days after the date of enactment of this Act, the Secretary of State shall submit a report to Congress setting forth—

(A) the results of the study conducted under subsection (c); and

(B) the steps the Secretary has taken to implement timeliness standards.

(2) Beginning one year after the date of submission of the report required by paragraph (1), and annually thereafter, the Secretary of State shall submit a report to Congress describing the implementation of timeliness standards during the preceding year.

(e) In this section—

(1) the term ''nonimmigrant visas'' means visas issued to aliens described in section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)); and

(2) the term ''timeliness standards'' means standards governing the timely processing of applications for nonimmigrant visas at United States consular posts.

LOTT AMENDMENT NO. 3293

Mr. GREGG (for Mr. LOTT) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 86, line 8, insert the following after the colon:

Provided further, That not to exceed $2,400,000 shall only be available to establish an international center for response to chemical, biological, and nuclear weapons;

At the end to title VII, insert the following:

DEPARTMENT OF STATE

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

(RESCISSION)

Of the total amount of appropriations provided in Acts enacted before this Act for the Interparliamentary Union, $400,000 is rescinded.

BIDEN AMENDMENT NO. 3294

Mr. GREGG (for Mr. BIDEN) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 96, strike lines 3 through 16.

AN AMENDMENT

At the appropriate place in the bill, insert the following:

SEC. ___. (a) SHORT TITLE.—This Act may be cited as the ''American Competitiveness Act''.

(b) REFERENCES IN ACT.—Except as otherwise specifically provided in this Act, whenever in this Act an amendment or repeal is expressed as an amendment to or a repeal of a provision, the reference shall be deemed to be made to the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(c) Congress makes the following findings:

(1) American companies today are engaged in fierce competition in global markets.

(2) Companies across America are faced with severe high skill labor shortages that threaten their competitiveness.

(3) The National Software Alliance, a consortium of concerned government, industry, and academic leaders that includes the United States Army, Navy, and Air Force, has concluded that ''The supply of computer science graduates is far short of the number needed by industry.''. The Alliance concludes that the current severe understaffing could lead to inflation and lower productivity.

(4) The Department of Labor projects that the United States economy will produce more than 130,000 information technology jobs in each of the next 10 years, for a total of more than 1,300,000.

(5) Between 1986 and 1995, the number of bachelor's degrees awarded in computer science declined by 42 percent. Therefore, any short-term increases in enrollment may only return the United States to the 1986 level of graduates and take several years to produce these additional graduates.

(6) A study conducted by Virginia Tech for the Information Technology Association of America estimates that there are more than 340,000 unfilled positions for highly skilled information technology workers in American companies.

(7) The Hudson Institute estimates that the unaddressed shortage of skilled workers throughout the United States economy will result in a 5-percent drop in the growth rate of GDP. That translates into approximately $200,000,000,000 in lost output, nearly $1,000 for every American.

(8) It is necessary to deal with the current situation with both short-term and long-term measures.

(9) In fiscal year 1997, United States companies and universities reached the cap of 65,000 on H–1B temporary visas a month before the end of the fiscal year. In fiscal year 1998 the cap is expected to be reached as early as May if Congress takes no action. And it will be hit earlier each year until backlogs develop of such a magnitude as to prevent United States companies and researchers from having any timely access to skilled foreign-born professionals.

(10) It is vital that more American young people be encouraged and equipped to enter technical fields, such as mathematics, engineering, and computer science.

(11) If American companies cannot find home-grown talent, and if they cannot bring talent to this country, a large number are likely to move key operations overseas, sending those and related American jobs with them.

(12) Inaction in these areas will carry significant consequences for the future of American competitiveness around the world and will seriously undermine efforts to create and keep jobs in the United States.

(d) ESTABLISHMENT OF H1–C NONIMMIGRANT CATEGORY.—

(1) IN GENERAL.—Section 101(a)(15)(H)(i) (8 U.S.C. 1101(a)(15)(H)(i)) is amended—

(A) by inserting ''and other than services described in clause (c)'' after ''subparagraph (O) or (P)''; and

(B) by inserting after ''section 212(n)(1)'' the following: '', or (c) who is coming temporarily to the United States to perform labor as a health care worker, other than a physician, in a specialty occupation described in section 214(i)(1), who meets the requirements of the occupation specified in section 214(i)(2), who qualifies for the exemption from the grounds of inadmissibility described in section 212(a)(5)(C), and with respect to whom the Attorney General certifies that the intending employer has filed with the Attorney General an application under section 212(n)(1).''.

(2) CONFORMING AMENDMENTS.—

(A) Section 212(n)(1) is amended by inserting ''or (c)'' after ''section 101(a)(15)(H)(i)(b)'' each place it appears.

(B) Section 214(i) is amended by inserting ''or (c)'' after ''section 101(a)(15)(H)(i)(b)'' each place it appears.

(3) TRANSITION RULE.—Any petition filed prior to the date of enactment of this Act, for issuance of a visa under section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act on behalf of an alien described in the amendment made by paragraph (1)(B) shall, on and after that date, be treated as a petition filed under section 101(a)(15)(H)(i)(c) of that Act, as added by paragraph (1).

(e) ANNUAL CEILINGS FOR H1–B AND H1–C WORKERS.—

(1) AMENDMENT OF THE INA.—Section 214(g)(1) (8 U.S.C. 1184(g)(1)) is amended to read as follows:

''(g)(1) The total number of aliens who may be issued visas or otherwise provided nonimmigrant status during any fiscal year—

''(A) under section 101(a)(15)(H)(i)(b)—

''(i) for each of fiscal years 1992 through 1997, and for any other fiscal year for which this subsection does not specify a higher ceiling, may not exceed 65,000,

''(ii) for fiscal year 1998, may not exceed 95,000,

''(iii) for fiscal year 1999, may not exceed the number determined for fiscal year 1998 under such section, minus 10,000, plus the number of unused visas under subparagraph (B) for the fiscal year preceding the applicable fiscal year, and

''(iv) for fiscal year 2000, and each applicable fiscal year thereafter through fiscal year 2002, may not exceed the number determined for fiscal year 1998 under such section, minus 10,000, plus the number of unused visas under subparagraph (B) for the fiscal year preceding the applicable fiscal year, plus the number of unused visas under subparagraph (C) for the fiscal year preceding the applicable fiscal year;

''(B) under section 101(a)(15)(H)(ii)(b), beginning with fiscal year 1992, may not exceed 66,000; or

''(C) under section 101(a)(15)(H)(i)(c), beginning with fiscal year 1999, may not exceed 10,000.

For purposes of determining the ceiling under subparagraph (A) (iii) and (iv), not more than 20,000 of the unused visas under subparagraph (B) may be taken into account for any fiscal year.''.

(2) TRANSITION PROCEDURES.—Any visa issued or nonimmigrant status otherwise accorded to any alien under clause (i)(b) or (ii)(b) of section 101(a)(15)(H) of the Immigration and Nationality Act pursuant to a petition filed during fiscal year 1998 but approved on or after October 1, 1998, shall be counted against the applicable ceiling in section 214(g)(1) of that Act for fiscal year 1998 (as amended by paragraph (1) of this subsection), except that, in the case where counting the visa or the other granting of status would cause the applicable ceiling for fiscal year 1998 to be exceeded, the visa or grant of status shall be counted against the applicable ceiling for fiscal year 1999.

(f) DEGREES IN MATHEMATICS, COMPUTER SCIENCE, AND ENGINEERING.—Subpart 4 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070c et seq.) is amended in section 415A(b) (20 U.S.C. 1070c(b)), by adding at the end the following new paragraph:

''(3) MATHEMATICS, COMPUTER SCIENCE, AND ENGINEERING SCHOLARSHIPS.—It shall be a permissible use of the funds made available to a State under this section for the State to establish a scholarship program for eligible students who demonstrate financial need and who seek to enter a program of study leading to a degree in mathematics, computer science, or engineering.''.

(g) INCREASED PENALTIES FOR VIOLATIONS OF H1–B OR H1–C PROGRAM.—Section 212(n)(2)(C) (8 U.S.C. 1182(n)(2)(C)) is amended—

(1) by striking ''a failure to meet'' and all that follows through ''an application—'' and inserting ''a willful failure to meet a condition in paragraph (1) or a willful misrepresentation of a material fact in an application—''; and

(2) in clause (i), by striking ''$1,000'' and inserting ''$5,000''.

(h) SPOT INSPECTIONS DURING PROBATIONARY PERIOD.—Section 212(n)(2) (8 U.S.C. 1182(n)(2)) is amended—

(1) by redesignating subparagraph (D) as subparagraph (E); and

(2) by inserting after subparagraph (C) the following:

''(D) The Secretary of Labor may, on a case-by-case basis, subject an employer to random inspections for a period of up to five years beginning on the date that such employer is found by the Secretary of Labor to have engaged in a willful failure to meet a condition of subparagraph (A), or a misrepresentation of material fact in an application.''.

(i) LAYOFF PROTECTION FOR UNITED STATES WORKERS.—Section 212(n)(2) (8 U.S.C. 1182(n)(2)), as amended by subsection (b), is further amended by adding at the end the following:

''(F)(i) If the Secretary finds, after notice and opportunity for a hearing, a willful failure to meet a condition in paragraph (1) or a willful misrepresentation of a material fact in an application, in the course of which the employer has replaced a United States worker with a nonimmigrant described in section 101(a)(15)(H)(i) (b) or (c) within the 6-month period prior to, or within 90 days following, the filing of the application—

''(I) the Secretary shall notify the Attorney General of such finding, and may, in addition, impose such other administrative remedies (including civil monetary penalties in an amount not to exceed $25,000 per violation) as the Secretary determines to be appropriate; and

''(II) the Attorney General shall not approve petitions filed with respect to the employer under section 204 or 214(c) during a period of at least 2 years for aliens to be employed by the employer.

''(ii) For purposes of this subparagraph:

''(I) The term 'replace' means the employment of the nonimmigrant at the specific place of employment and in the specific employment opportunity from which a United States worker with substantially equivalent qualifications and experience in the specific employment opportunity has been laid off.

''(II) The term 'laid off', with respect to an individual, means the individual's loss of employment other than a discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary

retirement, or the expiration of a grant, contract, or other agreement. The term 'laid off' does not include any situation in which the individual involved is offered, as an alternative to such loss of employment, a similar employment opportunity with the same employer at the equivalent or higher compensation and benefits as the position from which the employee was discharged, regardless of whether or not the employee accepts the offer.

''(III) The term 'United States worker' means—

''(aa) a citizen or national of the United States;

''(bb) an alien who is lawfully admitted for permanent residence; or

''(cc) an alien authorized to be employed by this Act or by the Attorney General.''.

(j) PROHIBITION OF USE OF H–1B VISAS BY EMPLOYERS ASSISTING IN INDIA'S NUCLEAR WEAPONS PROGRAM.—Section 214(c) is amended—

(1) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (9), respectively; and

(2) by inserting after paragraph (5) the following new paragraph:

''(6) The Attorney General shall not approve a petition under section 101(a)(15)(H)(i)(b) for any employer that has knowledge or reasonable cause to know that the employer is providing material assistance for the development of nuclear weapons in India or any other country.''.

(k) EXPEDITED REVIEWS AND DECISIONS.—Section 214(c)(2)(C) (8 U.S.C. 1184(c)(2)(C)) is amended by inserting ''or section 101(a)(15)(H)(i)(b)'' after ''section 101(a)(15)(L)''.

(l) DETERMINATIONS ON LABOR CONDITION APPLICATIONS TO BE MADE BY ATTORNEY GENERAL.—

(1) IN GENERAL.—Section 101(a)(15)(H)(i)(b) (8 U.S.C. 1101(a)(15)(H)(i)(b)) is amended by striking ''with respect to whom'' and all that follows through ''with the Secretary'' and inserting ''with respect to whom the Attorney General determines that the intending employer has filed with the Attorney General''.

(2) CONFORMING AMENDMENTS.—Section 212(n) (8 U.S.C. 1182(n)(1)) is amended—

(A) in paragraph (1)—

(i) in the first sentence, by striking ''Secretary of Labor'' and inserting ''Attorney General'';

(ii) in the sixth and eighth sentences, by inserting ''of Labor'' after ''Secretary'' each place it appears;

(iii) in the ninth sentence, by striking ''Secretary of Labor'' and inserting ''Attorney General'';

(iv) by amending the tenth sentence to read as follows: ''Unless the Attorney General finds that the application is incomplete or obviously inaccurate, the Attorney General shall provide the certification described in section 101(a)(15)(H)(i)(b) and adjudicate the nonimmigrant visa petition.''; and

(v) by inserting in full measure margin after subparagraph (D) the following new sentence: ''Such application shall be filed with the employer's petition for a nonimmigrant visa for the alien, and the Attorney General shall transmit a copy of such application to the Secretary of Labor.''; and

(B) in the first sentence of paragraph (2)(A), by striking ''Secretary'' and inserting ''Secretary of Labor''.

(3) COSTS.—Any additional spending made necessary by reason of the enactment of the amendments made by this subsection shall be effective only to the extent and in the amounts provided in an appropriations Act.

(m) PREVAILING WAGE CONSIDERATIONS.—Section 101 (8 U.S.C. 1101) is amended by adding at the end the following new subsection:

''(i)(1) In computing the prevailing wage level for an occupational classification in an area of employment for purposes of section 212(n)(1)(A)(i)(II) and section 212(a)(5)(A) in the case of an employee of—

''(A) an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965), or a related or affiliated nonprofit entity, or

''(B) a nonprofit or Federal research institute or agency,

the prevailing wage level shall only take into account employees at such institutions, entities, and agencies in the area of employment.

''(2) With respect to a professional athlete (as defined in section 212(a)(5)(A)(iii)(II)) when the job opportunity is covered by professional sports league rules or regulations, the wage set forth in those rules or regulations shall be considered as not adversely affecting the wages of United States workers similarly employed and be considered the prevailing wage.

''(3) To determine the prevailing wage, employers may use either government or nongovernment published surveys, including industry, region, or statewide wage surveys, to determine the prevailing wage, which shall be considered correct and valid if the survey was conducted in accordance with generally accepted industry standards and the employer has maintained a copy of the survey information.''.

(n) POSTING REQUIREMENT.—Section 212(n)(1)(C)(ii) (8 U.S.C. 1182(n)(1)(C)(ii)) is amended to read as follows:

''(ii) if there is no such bargaining representative, has provided notice of filing in the occupational classification through such methods as physical posting in a conspicuous location, or electronic posting through an internal job bank, or electronic notification available to employees in the occupational classification.''.

(o) Section 212(n) (8 U.S.C. 1182(n)) is amended by adding at the end the following:

''(3) Using data from petitions for visas issued under section 101(a)(15)(H)(i)(b), the Attorney General shall annually submit the following reports to Congress:

''(A) Quarterly reports on the numbers of aliens who were provided nonimmigrant status under section 101(a)(15)(H)(i)(b) during the previous quarter and who were subject to the numerical ceiling for the fiscal year established under section 214(g)(1).

''(B) Annual reports on the occupations and compensation of aliens provided nonimmigrant status under such section during the previous fiscal year.''.

(p) STUDY.—The National Science Foundation shall oversee a study involving the participation of individuals representing a variety of points of view, including representatives from academia, government, business, and other appropriate organizations, to assess the labor market needs for workers with high technology skills during the 10-year period beginning on the date of enactment of this Act. The study shall focus on the following issues:

(1) The future training and education needs of the high-technology sector over that 10-year period, including projected job growth for high-technology issues.

(2) Future training and education needs of United States students to ensure that their skills, at various levels, are matched to the needs of the high technology and information technology sector over that 10-year period.

(3) An analysis of progress made by educators, employers, and government entities to improve the teaching and educational level of American students in the fields of math, science, computer, and engineering since 1998.

(4) An analysis of the number of United States workers currently or projected to work overseas in professional, technical, and managerial capacities.

(5) The following additional issues:

(A) The need by the high-technology sector for foreign workers with specific skills.

(B) The potential benefits gained by the universities, employers, and economy of the United States from the entry of skilled professionals in the fields of science and engineering.

(C) The extent to which globalization has increased since 1998.

(D) The needs of the high-technology sector to localize United States products and services for export purposes in light of the increasing globalization of the United States and world economy.

(E) An examination of the amount and trend of high technology work that is outsourced from the United States to foreign countries.

(q) REPORT.—Not later than October 1, 2000, the National Science Foundation shall submit a report containing the results of the study described in subsection (a) to the Committees on the Judiciary of the House of Representatives and the Senate.

(r) AVAILABILITY OF FUNDS.—Funds available to the National Science Foundation shall be made available to carry out this section.

(s) SPECIAL RULES.—Section 202(a) (8 U.S.C. 1152(a)) is amended by adding at the end the following new paragraph:

''(5) RULES FOR EMPLOYMENT-BASED IMMIGRANTS.—

''(A) EMPLOYMENT-BASED IMMIGRANTS NOT SUBJECT TO PER COUNTRY LIMITATION IF ADDITIONAL VISAS AVAILABLE.—If the total number of visas available under paragraph (1), (2), (3), (4), or (5) of section 203(b) for a calendar quarter exceeds the number of qualified immigrants who may otherwise be issued such visas, the visas made available under that paragraph shall be issued without regard to the numerical limitation under paragraph (2) of this subsection during the remainder of the calendar quarter.

''(B) LIMITING FALL ACROSS FOR CERTAIN COUNTRIES SUBJECT TO SUBSECTION (e).—In the case of a foreign state or dependent area to which subsection (e) applies, if the total number of visas issued under section 203(b) exceeds the maximum number of visas that may be made available to immigrants of the state or area under section 203(b) consistent with subsection (e) (determined without regard to this paragraph), in applying subsection (e) all visas shall be deemed to have been required for the classes of aliens specified in section 203(b).''.

(t) CONFORMING AMENDMENTS.—

(1) Section 202(a)(2) (8 U.S.C. 1152(a)(2)) is amended by striking ''paragraphs (3) and (4)'' and inserting ''paragraphs (3), (4), and (5)''.

(2) Section 202(e)(3) (8 U.S.C. 1152(e)(3)) is amended by striking ''the proportion of the visa numbers'' and inserting ''except as provided in subsection (a)(5), the proportion of the visa numbers''.

(u) ONE-TIME PROTECTION UNDER PER COUNTRY CEILING.—Notwithstanding section 214(g)(4) of the Immigration and Nationality Act, any alien who—

(1) as of the date of enactment of this Act is a nonimmigrant described in section 101(a)(15)(H)(i) of that Act;

(2) is the beneficiary of a petition filed under section 204(a) for a preference status under paragraph (1), (2), or (3) of section 203(b); and

(3) would be subject to the per country limitations applicable to immigrants under those paragraphs but for this subsection,

may apply for and the Attorney General may grant an extension of such nonimmigrant

status until the alien's application for adjustment of status has been processed and a decision made thereon.

(v) Section 212 (8 U.S.C. 1182) is amended by adding at the end the following new subsection:

''(p) Any alien admitted under section 101(a)(15)(B) may accept an honorarium payment and associated incidental expenses for a usual academic activity or activities, as defined by the Attorney General in consultation with the Secretary of Education, if such payment is offered by an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965) or other nonprofit entity and is made for services conducted for the benefit of that institution or entity.''.

(w) IN GENERAL.—Section 101(a)(27) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)) is amended—

(1) by striking ''or'' at the end of subparagraph (J),

(2) by striking the period at the end of subparagraph (K) and inserting ''; or'', and

(3) by adding at the end the following new subparagraph:

''(L) an immigrant who would be described in clause (i), (ii), (iii), or (iv) of subparagraph (I) if any reference in such a clause—

''(i) to an international organization described in paragraph (15)(G)(i) were treated as a reference to the North Atlantic Treaty Organization (NATO);

''(ii) to a nonimmigrant under paragraph (15)(G)(iv) were treated as a reference to a nonimmigrant classifiable under NATO–6 (as a member of a civilian component accompanying a force entering in accordance with the provisions of the NATO Status-of-Forces Agreement, a member of a civilian component attached to or employed by an Allied Headquarters under the 'Protocol on the Status of International Military Headquarters' set up pursuant to the North Atlantic Treaty, or as a dependent); and

''(iii) to the Immigration Technical Corrections Act of 1988 or to the Immigration and Nationality Technical Corrections Act of 1994 were a reference to the American Competitiveness Act.''.

(x) CONFORMING NONIMMIGRANT STATUS FOR CERTAIN PARENTS OF SPECIAL IMMIGRANT CHILDREN.—Section 101(a)(15)(N) of such Act (8 U.S.C. 1101(a)(15)(N)) is amended—

(1) by inserting ''(or under analogous authority under paragraph (27)(L))'' after ''(27)(I)(i)'', and

(2) by inserting ''(or under analogous authority under paragraph (27)(L))'' after ''(27)(I)''.

(y) Section 212(n)(2) (8 U.S.C. 1182(n)(2)), as amended by section 5 of this Act, is further amended—

(1) in subparagraph (C), by inserting '', or that the employer has intimidated, discharged, or otherwise retaliated against any person because that person has asserted a right or has cooperated in an investigation under this paragraph'' after ''a material fact in an application''; and

(2) by adding at the end the following new subparagraph:

''(F) Any alien admitted to the United States as a nonimmigrant described in section 101(a)(15)(H)(i)(b), who files a complaint pursuant to subparagraph (A) and is otherwise eligible to remain and work in the United States, shall be allowed to seek other employment in the United States for the duration of the alien's authorized admission, if—

''(i) the Secretary finds a failure by the employer to meet the conditions described in subparagraph (C), and

''(ii) the alien notifies the Immigration and Naturalization Service of the name and address of his new employer.''.

(z) IN GENERAL.—Section 1 of title IX of the Act of June 15, 1917 (22 U.S.C. 213) is amended—

(1) by striking ''Before'' and inserting ''(a) IN GENERAL.—Before'', and

(2) by adding at the end the following new subsection:

''(b) PASSPORTS ISSUED FOR CHILDREN UNDER 16.—

''(1) SIGNATURES REQUIRED.—In the case of a child under the age of 16, the written application required as a prerequisite to the issuance of a passport for such child shall be signed by—

''(A) both parents of the child if the child lives with both parents;

''(B) the parent of the child having primary custody of the child if the child does not live with both parents; or

''(C) the surviving parent (or legal guardian) of the child, if 1 or both parents are deceased.

''(2) WAIVER.—The Secretary of State may waive the requirements of paragraph (1)(A) if the Secretary determines that circumstances do not permit obtaining the signatures of both parents.''.

(aa) EFFECTIVE DATE.—The amendments made by this section shall apply to applications for passports filed on or after the date of the enactment of this Act.

(bb) IN GENERAL.—Subject to subsection (dd), in establishing demonstration programs under section 452(c) of the Job Training Partnership Act (29 U.S.C. 1732(c)), as in effect on the date of enactment of this Act, or a successor Federal law, the Secretary of Labor shall establish demonstration programs to provide technical skills training for workers, including incumbent workers.

(cc) GRANTS.—Subject to subsection (dd), the Secretary of Labor shall award grants to carry out the programs to—

(1) private industry councils established under section 102 of the Job Training Partnership Act (29 U.S.C. 1512), as in effect on the date of enactment of this Act, or successor entities established under a successor Federal law; or

(2) regional consortia of councils or entities described in paragraph (1).

(dd) LIMITATION.—The Secretary of Labor shall establish programs under subsection (bb), including awarding grants to carry out such programs under subsection (cc), only with funds made available to carry out such programs under subsection (a) and not with funds made available under the Job Training Partnership Act or a successor Federal law.

KOHL AMENDMENT NO. 3295

Mr. GREGG (for Mr. KOHL) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place in the bill, insert the following:

CRIMINAL BACKGROUND CHECKS FOR APPLICANTS FOR EMPLOYMENT IN NURSING FACILITIES AND HOME HEALTH CARE AGENCIES

SEC. ___. (a) AUTHORITY TO CONDUCT BACKGROUND CHECKS.—

(1) IN GENERAL.—A nursing facility or home health care agency may submit a request to the Attorney General to conduct a search and exchange of records described in subsection (b) regarding an applicant for employment if the employment position is involved in direct patient care.

(2) SUBMISSION OF REQUESTS.—A nursing facility or home health care agency requesting a search and exchange of records under this section shall submit to the Attorney General a copy of an employment applicant's fingerprints, a statement signed by the applicant authorizing the nursing facility or home health care agency to request the search and exchange of records, and any other identification information not more than 7 days (excluding Saturdays, Sundays, and legal public holidays under section 6103(a) of title 5, United States Code) after acquiring the fingerprints, signed statement, and information.

(b) SEARCH AND EXCHANGE OF RECORDS.—Pursuant to any submission that complies with the requirements of subsection (a), the Attorney General shall search the records of the Criminal Justice Information Services Division of the Federal Bureau of Investigation for any criminal history records corresponding to the fingerprints or other identification information submitted. The Attorney General shall provide any corresponding information resulting from the search to the appropriate State or local governmental agency authorized to receive such information.

(c) USE OF INFORMATION.—Information regarding an applicant for employment in a nursing facility or home health care agency obtained pursuant to this section may be used only by the facility or agency requesting the information and only for the purpose of determining the suitability of the applicant for employment by the facility or agency in a position involved in direct patient care.

(d) FEES.—The Attorney General may charge a reasonable fee, not to exceed $50 per request, to any nursing facility or home health care agency requesting a search and exchange of records pursuant to this section to cover the cost of conducting the search and providing the records.

(e) REPORT.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit a report to Congress on the number of requests for searches and exchanges of records made under this section by nursing facilities and home health care agencies and the disposition of such requests.

(f) CRIMINAL PENALTY.—Whoever knowingly uses any information obtained pursuant to this section for a purpose other than as authorized under subsection (c) shall be fined in accordance with title 18, United States Code, imprisoned for not more than 2 years, or both.

(g) IMMUNITY FROM LIABILITY.—A nursing facility or home health care agency that, in denying employment for an applicant, reasonably relies upon information provided by the Attorney General pursuant to this section shall not be liable in any action brought by the applicant based on the employment determination resulting from the incompleteness or inaccuracy of the information.

(h) REGULATIONS.—The Attorney General may promulgate such regulations as are necessary to carry out this section, including regulations regarding the security, confidentiality, accuracy, use, destruction, and dissemination of information, audits and recordkeeping, the imposition of fees necessary for the recovery of costs, and any necessary modifications to the definitions contained in subsection (i).

(i) DEFINITIONS.—In this section:

(1) HOME HEALTH CARE AGENCY.—The term ''home health care agency'' means an agency that provides home health care or personal care services on a visiting basis in a place of residence.

(2) NURSING FACILITY.—The term ''nursing facility'' means a facility or institution (or a distinct part of an institution) that is primarily engaged in providing to residents of the facility or institution nursing care, including skilled nursing care, and related services for individuals who require medical or nursing care.

(j) APPLICABILITY.—This section shall apply without fiscal year limitation.

GORTON (AND OTHERS) AMENDMENT NO. 3296

Mr. GREGG (for Mr. GORTON for himself, Mr. HATCH, Mrs. MURRAY, Mr. SESSIONS, Mr. ABRAHAM, Mr. KYL, and Mr. FAIRCLOTH) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 51, between lines 9 and 10, insert the following:

SEC. 121. None of the funds made available to the Department of Justice under this Act may be used for any expense relating to, or as reimbursement for any expense incurred in connection with, any foreign travel by an officer or employee of the Antitrust Division of the Department of Justice, if that foreign travel is for the purpose, in whole or in part, of soliciting or otherwise encouraging any antitrust action by a foreign country against a United States company that is a defendant in any antitrust action pending in the United States in which the United States is a plaintiff. *Provided, however,* that this section shall not: (1) limit the ability of the Department to investigate potential violations of United States antitrust laws; or (2) prohibit assistance authorized pursuant to 15 U.S.C. sections 6201–6212, or pursuant to a ratified treaty between the United States and a foreign government, or other international agreement to which the United States is a party.

LANDRIEU AMENDMENT NO. 3297

Mr. GREGG (for Ms. LANDRIEU) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. ___. EXCEPTION TO GROUNDS OF REMOVAL.

Section 237 of the Immigration and Nationality Act (8 U.S.C. 1227) is amended by adding at the end the following new subsection:

''(d) This section shall not apply to any alien who was issued a visa or otherwise acquired the status of an alien lawfully admitted to the United States for permanent residence under section 201(b)(2)(A)(i) as an orphan described in section 101(b)(1)(F),'' unless that alien has knowingly declined U.S. citizenship.

D'AMATO AMENDMENT NO. 3298

Mr. GREGG (for Mr. D'AMATO) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place in title I of the bill, insert the following:

SEC. 1___. PROTECTION OF PERSONAL AND FINANCIAL INFORMATION OF CORRECTIONS OFFICERS.

Notwithstanding any other provision of law, in any action brought by a prisoner under section 1979 of the Revised Statutes (42 U.S.C. 1983) against a Federal, State, or local jail, prison, or correctional facility, or any employee or former employee thereof, arising out of the incarceration of that prisoner—

(1) the financial records of a person employed or formerly employed by the Federal, State, or local jail, prison, or correctional facility, shall not be subject to disclosure without the written consent of that person or pursuant to a court order, unless a verdict of liability has been entered against that person; and

(2) the home address, home phone number, social security number, identity of family members, personal tax returns, and personal banking information of a person described in paragraph (1), and any other records or information of a similar nature relating to that person, shall not be subject to disclosure without the written consent of that person, or pursuant to a court order.

BINGAMAN AMENDMENT NO. 3299

Mr. GREGG (for Mr. BINGAMAN) proposed an amendment to the bill, S. 2260, supra; as follows:

In the appropriate place, insert the following: ''*Provided further,* That the Border Patrol is authorized to continue helicopter procurement while developing a report on the cost and capabilities of a mixed fleet of manned and unmanned aerial vehicles, helicopters, and fixed-winged aircraft.''

REED AMENDMENT NO. 3300

Mr. GREGG (for Mr. REED) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. ___. EXTENSION OF TEMPORARY PROTECTED STATUS FOR CERTAIN NATIONALS OF LIBERIA.

(a) CONTINUATION OF STATUS.—Notwithstanding any other provision of law, any alien described in subsection (b) who, as of the date of enactment of this Act, is registered for temporary protected status in the United States under section 244(c)(1)(A)(iv) of the Immigration and Nationality Act (8 U.S.C. 1254a(c)(1)(A)(iv)), or any predecessor law, order, or regulation, shall be entitled to maintain that status through September 30, 1999.

(b) COVERED ALIENS.—An alien referred to in subsection (a) is a national of Liberia or an alien who has no nationality and who last habitually resided in Liberia.

LEAHY AMENDMENT NO. 3301

Mr. GREGG (for Mr. LEAHY) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. ___. ADJUSTMENT OF STATUS OF CERTAIN ASYLEES IN GUAM.

(a) ADJUSTMENT OF STATUS

(1) EXEMPTION FROM NUMERICAL LIMITATIONS.—The numerical limitation set forth in section 209(b) of the Immigration and Nationality Act (8 U.S.C. 1159(b)) shall not apply to any alien described in subsection (b).

(2) LIMITATION ON FEES.—

(A) IN GENERAL.—Any alien described in subsection (b) who applies for adjustment of status to that of an alien lawfully admitted for permanent residence under section 209(b) of that Act shall not be required to pay any fee for employment authorization or for adjustment of status in excess of the fee imposed on a refugee admitted under section 207(a) of that Act for employment authorization or adjustment of status.

(B) EFFECTIVE DATE.—This paragraph shall apply to applications for employment authorization or adjustment of status filed before, on, or after the date of enactment of this Act.

(b) COVERED ALIENS.—An alien described in subsection (a) is an alien who was a United States Government employee, employee of a nongovernmental organization based in the United States, or other Iraqi national who was moved to Guam by the United States Government in 1996 or 1997 pursuant to an arrangement made by the United States Government, and who was granted asylum in the United States under section 208(a) of the Immigration and Nationality Act (8 U.S.C. 1158(a)).

HATCH AMENDMENT NO. 3302

Mr. GREGG (for Mr. HATCH) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 9, beginning on line 15, strike ''Attorneys.'' and insert the following: ''Attorneys: *Provided further,* That of the total amount appropriated, not to exceed $3,000,000 shall remain available to hire additional assistant U.S. Attorneys and investigators to enforce Federal laws designed to keep firearms out of the hands of criminals, and the Attorney General is directed to initiate a selection process to identify two (2) major metropolitan areas (which shall not be in the same geographic area of the United States) which have an unusually high incidence of gun-related crime, where the funds described in this subsection shall be expended.''

KERREY AMENDMENT NO. 3303

Mr. GREGG (for Mr. KERREY for himself, Mr. DORGAN, Mr. ROCKEFELLER, Mr. JEFFORDS, Ms. SNOWE, Mr. WELLSTONE, and Mr. LEAHY) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 72, between lines 16 and 17, insert the following:

SEC. 209. (a)(1) Notwithstanding any other provision of this Act, the amount appropriated by this title under ''NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION'' under the heading ''INFORMATION INFRASTRUCTURE GRANTS'' is hereby increased by $9,000,000.

(2) The additional amount appropriated by paragraph (1) shall remain available until expended.

(b)(1) Notwithstanding any other provision of this Act, the aggregate amount appropriated by this title under ''DEPARTMENT OF COMMERCE'' is hereby reduced by $9,000,000 with the amount of such reduction achieved by reductions of equal amounts from amounts appropriated by each heading under ''DEPARTMENT OF COMMERCE'' except the headings referred to in paragraph (2).

(2) Reductions under paragraph (1) shall not apply to the following amounts:

(A) Amounts appropriated under ''NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION'' under the heading ''PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING AND CONSTRUCTION'' and under the heading ''INFORMATION INFRASTRUCTURE GRANTS''.

(B) Amounts appropriated under any heading under ''NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY''.

(C) Amounts appropriated under any heading under ''NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION''.

(c)(1) Notwithstanding any other provision of this Act, the second proviso under ''NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION'' under the heading ''INFORMATION INFRASTRUCTURE GRANTS'' shall have no force or effect.

(2) Notwithstanding any other provision of law, no entity that receives telecommunications services at preferential rates under section 254(h) of the Communications Act of 1934 (47 U.S.C. 254(h)) or receives assistance under the regional information sharing systems grant program of the Department of Justice under part M of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796h) may use funds under a grant under the heading referred to in paragraph (1) to cover any costs of the entity that would otherwise be covered by such preferential rates or such assistance, as the case may be.

MOSELEY-BRAUN AMENDMENT NO. 3304

Mr. GREGG (for Ms. MOSELEY-BRAUN) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place, insert the following new section:

SEC. ___. AGRICULTURAL EXPORT CONTROLS.

The International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) is amended—

(1) by redesignating section 208 as section 209; and

(2) by inserting after section 207 the following new section:

"SEC. 208. AGRICULTURAL CONTROLS.

''(a) IN GENERAL.—

''(1) REPORT TO CONGRESS.—If the President imposes export controls on any agricultural commodity in order to carry out the provisions of this Act, the President shall immediately transmit a report on such action to Congress, setting forth the reasons for the controls in detail and specifying the period of time, which may not exceed 1 year, that the controls are proposed to be in effect. If Congress, within 60 days after the date of its receipt of the report, adopts a joint resolution pursuant to subsection (b), approving the imposition of the export controls, then such controls shall remain in effect for the period specified in the report, or until terminated by the President, whichever occurs first. If Congress, within 60 days after the date of its receipt of such report, fails to adopt a joint resolution approving such controls, then such controls shall cease to be effective upon the expiration of that 60-day period.

''(2) APPLICATION OF PARAGRAPH (1).—The provisions of paragraph (1) and subsection (b) shall not apply to export controls—

''(A) which are extended under this Act if the controls, when imposed, were approved by Congress under paragraph (1) and subsection (b); or

''(B) which are imposed with respect to a country as part of the prohibition or curtailment of all exports to that country.

''(b) JOINT RESOLUTION.—

''(1) IN GENERAL.—For purposes of this subsection, the term 'joint resolution' means only a joint resolution the matter after the resolving clause of which is as follows: 'That, pursuant to section 208 of the International Emergency Economic Powers Act, the President may impose export controls as specified in the report submitted to Congress on _____.', with the blank space being filled with the appropriate date.

''(2) INTRODUCTION.—On the day on which a report is submitted to the House of Representatives and the Senate under subsection (a), a joint resolution with respect to the export controls specified in such report shall be introduced (by request) in the House of Representatives by the chairman of the Committee on International Relations, for himself and the ranking minority member of the Committee, or by Members of the House designated by the chairman and ranking minority member; and shall be introduced (by request) in the Senate by the Majority Leader of the Senate, for himself and the Minority Leader of the Senate, or by Members of the Senate designated by the Majority Leader and Minority Leader of the Senate. If either House is not in session on the day on which such a report is submitted, the joint resolution shall be introduced in that House, as provided in the preceding sentence, on the first day thereafter on which that House is in session.

''(3) REFERRAL.—All joint resolutions introduced in the House of Representatives and in the Senate shall be referred to the appropriate committee.

''(4) DISCHARGE OF COMMITTEE.—If the committee of either House to which a joint resolution has been referred has not reported the joint resolution at the end of 30 days after its referral, the committee shall be discharged from further consideration of the joint resolution or of any other joint resolution introduced with respect to the same matter.

''(5) CONSIDERATION IN SENATE AND HOUSE OF REPRESENTATIVES.—A joint resolution under this subsection shall be considered in the Senate in accordance with the provisions of section 601(b)(4) of the International Security Assistance and Arms Export Control Act of 1976. For the purpose of expediting the consideration and passage of joint resolutions reported or discharged pursuant to the provisions of this subsection, it shall be in order for the Committee on Rules of the House of Representatives to present for consideration a resolution of the House of Representatives providing procedures for the immediate consideration of a joint resolution under this subsection which may be similar, if applicable, to the procedures set forth in section 601(b)(4) of the International Security Assistance and Arms Export Control Act of 1976.

''(6) PASSAGE BY 1 HOUSE.—In the case of a joint resolution described in paragraph (1), if, before the passage by 1 House of a joint resolution of that House, that House receives a resolution with respect to the same matter from the other House, then—

''(A) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

''(B) the vote on final passage shall be on the joint resolution of the other House.

''(c) COMPUTATION OF TIME.—In the computation of the period of 60 days referred to in subsection (a) and the period of 30 days referred to in paragraph (4) of subsection (b), there shall be excluded the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain or because of an adjournment of Congress sine die.''.

HUTCHISON AMENDMENT NO. 3305

Mr. GREGG (for Mrs. HUTCHISON) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 101, line 17, insert after the period ''*Provided*, That of this amount, $1,400,000 shall be available for Student Incentive Payments.''

DORGAN (AND CONRAD) AMENDMENT NO. 3306

Mr. GREGG (for Mr. DORGAN for himself and Mr. CONRAD) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place in title VI, insert the following new section:

SEC. ___. INVESTIGATION OF PRACTICES OF CANADIAN WHEAT BOARD.

(a) IN GENERAL.—Notwithstanding any other provision of law, not less than 4 of the new employees authorized in fiscal years 1998 and 1999 for the Office of the United States Trade Representative shall work on investigating pricing practices of the Canadian Wheat Board and determining whether the United States spring wheat, barley, or durum wheat industries have suffered injury as a result of those practices.

(b) SCOPE OF INVESTIGATION.—The purpose of the investigation described in subsection (a) shall be to determine whether the practices of the Canadian Wheat Board constitute violations of the antidumping or countervailing duty provisions of title VII of the Tariff Act of 1930 or the provisions of title II or III of the Trade Act of 1974. The investigation shall include—

(1) a determination as to whether the United States durum wheat industry, spring wheat industry, or barley industry is being materially injured or is threatened with material injury as a result of the practices of the Canadian Wheat Board;

(2) a determination as to whether the acts, policies, or practices of the Canadian Wheat Board—

(A) violate, or are inconsistent with, the provisions of, or otherwise deny benefits to the United States under, any trade agreement, or

(B) are unjustifiable or burden or restrict United States commerce;

(3) a review of home market price and cost of acquisition of Canadian grain;

(4) a determination as to whether Canadian grain is being imported into the United States in sufficient quantities to be a substantial cause of serious injury or threat of serious injury to the United States spring wheat, barley, or durum wheat industries; and

(5) a determination as to whether there is harmonization in the requirements for cross-border transportation of grain between Canada and the United States.

(c) ACTION BASED ON RESULTS OF THE INVESTIGATION.—

(1) IN GENERAL.—If, based on the investigation conducted pursuant to this section, there is an affirmative determination under subsection (b) with respect to any act, policy, or practice of the Canadian Wheat Board, appropriate action shall be initiated under title VII of the Tariff Act of 1930, or title II or III of the Trade Act of 1974.

(2) CORRECTION OF HARMONIZATION PROBLEMS.—If, based on the investigation conducted pursuant to this section, there is a determination that there is no harmonization for cross-border grain transportation between Canada and the United States, the United States Trade Representative shall report to Congress regarding what action should be taken in order to harmonize cross-border transportation requirements.

(d) REPORT.—Not later than 6 months after the date of enactment of this Act, the United States Trade Representative shall report to Congress on the results of the investigation conducted pursuant to this section.

(e) DEFINITION OF GRAIN.—For purposes of this section, the terms ''Canadian grain'' and ''grain'' include spring wheat, durum wheat, and barley.

TORRICELLI AMENDMENT NO. 3307

Mr. GREGG (for Mr. TORRICELLI) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 135, between lines 11 and 12, insert the following:

SEC. 620. (a) IN GENERAL.—Section 331 of the Communications Act of 1934 (47 U.S.C. 331) is amended by adding at the end the following:

''(c) FM TRANSLATOR STATIONS.—(1) It may be the policy of the Commission, in any case in which the licensee of an existing FM translator station operating in the commercial FM band is licensed to a county (or to a community in such county) that has a population of 700,000 or more persons, is not an integral part of a larger municipal entity, and lacks a commercial FM radio station licensed to the county (or to any community within such county), to extend to the licensee—

''(A) authority for the origination of unlimited local programming through the station on a primary basis but only if the licensee abides in such programming by all

rules, regulations, and policies of the Commission regarding program material, content, schedule, and public service obligations otherwise applicable to commercial FM radio stations; and

''(B) authority to operate the station (either omindirectionally or directionally, with facilities equivalent to those of a station operating with maximum effective radiated power of less than 100 watts and maximum antenna height above average terrain of 100 meters) if—

''(i) the station is not located within 320 kilometers (approximately 199 miles) of the United States border with Canada or with Mexico;

''(ii) the station provides full service FM stations operating on co-channel and first adjacent channels protection from interference as required by rules and regulations of the Commission applicable to full service FM stations; and

''(iii) the station complies with any other rules, regulations, and policies of the Commission applicable to FM translator stations that are not inconsistent with the provisions of this subparagraph.

''(2) Notwithstanding any rules, regulations, or policies of the Commission applicable to FM translator stations, a station operated under the authority of paragraph (1)(B)—

''(A) may accept or receive any amount of theoretical interference from any full service FM station;

''(B) may be deemed to comply in such operation with any intermediate frequency (IF) protection requirements if the station's effective radiated power in the pertinent direction is less than 100 watts;

''(C) may not be required to provide protection in such operation to any other FM station operating on 2nd or 3rd adjacent channels;

''(D) may utilize transmission facilities located in the county to which the station is licensed or in which the station's community of license is located; and

''(E) may utilize a directional antennae in such operation to the extent that such use is necessary to assure provision of maximum possible service to the residents of the county in which the station is licensed or in which the station's community of license is located.

''(3)(A) A licensee may exercise the authority provided under paragraph (1)(A) immediately upon written notification to the Commission of its intent to exercise such authority.

''(B)(i) A licensee may submit to the Commission an application to exercise the authority provided under paragraph (1)(B). The Commission may treat the application as an application for a minor change to the license to which the application applies.

''(ii) A licensee may exercise the authority provided under paragraph (1)(B) upon the granting of the application to exercise the authority under clause (i).''.

(b) CONFORMING AMENDMENT.—The section heading of that section is amended to read as follows:

''SEC. 331. VERY HIGH FREQUENCY STATIONS AND AM AND FM RADIO STATIONS.''.

(c) RENEWAL OF CERTAIN LICENSES.—(1) Notwithstanding any other provision of law, the Federal Communications Commission may renew the license of an FM translator station the licensee of which is exercising authority under subparagraph (A) or (B) of section 331(c)(1) of the Communications Act of 1934, as added by subsection (a), upon application for renewal of such license filed after the date of enactment of this Act, if the Commission determines that the public interest, convenience, and necessity would be served by the renewal of the license.

(2) If the Commission determines under paragraph (1) that the public interest, convenience, and necessity would not be served by the renewal of a license, the Commission shall, within 30 days of the date on which the decision not to renew the license becomes final, provide for the filing of applications for licenses for FM translator service to replace the FM translator service covered by the license not to be renewed.

ABRAHAM (AND LEVIN) AMENDMENT NO. 3308

Mr. GREGG (for Mr. ABRAHAM for himself and Mr. LEVIN) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place in title II, insert the following:

SEC. 2___. SEDIMENT CONTROL STUDY.

Of the amounts made available under this Act to the National Oceanic and Atmospheric Administration for operations, research, and facilities that are used for ocean and Great Lakes programs, $50,000 shall be used for a study of sediment control at Grand Marais, Michigan.

BROWNBACK (AND INHOFE) AMENDMENT NO. 3309

Mr. GREGG (for Mr. BROWNBACK for himself and Mr. INHOFE) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 62, lines 3 through 16, strike ''That if the standard build-out'' and all that follows through ''covered by those costs.'' and insert the following: ''That the standard build-out costs of the Patent and Trademark Office shall not exceed $36.69 per occupiable square foot for office-type space (which constitutes the amount specified in the Advanced Acquisition program of the General Services Administration) and shall not exceed an aggregate amount equal to $88,000,000: *Provided further*, That the moving costs of the Patent and Trademark Office (which shall include the costs of moving, furniture, telephone, and data installation) shall not exceed $135,000,000: *Provided further*, That the portion of the moving costs referred to in the preceding proviso that may be used for alterations that are above standard costs may not exceed $29,000,000.''.

HATCH AMENDMENT NO. 3310

Mr. GREGG (for Mr. HATCH) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 51, line 9, add a new section 121: SEC. 121. For fiscal year 1999 and thereafter, for any report which is required or authorized by this act to be submitted or delivered to the Committee on Appropriations of the Senate or of the House of Representatives by the Department of Justice or any component, agency, or bureau thereof, or which concerns mattes within the jurisdiction of the Committee on the Judiciary of the Senate of of the House of Representatives, a copy of such report shall be submitted to the Committee on the Judiciary of the Senate or of the House of Representatives, a copy of such report shall be submitted to the Committees on the Judiciary of the Senate and of the House of Representatives concurrently as the report is submitted to the Committee on Appropriations of the Senate or of the House of Representatives.''

BIDEN (AND OTHERS) AMENDMENT NO. 3311

Mr. GREGG (for Mr. BIDEN for himself, Mr. ABRAHAM, Mr. KENNEDY, Mr. WELLSTONE, and Mr. LEAHY) proposed an amendment to the bill, S. 2260, supra; as follows:

At the end of the bill, add the following:

TITLE ___—VAWA RESTORATION ACT

SEC. ___01. SHORT TITLE.

This title may be cited as the ''VAWA Restoration Act''.

SEC. ___02. REMOVING BARRIERS TO ADJUSTMENT OF STATUS FOR VICTIMS OF DOMESTIC VIOLENCE.

(a) IN GENERAL.—Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) is amended—

(1) in subsection (a), by inserting ''of an alien who qualifies for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1) or'' after ''The status'';

(2) in subsection (a), by adding at the end the following: ''An alien who qualifies for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1) who files for adjustment of status under this subsection shall pay a $1,000 fee, subject to the provisions of section 245(k).'';

(3) in subsection (c)(2), by striking ''201(b) or a special'' and inserting ''201(b), an alien who qualifies for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1), or a special'';

(4) in subsection (c)(4), by striking ''201(b))'' and inserting ''201(b) or an alien who qualifies for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1))'';

(5) in subsection (c)(5), by inserting ''(other than an alien who qualifies for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1))'' after ''an alien''; and

(6) in subsection (c)(8), by inserting ''(other than an alien who qualifies for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1)'' after ''any alien''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to applications for adjustment of status pending on or after the date of the enactment of this title.

SEC. ___03. REMOVING BARRIERS TO CANCELLATION OF REMOVAL AND SUSPENSION OF DEPORTATION FOR VICTIMS OF DOMESTIC VIOLENCE.

(a) IN GENERAL.—

(1) SPECIAL RULE FOR CALCULATING CONTINUOUS PERIOD FOR BATTERED SPOUSE OR CHILD.—Paragraph (1) of section 240A(d) of the Immigration and Nationality Act (8 U.S.C. 1229b(d)(1)) is amended to read as follows:

''(1) TERMINATION OF CONTINUOUS PERIOD.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), for purposes of this section, any period of continuous residence or continuous physical presence in the United States shall be deemed to end when the alien is served a notice to appear under section 239(a) or when the alien has committed an offense referred to in section 212(a)(2) that renders the alien inadmissible to the United States under section 212(a)(2) or removable from the United States under section 237(a)(2) or 237(a)(4), whichever is earliest.

''(B) SPECIAL RULE FOR BATTERED SPOUSE OR CHILD.—For purposes of subsection (b)(2), the service of a notice to appear referred to in subparagraph (A) shall not be deemed to end any period of continuous physical presence in the United States.''.

(2) EXEMPTION FROM ANNUAL LIMITATION ON CANCELLATION OF REMOVAL FOR BATTERED SPOUSE OR CHILD.—Section 240A(e)(3) of the Immigration and Nationality Act (8 U.S.C. 1229b(e)(3)) is amended by adding at the end the following:

''(C) Aliens whose removal is canceled under subsection (b)(2).''.

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall take effect as if included in the enactment of section 304 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208; 110 Stat. 587).

(b) MODIFICATION OF CERTAIN TRANSITION RULES FOR BATTERED SPOUSE OR CHILD.—

(1) IN GENERAL.—Subparagraph (C) of section 309(c)(5) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note) (as amended by section 203 of the Nicaraguan Adjustment and Central American Relief Act) is amended—

(A) by amending the subparagraph heading to read as follows:

''(C) SPECIAL RULE FOR CERTAIN ALIENS GRANTED TEMPORARY PROTECTION FROM DEPORTATION AND FOR BATTERED SPOUSES AND CHILDREN.—''; and

(B) in clause (i)—

(i) by striking ''or'' at the end of subclause (IV);

(ii) by striking the period at the end of subclause (V) and inserting ''; or''; and

(iii) by adding at the end the following:

''(VI) is an alien who was issued an order to show cause or was in deportation proceedings prior to April 1, 1997, and who applied for suspension of deportation under section 244(a)(3) of the Immigration and Nationality Act (as in effect before the date of the enactment of this Act).''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect as if included in the enactment of section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note).

SEC. ___04. ELIMINATING TIME LIMITATIONS ON MOTIONS TO REOPEN REMOVAL AND DEPORTATION PROCEEDINGS FOR VICTIMS OF DOMESTIC VIOLENCE.

(a) REMOVAL PROCEEDINGS.—

(1) IN GENERAL.—Section 240(c)(6)(C) of the Immigration and Nationality Act (8 U.S.C. 1229a(c)(6)(C)) is amended by adding at the end the following:

''(iv) SPECIAL RULE FOR BATTERED SPOUSES AND CHILDREN.—There is no time limit on the filing of a motion to reopen, and the deadline specified in subsection (b)(5)(C) does not apply, if the basis of the motion is to apply for adjustment of status based on a petition filed under clause (iii) or (iv) of section 204(a)(1)(A), clause (ii) or (iii) of section 204(a)(1)(B), or section 240A(b)(2) and if the motion to reopen is accompanied by a cancellation of removal application to be filed with the Attorney General or by a copy of the self-petition that will be filed with the Immigration and Naturalization Service upon the granting of the motion to reopen.''

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect as if included in the enactment of section 304 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208; 110 Stat. 587).

(b) DEPORTATION PROCEEDINGS.—

(1) IN GENERAL.—Notwithstanding any limitation imposed by law on motions to reopen deportation proceedings under the Immigration and Nationality Act (as in effect before the title III–A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note)), there is no time limit on the filing of a motion to reopen such proceedings, and the deadline specified in section 242B(c)(3) of the Immigration and Nationality Act (as so in effect) does not apply, if the basis of the motion is to apply for relief under clause (iii) or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act, clause (ii) or (iii) of section 204(a)(1)(B) of such Act, or section 244(a)(3) of such Act (as so in effect) and if the motion to reopen is accompanied by a cancellation of removal application to be filed with the Attorney General or by a copy of the self-petition that will be filed with the Immigration and Naturalization Service upon the granting of the motion to reopen.

(2) APPLICABILITY.—Paragraph (1) shall apply to motions filed by aliens who—

(A) are, or were, in deportation proceedings under the Immigration and Nationality Act (as in effect before the title III–A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note)); and

(B) have become eligible to apply for relief under clause (iii) or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act, clause (ii) or (iii) of section 204(a)(1)(B) of such Act, or section 244(a)(3) of such Act (as in effect before the title III–A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note)) as a result of the amendments made by—

(i) subtitle G of title IV of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322; 108 Stat. 1953 et seq.); or

(ii) section ___03 of this title.

DURBIN (AND OTHERS) AMENDMENT NO. 3312

Mr. GREGG (for Mr. DURBIN for himself, Ms. COLLINS, Mr. REID, Mr. KOHL, Mr. HARKIN, Mr. CLELAND, Ms. MIKULSKI, and Mr. JEFFORDS) proposed an amendment to the bill, S. 2260, supra; as follows:

On page ___, after line ___, insert the following:

SEC. ___. (a) IN GENERAL.—Part T of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in section 2001 (42 U.S.C. 3796gg)—

(A) in subsection (a)—

(i) by inserting '', including older women'' after ''combat violent crimes against women''; and

(ii) by inserting '', including older women'' before the period; and

(B) in subsection (b)—

(i) in the matter before subparagraph (A), by inserting '', including older women'' after ''against women'';

(ii) in paragraph (6), by striking ''and' after the semicolon;

(iii) in paragraph (7), by striking the period and inserting ''; and''; and

(iv) by adding at the end the following:

''(8) developing, through the oversight of the State administrator, a curriculum to train and assist law enforcement officers, prosecutors, and relevant officers of Federal, State, tribal, and local courts in recognizing, addressing, investigating, and prosecuting instances involving elder domestic abuse, including domestic violence and sexual assault against older individuals.'';

(2) in section 2002(c)(2) (42 U.S.C. 3796gg-1), by inserting ''and elder domestic abuse experts'' after ''victim services programs''; and

(3) in section 2003 (42 U.S.C. 3796gg-2)—

(A) in paragraph (7), by striking ''and' after the semicolon;

(B) in paragraph (8), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(9) the term 'elder' has the same meaning as the term 'older individual' in section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002); and

''(10) the term 'domestic abuse' means an act or threat of violence, not including an act of self-defense, committed by—

''(A) a current or former spouse of the victim;

''(B) a person related by blood or marriage to the victim;

''(C) a person who is cohabitating with or has cohabitated with the victim;

''(D) a person with whom the victim shares a child in common;

''(E) a person who is or has been in the social relationship of a romantic or intimate nature with the victim; and

''(F) a person similarly situated to a spouse of the victim, or by any other person;

if the domestic or family violence laws of the jurisdiction of the victim provide for legal protection of the victim from the person.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to grants beginning with fiscal year 1999.

BROWNBACK AMENDMENT NO. 3313

Mr. GREGG (for Mr. BROWNBACK) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 72, between lines 16 and 17, insert the following:

SEC. 209. (a) IN GENERAL.—Section 254(a) of the Communications Act of 1934 (47 U.S.C. 254(a)) is amended—

(1) by striking the second sentence in paragraph (1);

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following:

''(2) MEMBERSHIP OF JOINT BOARD.—

''(A) IN GENERAL.—The Joint Board required by paragraph (1) shall be composed of 9 members, as follows:

''(i) 3 shall be members of the Federal Communications Commission;

''(ii) 1 shall be a State-appointed utility consumer advocate nominated by a national organization of State utility consumer advocates; and

''(iii) 5 shall be State utility commissioners nominated by the national organization of State utility commissions, with at least 2 such commissioners being commissioners of commissions of rural States.

''(B) CO-CHAIRMEN.—The Joint Board shall have 2 co-chairmen of equal authority, one of whom shall be a member of the Federal Communications Commission, and the other of whom shall be one of the 5 members described in subparagraph (A)(iii). The Federal Communications Commission shall adopt rules and procedures under which the co-chairmen of the Joint Board will have equal authority and equal responsibility for the Joint Board.

''(C) RURAL STATE DEFINED.—In this paragraph, the term 'rural State' means any State in which the 1998 high-cost universal service support payments to local telephone companies exceeds 90 cents on a per loop per month basis.''.

(b) FCC TO ADOPT PROCEDURES PROMPTLY.—The Federal Communications Commission shall adopt rules under section 254(a)(2)(B) of the Communications Act of 1934 (47 U.S.C. 254(a)(2)(B)), as added by subsection (a) of this section, within 30 days after the date of enactment of this Act.

(c) RECONSTITUTED JOINT BOARD TO CONSIDER UNIVERSAL SERVICE.—The Federal-State Joint Board established under section 254(a)(1) of the Communications Act of 1934 (47 U.S.C. 254(a)(1)) shall not take action on the Commission's Order and Order on Reconsideration adopted July 13, 1998, (CC Docket No. 96–45; FCC 98–160) relating to universal service until—

(1) the Commission has adopted rules under section 254(a)(2)(B) of the Communications Act of 1934 (47 U.S.C. 254(a)(2)(B)); and

(2) the co-chairman of the Joint Board have been chosen under that section.

TORRICELLI AMENDMENT NO. 3314

Mr. GREGG (for Mr. TORRICELLI) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place in title II, insert the following:

SEC. 2 . NONPOINT POLLUTION CONTROL.

(a) IN GENERAL.—In addition to the amounts made available to the National Oceanic and Atmospheric Administration under this Act, $3,000,000 shall be made available to the Administration for the nonpoint pollution control program of the Coastal Zone Management program of the Administration.

(b) PRO RATA REDUCTIONS.—Notwithstanding any other provision of law, a pro rata reduction shall be made to each program in the Department of Commerce funded under this Act in such manner as to result in an aggregate reduction in the amount of funds provided to those programs of $3,000,000.

LAUTENBERG (AND TORRICELLI) AMENDMENT NO. 3315

Mr. GREGG (for Mr. LAUTENBERG for himself and Mr. TORRICELLI) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 34, line 20, insert the following: strike ''65,960,000'' and insert ''66,960,000''.

On page 34, line 19, insert the following: strike ''$119,960,000'' and insert ''$120,960,000''.

FEINGOLD AMENDMENT NO. 3316

Mr. GREGG (for Mr. FEINGOLD) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place, insert the following:

SEC. ___. CHILD EXPLOITATION SENTENCING ENHANCEMENT.

(a) DEFINITIONS.—In this section:

(1) CHILD; CHILDREN.—The term ''child'' or ''children'' means a minor or minors of an age specified in the applicable provision of title 18, United States Code, that is subject to review under this section.

(2) MINOR.—The term ''minor'' means any individual who has not attained the age of 18, except that, with respect to references to section 2243 of title 18, United States Code, the term means an individual described in subsection (a) of that section.

(b) INCREASED PENALTIES FOR USE OF A COMPUTER IN THE SEXUAL ABUSE OR EXPLOITATION OF A CHILD.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines on aggravated sexual abuse under section 2241 of title 18, United States Code, sexual abuse under section 2242 of title 18, United States Code, sexual abuse of a minor or ward under section 2243 of title 18, United States Code, coercion and enticement of a juvenile under section 2422(b) of title 18, United States Code, and transportation of minors under section 2423 of title 18, United States Code; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal sentencing guidelines to provide an appropriate sentencing enhancement if the defendant used a computer with the intent to persuade, induce, entice, or coerce a child of an age specified in the applicable provision referred to in paragraph (1) to engage in any prohibited sexual activity.

(c) INCREASED PENALTIES FOR KNOWING MISREPRESENTATION IN THE SEXUAL ABUSE OR EXPLOITATION OF A CHILD.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines on aggravated sexual abuse under section 2241 of title 18, United States Code, sexual abuse under section 2242 of title 18, United States Code, sexual abuse of a minor or ward under section 2243 of title 18, United States Code, coercion and enticement of a juvenile under section 2422(b) of title 18, United States Code, and transportation of minors under section 2423 of title 18, United States Code; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal sentencing guidelines to provide an appropriate sentencing enhancement if the defendant knowingly misrepresented the actual identity of the defendant with the intent to persuade, induce, entice, or coerce a child of an age specified in the applicable provision referred to in paragraph (1) to engage in a prohibited sexual activity.

(d) INCREASED PENALTIES FOR PATTERN OF ACTIVITY OF SEXUAL EXPLOITATION OF CHILDREN.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines on criminal sexual abuse, the production of sexually explicit material, the possession of materials depicting a child engaging in sexually explicit conduct, coercion and enticement of minors, and the transportation of minors; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal sentencing guidelines to provide an appropriate sentencing enhancement applicable to the offenses referred to in paragraph (1) in any case in which the defendant engaged in a pattern of activity involving the sexual abuse or exploitation of a minor.

(e) REPEAT OFFENDERS; INCREASED MAXIMUM PENALTIES FOR TRANSPORTATION FOR ILLEGAL SEXUAL ACTIVITY AND RELATED CRIMES.—

(1) REPEAT OFFENDERS.—

(A) CHAPTER 117.—

(i) IN GENERAL.—Chapter 117 of title 18, United States Code, is amended by adding at the end the following:

''§ 2425. Repeat offenders

''(a) IN GENERAL.—Any person described in this subsection shall be subject to the punishment under subsection (b). A person described in this subsection is a person who violates a provision of this chapter, after one or more prior convictions—

''(1) for an offense punishable under this chapter, or chapter 109A or 110; or

''(2) under any applicable law of a State relating to conduct punishable under this chapter, or chapter 109A or 110.

''(b) PUNISHMENT.—A violation of a provision of this chapter by a person described in subsection (a) is punishable by a term of imprisonment of a period not to exceed twice the period that would otherwise apply under this chapter.''.

(ii) CONFORMING AMENDMENT.—The analysis for chapter 117 of title 18, United States Code, is amended by adding at the end the following:

''2425. Repeat offenders.''.

(B) CHAPTER 109A.—Section 2247 of title 18, United States Code, is amended to read as follows:

''§ 2247. Repeat offenders

''(a) IN GENERAL.—Any person described in this subsection shall be subject to the punishment under subsection (b). A person described in this subsection is a person who violates a provision of this chapter, after one or more prior convictions—

''(1) for an offense punishable under this chapter, or chapter 110 or 117; or

''(2) under any applicable law of a State relating to conduct punishable under this chapter, or chapter 110 or 117.

''(b) PUNISHMENT.—A violation of a provision of this chapter by a person described in subsection (a) is punishable by a term of imprisonment of a period not to exceed twice the period that would otherwise apply under this chapter.''.

(2) INCREASED MAXIMUM PENALTIES FOR TRANSPORTATION FOR ILLEGAL SEXUAL ACTIVITY AND RELATED CRIMES.—

(A) TRANSPORTATION GENERALLY.—Section 2421 of title 18, United States Code, is amended by striking ''five'' and inserting ''10''.

(B) COERCION AND ENTICEMENT OF MINORS.—Section 2422 of title 18, United States Code, is amended—

(i) in subsection (a), by striking ''five'' and inserting ''10''; and

(ii) in subsection (b), by striking ''10'' and inserting ''15''.

(C) TRANSPORTATION OF MINORS.—Section 2423 of title 18, United States Code, is amended—

(i) in subsection (a), by striking ''ten'' and inserting ''15''; and

(ii) in subsection (b), by striking ''10'' and inserting ''15''.

(3) AMENDMENT OF SENTENCING GUIDELINES.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(A) review the Federal sentencing guidelines relating to chapter 117 of title 18, United States Code; and

(B) upon completion of the review under subparagraph (A), promulgate such amendments to the Federal sentencing guidelines as are necessary to provide for the amendments made by this subsection.

(f) CLARIFICATION OF DEFINITION OF DISTRIBUTION OF PORNOGRAPHY.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines relating to the distribution of pornography covered under chapter 110 of title 18, United States Code, relating to the sexual exploitation and other abuse of children; and

(2) upon completion of the review under paragraph (1), promulgate such amendments to the Federal sentencing guidelines as are necessary to clarify that the term ''distribution of pornography'' applies to the distribution of pornography—

(A) for monetary remuneration; or

(B) for a nonpecuniary interest.

(g) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—In carrying out this section, the United States Sentencing Commission shall—

(1) with respect to any action relating to the Federal sentencing guidelines subject to this section, ensure reasonable consistency with other guidelines of the Federal sentencing guidelines; and

(2) with respect to an offense subject to the Federal sentencing guidelines, avoid duplicative punishment under the guidelines for substantially the same offense.

(h) AUTHORIZATION FOR GUARDIANS AD LITEM.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Justice, for the purpose specified in paragraph (2), such sums as may be necessary for each of fiscal years 1998 through 2001.

(2) PURPOSE.—The purpose specified in this paragraph is the procurement, in accordance with section 3509(h) of title 18, United States Code, of the services of individuals with sufficient professional training, experience, and familiarity with the criminal justice system, social service programs, and child abuse issues to serve as guardians ad litem for children who are the victims of, or witnesses to, a crime involving abuse or exploitation.

(i) APPLICABILITY.—This section and the amendments made by this section shall apply to any action that commences on or after the date of enactment of this Act.

STEVENS AMENDMENT NO. 3317

Mr. GREGG (for Mr. STEVENS) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 128, line 9, strike ''(1)'';

On page 129, line 3, strike ''(2)'' and insert in lieu therof ''(b)''; on line 6, strike ''paragraph (1)'' and insert in lieu thereof ''subsection (a)''; on line 14, strike ''(3)'' and insert in lieu therof ''(c)''; strike ''subsection'' and insert in lieu thereof ''section''.

On page 129, strike all of the subsection ''(b)'' beginning on line 18 to the end of the subsection on page 130.

LAUTENBERG (AND TORRICELLI) AMENDMENT NO. 3318

Mr. GREGG (for Mr. LAUTENBERG for himself and Mr. TORRICELLI) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 9, line 15, strike the period and insert the following: '': *Provided further,* That $2,300,000 shall be used to provide for additional assistant United States attorneys and investigators to serve in Philadelphia, Pennsylvania and Camden County, New Jersey, to enforce Federal laws designed to prevent the possession by criminals of firearms (as that term is defined in section 921(a) of title 18, United States Code), of which $1,500,000 shall be used to provide for those attorneys and investigators in Philadelphia, Pennsylvania and $800,000 shall be used to provide for those attorneys and investigators in Camden County, New Jersey.''.

GRAMS (AND HELMS) AMENDMENTS NOS. 3319–3321

Mr. GREGG (for Mr. GRAMS for himself and Mr. HELMS) proposed three amendments to the bill, S. 2260, supra; as follows:

AMENDMENT NO. 3319

On page 100, between lines 18 and 19, insert the following:

SEC. 407. Before any additional disbursement of funds may be made pursuant to the sixth proviso under the heading ''CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS'' in title IV of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998 (as contained in Public Law 105–119)—

(1) the Secretary of State shall, in lieu of the certification required under such sixth proviso, submit a certification to the committees described in paragraph (2) that the United Nations has taken no action during the preceding six months to increase funding for any United Nations program without identifying an offsetting decrease during the 6-month period elsewhere in the United Nations budget and cause the United Nations to exceed the reform budget of $2,533,000,000 for the biennium 1998–1999; and

(2) the certification under paragraph (1) is submitted to the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and International Relations of the House of Representatives at least 15 days in advance of any disbursement of funds.

AMENDMENT NO. 3320

At the appropriate place in Title IV, insert the following new sections:

SEC. . BAN ON EXTRADITION OR TRANSFER OF U.S. CITIZENS TO THE INTERNATIONAL CRIMINAL COURT.

(a) None of the funds appropriated or otherwise made available by this or any other Act may be used to extradite a United States citizen to a foreign nation that is under an obligation to surrender persons to the International Criminal Court unless that foreign nation confirms to the United States that applicable prohibitions on reextradition apply to such surrender, or gives other satisfactory assurances to the United States that it will not extradite or otherwise transfer that citizen to the International Criminal Court.

(b) None of the funds appropriated or otherwise made available by this or any other Act may be used to provide consent to the extradition or transfer of a United States citizen by a foreign country that is under an obligation to surrender persons to the International Criminal Court to a third country, unless the third country confirms to the United States that applicable prohibitions on reextradition apply to such surrender, or gives other satisfactory assurances to the United States that it will not extradite or otherwise transfer that citizen to the International Criminal Court.

(c) DEFINITION.—As used in this section, the term ''International Criminal Court'' means the court established by agreement concluded in Rome on July 17, 1998.

AMENDMENT NO. 3321

On page 100, between lines 18 and 19, insert the following new section:

SEC. 407. (a) None of the funds appropriated or otherwise made available by this or any other Act (including prior appropriations) may be used for—

(1) the payment of any representation in, or any contribution to (including any assessed contribution), or provision of funds, services, equipment, personnel, or other support to, the International Criminal Court established by agreement concluded in Rome on July 17, 1998, or

(2) the United States proportionate share of any assessed contribution to the United Nations or any other international organization that is used to provide support to the International Criminal Court described in paragraph (1),

unless the Senate has given its advice and consent to ratification of the agreement as a treaty under Article II, Section 2, Clause 2 of the Constitution of the United States.

DURBIN AMENDMENT NO. 3322

Mr. GREGG (for Mr. DURBIN) proposed an amendment to the bill, S. 2260, supra; as follows:

At the end of the bill, add the following:

TITLE ____—NURSING RELIEF FOR DISADVANTAGED AREAS

SEC. ___1. SHORT TITLE.

This title may be cited as the ''Nursing Relief for Disadvantaged Areas Act of 1998''.

SEC. ___2. REQUIREMENTS FOR ADMISSION OF NONIMMIGRANT NURSES IN HEALTH PROFESSIONAL SHORTAGE AREAS DURING 4-YEAR PERIOD.

(a) ESTABLISHMENT OF A NEW NONIMMIGRANT CLASSIFICATION FOR NONIMMIGRANT NURSES IN HEALTH PROFESSIONAL SHORTAGE AREAS.—Section 101(a)(15)(H)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(i)) is amended by striking ''; or'' at the end and inserting the following: '', or (c) who is coming temporarily to the United States to perform services as a registered nurse, who meets the qualifications described in section 212(m)(1), and with respect to whom the Secretary of Labor determines and certifies to the Attorney General that an unexpired attestation is on file and in effect under section 212(m)(2) for the facility (as defined in section 212(m)(6)) for which the alien will perform the services; or''.

(b) REQUIREMENTS.—Section 212(m) of the Immigration and Nationality Act (8 U.S.C. 1182(m)) is amended to read as follows:

''(m)(1) The qualifications referred to in section 101(a)(15)(H)(i)(c), with respect to alien who is coming to the United States to perform nursing services for a facility, are that the alien—

''(A) has obtained a full and unrestricted license to practice professional nursing in the country where the alien obtained nursing education or has received nursing education in the United States;

''(B) has passed an appropriate examination (recognized in regulations promulgated in consultation with the Secretary of Health and Human Services) or has a full and unrestricted license under State law to practice professional nursing in the State of intended employment; and

''(C) is fully qualified and eligible under the laws (including such temporary or interim licensing requirements which authorize the nurse to be employed) governing the place of intended employment to engage in the practice of professional nursing as a registered nurse immediately upon admission to the United States and is authorized under such laws to be employed by the facility.

''(2)(A) The attestation referred to in section 101(a)(15)(H)(i)(c), with respect to a facility for which an alien will perform services, is an attestation as to the following:

''(i) The facility meets all the requirements of paragraph (6).

''(ii) The employment of the alien will not adversely affect the wages and working conditions of registered nurses similarly employed.

''(iii) The alien employed by the facility will be paid the wage rate for registered nurses similarly employed by the facility.

''(iv) The facility has taken and is taking timely and significant steps designed to recruit and retain sufficient registered nurses who are United States citizens or immigrants who are authorized to perform nursing services, in order to remove as quickly as reasonably possible the dependence of the facility on nonimmigrant registered nurses.

''(v) There is not a strike or lockout in the course of a labor dispute, and the employment of such an alien is not intended or designed to influence an election for a bargaining representative for registered nurses of the facility.

''(vi) At the time of the filing of the petition for registered nurses under section 101(a)(15)(H)(i)(c), notice of the filing has been provided by the facility to the bargaining representative of the registered nurses at the facility or, where there is no such bargaining representative, notice of the filing has been provided to the registered nurses employed at the facility through posting in conspicuous locations.

''(vii) The facility will not, at any time, employ a number of aliens issued visas or otherwise provided nonimmigrant status under section 101(a)(15)(H)(i)(c) that exceeds 33 percent of the total number of registered nurses employed by the facility.

''(viii) The facility will not, with respect to any alien issued a visa or otherwise provided non-immigrant status under section 101(a)(15)(H)(i)(c)—

''(I) authorize the alien to perform nursing services at any worksite other than a worksite controlled by the facility; or

''(II) transfer the place of employment of the alien from one worksite to another.

Nothing in clause (iv) shall be construed as requiring a facility to have taken significant steps described in such clause before the date of the enactment of the Health Professional Shortage Area Nursing Relief Act of 1998. A copy of the attestation shall be provided, within 30 days of the date of filing, to registered nurses employed at the facility on the date of the filing.

''(B) For purposes of subparagraph (A)(iv), each of the following shall be considered a significant step reasonably designed to recruit and retain registered nurses:

''(i) Operating a training program for registered nurses at the facility or financing (or providing participation in) a training program for registered nurses elsewhere.

''(ii) Providing career development programs and other methods of facilitating health care workers to become registered nurses.

''(iii) Paying registered nurses wages at a rate higher than currently being paid to registered nurses similarly employed in the geographic area.

''(iv) Providing reasonable opportunities for meaningful salary advancement by registered nurses.

The steps described in this subparagraph shall not be considered to be an exclusive list of the significant steps that may be taken to meet the conditions of subparagraph (A)(iv). Subparagraph (A)(iv)'s requirement shall be satisfied by a facility taking any of the steps listed in this subparagraph.

''(C) Subject to subparagraph (E), an attestation under subparagraph (A)—

''(i) shall expire on the date that is the later of—

''(I) the end of the one-year period beginning of the date of its filing with the Secretary of Labor; or

''(II) the end of the period of admission under section 101(a)(15)(H)(i)(c) of the last alien with respect to whose admission it was applied (in accordance with clause (ii)); and

''(ii) shall apply to petitions filed during the one-year period beginning on the date of its filing with the Secretary of Labor if the facility states in each such petition that it continues to comply with the conditions in the attestation.

''(D) A facility may meet the requirements under this paragraph with respect to more than one registered nurse in a single petition.

''(E)(i) The Secretary of Labor shall compile and make available for public examination in a timely manner in Washington, D.C., a list identifying facilities which have filed petitions for nonimmigrants under section 101(a)(15)(H)(i)(c) and, for each such facility, a copy of the facility's attestation under subparagraph (A) (and accompanying documentation) and each such petition filed by the facility.

''(ii) The Secretary of Labor shall establish a process, including reasonable time limits, for the receipt, investigation, and disposition of complaints respecting a facility's failure to meet conditions attested to or a facility's misrepresentation of a material fact in an attestation. Complaints may be filed by any aggrieved person or organization (including bargaining representatives, associations deemed appropriate by the Secretary, and other aggrieved parties as determined under regulations of the Secretary). The Secretary shall conduct an investigation under this clause if there is reasonable cause to believe that a facility fails to meet conditions attested to. Subject to the time limits established under this clause, this subparagraph shall apply regardless of whether an attestation is expired or unexpired at the time a complaint is filed.

''(iii) Under such process, the Secretary shall provide, within 180 days after the date such a complaint is filed, for a determination as to whether or not a basis exists to make a finding described in clause (iv). If the Secretary determines that such a basis exists, the Secretary shall provide for notice of such determination to the interested parties and an opportunity for a hearing on the complaint within 60 days of the date of the determination.

''(iv) If the Secretary of Labor finds, after notice and opportunity for a hearing, that a facility (for which an attestation is made) has failed to meet a condition attested to or that there was a misrepresentation of material fact in the attestation, the Secretary shall notify the Attorney General of such finding and may, in addition, impose such an administrative remedies (including civil monetary penalties in an amount not to exceed $1,000 per nurse per violation, with the total penalty not to exceed $10,000 per violation) as the Secretary determines to be appropriate. Upon receipt of such notice, the Attorney General shall not approve petitions filed with respect to a facility during a period of at least one year for nurses to be employed by the facility.

''(v) In addition to the sanctions provided for under clause (iv), if the Secretary of Labor finds, after notice and an opportunity for a hearing that, a facility has violated the condition attested to under subparagraph (A)(iii) (relating to payment of registered nurses at the prevailing wage rate), the Secretary shall order the facility to provide for payment of such amounts of back pay as may be required to comply with such condition.

''(F)(i) The Secretary of Labor shall impose on a facility filing an attestation under subparagraph (A) a filing fee, in an amount prescribed by the Secretary based on the costs of carrying out the Secretary's duties under this subsection, but not exceeding $250.

''(ii) Fees collected under this subparagraph shall be deposited in a fund established for this purpose in the Treasury of the United States.

''(iii) The collected fees in the fund shall be available to the Secretary of Labor, to the extent and in such amounts as may be provided in appropriations Acts, to cover the costs described in clause (i), in addition to any other funds that are available to the Secretary to cover such costs.

''(3) The period of admission of an alien under section 101(a)(15)(H)(i)(c) shall be 3 years.

''(4) The total number of nonimmigrant visas issued pursuant to petitions granted under section 101(a)(15)(H)(i)(c) in each fiscal year shall not exceed 500. The number of petitions granted under section 101(a)(15)(H)(i)(c) for each State in each fiscal year shall not exceed the following:

''(A) For States with populations of less than 9,000,000 based upon the 1990 decennial census of population, 25 petitions.

''(B) For States with populations of 9,000,000 or more, based upon the 1990 decennial census of population, 50 petitions.

''(C) If the total number of visas available under this paragraph for a calendar quarter exceeds the number of qualified nonimmigrants who may be issued such visas, the visas made available under this paragraph shall be issued without regard to the numerical limitations under subparagraphs (A) and (B) of this paragraph during the remainder of the calendar quarter.

''(5) A facility that has filed a petition under section 101(a)(15)(H)(I)(c) to employ a nonimmigrant to perform nursing services for the facility—

''(A) shall provide the nonimmigrant a wage rate and working conditions commensurate with those of nurses similarly employed by the facility;

''(B) shall require the nonimmigrant to work hours commensurate with those of nurses similarly employed by the facility; and

''(C) shall not interfere with the right of the nonimmigrant to join or organize a union.

''(6) For purposes of this subsection and section 101(a)(15)(H)(i)(c), the term 'facility' means a subsection (d) hospital (as defined in section 1886(d)(1)(B) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(B))) that meets the following requirements:

''(A) As of March 31, 1997, the hospital was located in a health professional shortage area (as defined in section 332 of the Public Health Service Act (42 U.S.C. 254e)).

''(B) Based on its settled cost report filed under title XVIII of the Social Security Act for its costs reporting period beginning during fiscal year 1994—

''(i) the hospital has not less than 190 licensed acute care beds;

''(ii) the number of the hospital's inpatient days for such period which were made up of patients who (for such days) were entitled to benefits under part A of such title is not less than 35 percent of the total number of such hospital's acute care inpatient days for such period; and

''(iii) the number of the hospital's inpatient days for such period which were made up of patients who (for such days) were eligible for medical assistance under a State plan approved under title XIX of the Social Security Act, is not less than 28 percent of the total number of such hospital's acute care inpatient days for such period.''.

(c) REPEALER.—Clause (i) of section 101(a)(15)(H) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(i)) is amended by striking subclause (a).

(d) IMPLEMENTATION.—Not later than 90 days after the date of enactment of this Act, the Secretary of Labor (in consultation, to the extent required, with the Secretary of Health and Human Services) and the Attorney General shall promulgate final or interim final regulations to carry out section 212(m) of the Immigration and Nationality Act (as amended by subsection (b)).

(e) LIMITING APPLICATION OF NONIMMIGRANT CHANGES TO 4–YEAR PERIOD.—The amendments made by this section shall apply to classification petitions filed for nonimmigrant status only during the 4-year period beginning on the date that interim or final regulation are first promulgated under subsection (d).

SEC. ___3. RECOMMENDATIONS FOR ALTERNATIVE REMEDY FOR NURSING SHORTAGE.

Not later than the last day of the 4-year period described in section ___2(e), the Secretary of Health and Human Services and the Secretary of Labor shall jointly submit to Congress recommendations (including legislative specifications) with respect to the following:

(1) A program to eliminate the dependence of facilities described in section 212(m)(6) of the Immigration and Nationality Act (as amended by section ___2(b)) on nonimmigrant registered nurses by providing for a permanent solution to the shortage of registered nurses who are United States citizens or aliens lawfully admitted for permanent residence.

(2) A method of enforcing the requirements imposed on facilities under sections 101(a)(15)(H)(i)(c) and 212(m) of the Immigration and Nationality Act (as amended by section ___2) that would be more effective than the process described in section 212(m)(2)(E) of such Act (as so amended).

FRIST AMENDMENT NO. 3323

Mr. GREGG (for Mr. FRIST) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place in title III, insert the following:

SEC. 3___. SIGNAGE ON HIGHWAYS WITH RESPECT TO THE NATIONAL CEMETERY SYSTEM.

(a) DEFINITIONS.—In this section:

(1) FEDERAL-AID HIGHWAY.—The term ''Federal aid highway'' has the meaning given that term in section 101 of title 23, United States Code.

(2) NATIONAL CEMETERY SYSTEM.—The term ''National Cemetery System'' means the National Cemetery System, which is managed by the Secretary of Veterans Affairs.

(3) STATE.—The term ''State'' has the meaning given that term in section 101 of title 23, United States Code.

(b) FEDERAL-AID HIGHWAYS.—The Secretary of Transportation, acting through the Administrator of the Federal Highway Administration, shall take such action as may be necessary to ensure that, for each cemetery of the National Cemetery System that is located in the proximity of any Federal-aid highway, there is sufficient and appropriate signage along that highway to direct visitors to that cemetery.

(c) STATE HIGHWAYS.—Nothing in subsection (b) is intended to affect the provision of signage by a State along a State highway to direct visitors to a cemetery of the National Cemetery System.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

SHELBY (AND LAUTENBERG) AMENDMENT NO. 3324

Mr. SHELBY (for himself and Mr. LAUTENBERG) proposed an amendment to the bill (S. 2307) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1999, and for other purposes; as follows;

On page 19 of the bill in line 2, strike '': *Provided*, That $3,000,000 shall be transferred to the Appalachian Regional Commission''.

On page 26 of the bill, line 15, insert the following before the period: ''*Provided further,* That of the funds provided under this heading, $5,000,000 shall be made available for grants authorized under title 49 United States Code section 22301''.

On page 20 of the bill, in line 17, after the colon, insert: ''*Provided further,* That within the $20,000,000 made available for refuge roads in fiscal year 1999 by section 204 of title 23, United States Code, as amended, $700,000 shall be made available to the U.S. Army Corps of Engineers to determine the feasibility of providing reliable access connecting King Cove and Cold Bay, Alaska and $1,500,000 shall be made available for improvements to the Crooked Creek access road in the Charles M. Russell National Wildlife Refuge, Montana:''.

On page 28 of the bill, amend the figure in line 5 to read ''7,500,000''.

On page 44 of the bill, insert at the beginning of line 1 the following: ''New York City NY Midtown west ferry terminal''.

On page 51 of the bill, insert after line 19 the following: ''Whittier, AK intermodal facility and pedestrian overpass''.

On pages 86 and 87 of the bill, strike all of section 336 (lines 16–24 and lines 1–10).

On page 88 of the bill, in line 18, after the semicolon insert the following:

(3) in subsection (d), by inserting ''(including an exemption under subsection (b)(3)(B)(i) relating to a bumper standard referred to in subsection (b)(1))'' after ''subsection (b)(3)(B)(i) of this section''; and.

And on page 88 of the bill, in line 19, amend the ''(3)'' subsection number to read ''(4)''.

On page 90 of the bill, in line 1, after the semicolon insert the following: ''$3,500,000 is provided for the Providence-Boston commuter rail project;''.

On page 92 of the bill, after line 25, insert the following:

SEC. 351. Item 1132 in section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 298), relating to Mississippi, is amended by striking ''Pirate Cove'' and inserting ''Pirates' Cove and 4-lane connector to Mississippi Highway 468''.

On page 78 of the bill, strike lines 8–15, and insert the following:

SEC. 322. None of the funds in this or any other Act may be used to compel, direct or require agencies of the Department of Transportation in their own construction contract awards, or recipients of financial assistance for construction projects under this Act, to use a project labor agreement on any project, nor to preclude use of a project labor agreement in such circumstances.

INTERNATIONAL MONETARY FUND APPROPRIATIONS ACT OF 1998

MURKOWSKI AMENDMENT NO. 3325

Mr. MURKOWSKI proposed an amendment to the bill (S. 2334) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1999, and for other purposes; as follows:

SECTION 1. ENVIRONMENTAL POLICY AND PROCEDURES.

(a) IN GENERAL.—Section 11(a) of the Export-Import Bank Act of 1945 (12 U.S.C. 635i–5(a)) is amended—

(1) in paragraph (2), by striking the period and inserting the following: '', except that the Board of Directors may not withhold financing from a project under this subsection if the government of any other G–7 country is providing (or has indicated approval to provide) financing of the project.''; and

(2) by adding at the end the following new paragraph:

''(3) G–7.—For purposes of this subsection, the term 'G–7' means the group consisting of France, Germany, Japan, the United Kingdom, the United States, Canada, and Italy, established in September, 1985, to facilitate economic cooperation among the seven major non-Communist economic powers.''.

(b) DEVELOPMENT OF CONSISTENT ENVIRONMENTAL POLICY.—

(1) IN GENERAL.—It is the sense of Congress that—

(A) consistent with the objectives of section 2(b)(1)(A) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(A)), the Export-Import Bank should seek to reach an international agreement with the export financing agencies of other G–7 countries regarding environmental policies and procedures for the financing of projects; and

(B) such agreement should be subject to Congressional approval.

(2) G–7.—For purposes of this subsection, the term ''G–7'' means the group consisting of France, Germany, Japan, the United Kingdom, the United States, Canada, and Italy, established in September, 1985, to facilitate economic cooperation among the seven major non-Communist economic powers.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

MCCONNELL AMENDMENT NO. 3326

Mr. MCCONNELL proposed an amendment to the bill, S. 2307, supra; as follows:

On page 92, after line 25, add the following:

SEC. 3___. JUDICIAL REVIEW OF CONSTITUTIONAL CLAIMS.

(a) EXPEDITED CONSIDERATION.—It shall be the duty of a district court of the United States and the Supreme Court of the United States to advance on the docket and to expedite to the maximum extent practicable the disposition of any claim challenging the constitutionality of section 1101(b) of the Transportation Equity Act for the 21st Century (23 U.S.C. 101 note; 112 Stat. 113), whether on its face or as applied.

(b) APPEAL TO SUPREME COURT.—

(1) IN GENERAL.—Notwithstanding any other provision of law, any order of a district court of the United States disposing of a claim described in subsection (a) shall be reviewable by appeal directly to the Supreme Court of the United States.

(2) DEADLINES FOR APPEAL.—

(A) NOTICE OF APPEAL.—Any appeal under paragraph (1) shall be taken by a notice of appeal filed within 10 calendar days after the date on which the order of the district court is entered.

(B) JURISDICTIONAL STATEMENT.—The jurisdictional statement shall be filed within 30 calendar days after the date on which the order of the district court is entered.

(3) STAYS.—No stay of an order described in paragraph (1) shall be issued by a single Justice of the Supreme Court.

(c) APPLICABILITY.—Subsections (a) and (b) shall apply with respect to any claim filed after June 9, 1998, but before June 10, 1999.

DEWINE (AND OTHERS) AMENDMENT NO. 3327

Mr. DEWINE (for himself, Mr. COVERDELL, Mr. GRAHAM, Mr. BOND, Mr. GRASSLEY, and Mr. FAIRCLOTH) proposed an amendment to the bill, S. 2307, supra; as follows:

Beginning on page 8 of the bill, in line 17 after the colon insert: *Provided further,* That not less than $2,000,000 shall be available to support restoration of enhanced counter-narcotics operations around the island of Hispaniola.

On page 5 of the bill, in line 4, strike ''$165,215,000'' and insert ''$158,468,000''.

On page 9 of the bill, in line 2, strike ''$388,693,000'' and insert ''$426,173,000''.

On page 9 of the bill, in line 4, strike ''$215,473,000'' and insert ''$234,553,000''.

On page 9 of the bill, in line 7, strike ''$46,131,000'' and insert ''$55,131,000''.

On page 9 of the bill, in line 9, strike ''$35,389,000'' and insert ''$44,789,000''.

On page 77 of the bill, in line 15, strike ''$10,500,000'' and insert ''$17,247,000''.

MCCAIN AMENDMENT NO. 3328

Mr. SHELBY (for Mr. MCCAIN) proposed an amendment to the bill, S. 2307, supra; as follows:

At the appropriate place, insert:

SEC. . The change in definition for Amtrak capital expenses shall not affect the legal characteristics of capital and operating expenditures for purposes of Amtrak's requirement to eliminate the use of appropriated funds for operating expenses according to P.L. 105–134. No funds appropriated for Amtrak in this Act shall be used to pay for any wage, salary, or benefit increases that are a result of any agreement entered into after October 1, 1997; *Provided further,* That nothing in this Act shall affect Amtrak's legal requirements to maintain its current system of accounting under Generally Accepted Accounting Principles; *Provided further,* That no later than 30 days after the end of each quarter beginning with the first quarter in fiscal year 1999, Amtrak shall submit to the Amtrak Reform Council and the Senate Committee on Appropriations, and the Senate Committee on Commerce, Science, and Transportation, a reporting of specific expenditures for preventative maintenance, labor, and other operating expenses from amounts made available under this Act, and Amtrak's estimate of the amounts expected to be expended for such expenses for the remainder of the fiscal year.

SPECTER (AND SANTORUM) AMENDMENT NO. 3329

Mr. SHELBY (for Mr. SPECTER for himself and Mr. SANTORUM) proposed an amendment to the bill, S. 2307, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. . Section 3 of the Act of July 17, 1952 (66 Stat. 746, chapter 921), and section 3 of the Act of July 17, 1952 (66 State. 571, chapter 922), are each amended in the proviso—

(1) by striking ''That'' and all that follows through ''the collection of'' and inserting ''That the commission may collect''; and

(2) by striking '', shall cease'' and all that follows through the period at the end and inserting a period.

On page 22 of the bill, in line 1, strike ''State of Michigan,'' and insert: ''Oakland County, MI,''.

On page 89 of the bill, in line 24, before the figure ''2,700,000'' insert the following ''$200,000 is provided for the Southeast Michigan commuter rail viability study; $2,000,000 is provided for the major investment analysis of Honolulu transit alternatives;''.

On page 92 of the bill, after line 25, insert the following:

SEC. . Section 1212(m) of Public Law 105–178 is amended (1) in the subsection heading by inserting '', Idaho and West Virginia'' after ''Minnesota''; and (2) by inserting ''or the States of Idaho or West Virginia'' after ''Minnesota''.

In amendment No. 3324, in line 10, strike ''determine the feasibility or providing reliable access connecting King Cove and Cold Bay, Alaska'' and insert the following: ''study rural access issues in Alaska''.

JOHNSON (AND OTHERS) AMENDMENT NO. 3331

Mr. SHELBY (for Mr. JOHNSON, for himself, Mr. KOHL, and Mr. BOND) proposed an amendment to the bill, S. 2307, supra; as follows:

On page 30, after line 11, before the period insert the following: *Provided further,* That, of the funds made available under Sec. 5308, up to $10 million may be used for the projects that include payments for the incremental costs of biodiesel fuels: *Provided further,* That incremental costs shall be limited to the cost difference between the cost of alternative fuels and their petroleum-based alternatives''.

DURBIN (AND LAUTENBERG) AMENDMENT NO. 3332

Mr. SHELBY (for Mr. DURBIN for himself and Mr. LAUTENBERG) proposed an amendment to the bill, S. 2307, supra; as follows:

At the appropriate place, insert the following:

SEC. . PROHIBITIONS AGAINST SMOKING ON SCHEDULED FLIGHTS.

(a) IN GENERAL.—Section 41706 of title 49, United States Code, is amended to read as follows:

''§ 41706. Prohibitions against smoking on scheduled flights

''(a) SMOKING PROHIBITION IN INTRASTATE AND INTERSTATE AIR TRANSPORTATION.—An individual may not smoke in an aircraft on a scheduled airline flight segment in interstate air transportation or intrastate air transportation.

''(b) SMOKING PROHIBITION IN FOREIGN AIR TRANSPORTATION.— The Secretary of Transportation shall require all air carriers and foreign air carriers to prohibit, on and after the 120th day following the date of the enactment of this section, smoking in any aircraft on a scheduled airline flight segment within the United States or between a place in the United States and a place outside the United States.

''(c) LIMITATION ON APPLICABILITY.—With respect to an aircraft operated by a foreign air carrier, the smoking prohibitions contained in subsections (a) and (b) shall apply only to the passenger cabin and lavatory of the aircraft. If a foreign government objects to the application of subsection (b) on the basis that it is an extraterritorial application of the laws of the United States, the Secretary is authorized to waive the application of subsection (b) to a foreign air carrier licensed by that foreign government. The Secretary of Transportation shall identify and enforce an alternative smoking prohibition in lieu of subsection (b) that has been negotiated by the Secretary and the objecting foreign government through a bilateral negotiation process.

''(d) REGULATIONS.—The Secretary shall prescribe regulations necessary to carry out this section.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 60th day following the date of the enactment of this Act.

BURNS AMENDMENT NO. 3333

Mr. SHELBY (for Mr. BURNS) proposed an amendment to the bill, S. 2307, supra; as follows:

At the appropriate place, insert the following:

SEC. . HAZARDOUS MATERIALS.

In the case of a state that, as of the date of enactment of this Act, has in force and effect State hazardous material transportation laws that are inconsistent with federal hazardous material transportation laws with respect to intrastate transportation of agricultural production materials for transportation from agricultural retailer to farm, farm to farm, and from farm to agricultural retailer, within a 100-mile air radius, such inconsistent laws may remain in force and effect for fiscal year 1999 only.

LAUTENBERG (AND KERRY) AMENDMENT NO. 3334

Mr. SHELBY (for Mr. LAUTENBERG, for himself and Mr. KERRY) proposed an amendment to the bill, S. 2307, supra; as follows:

On page 79 of the bill, in line 21 before the period, insert: ''*Provided further,* That the Secretary, acting through the Administrator of the Federal Aviation Administration, shall by January 1, 1999, take such actions as may be necessary to ensure that each air carrier (as that term is defined in section 40102 of title 49 U.S.C.) prominently displays on every passenger ticket sold by any means or mechanism a statement that reflects the national average per passenger general fund subsidy based on the fiscal year 1997 general fund appropriation from the Federal Government to the Federal Aviation Administration; Provided further that the Secretary of Transportation, acting through the administrator of the Federal Highway Administration, shall take such actions as may be necessary to ensure the placement of signs, on each Federal-aid highway (as that term is defined in section 101 of title 23, U.S.C.) that states that, during fiscal year 1997, the Federal Government provided a general fund appropriation at a level verified by the Department of Transportation, for the subsidy of State and local highway construction and maintenance''.

D'AMATO AMENDMENT NO. 3335

Mr. SHELBY (for Mr. D'AMATO) proposed an amendment to the bill, S. 2307, supra; as follows:

At the appropriate place in title III, insert the following:

SEC. 3 . REIMBURSEMENT FOR SALARIES AND EXPENSES.

The National Transportation Safety Board shall reimburse the State of New York and local counties in New York during the period beginning on June 12, 1997, and ending on September 30, 1999, an aggregate amount equal to $6,059,000 for costs (including salaries and expenses) incurred in connection with the crash of TWA Flight 800.

NOTICE OF HEARING

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will meet during the session of the Senate on Wednesday, July 29, 1998, at 9:30 a.m. to conduct a Business Meeting to consider the following pending business of the Committee: S. 1905, A Bill to Compensate the Cheyenne River Sioux Tribe, and for Other Purposes; S. 391, To Provide for the Distribution of Certain Judgment Funds to the Mississippi Sioux Tribe of Indians, and for Other Purposes; and S. 1770, To Elevate the Position of the Director of the Indian Health Service to Assistant Secretary for Health and Human Services. The Business Meeting will be held in room 485 of the Russell Senate Office Building.

Those wishing additional information should contact the Committee on Indian Affairs at 202/224–2251.

AUTHORITY FOR COMMITTEE TO MEET

COMMITTEE ON ARMED SERVICES

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, July 23, 1998, at 3:00 p.m. in open session, to consider the nominations of Patrick T. Henry, to be Assistant Secretary of the Army for Manpower, Reserve Affairs; Carolyn H. Becraft, to be Assistant Secretary of the Navy for Manpower & Reserve Affairs; and Ruby Butler Demesme to be Assistant Secretary of the Air Force for Manpower, Reserve Affairs, Installations & Environment.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. GREGG. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, July 23, 1998, at 9:30 am on S. 2238—Mohammad Ali Boxing Reform Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, July 23, for purposes of conducting a full committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this hearing is to receive testimony on S. 2109, a bill to provide for an exchange of lands located near Gustavas, Alaska, and for other purposes; S. 2257, a bill to reauthorize the National Historic Preservation Act; S. 2276, a bill to amend the National Trails Systems Act to designate El Camino Real de los Tejas as a National Historic Trail; S. 2273, a bill to amend the boundaries of Grant-Kohrs Ranch National Historic Site in the State of Montana; S. 2284, a bill to establish the Minutemen Missile National Historic Site in the State of South Dakota, and for other purposes; and H.R. 1522, a bill to extend the authorization for the National Historic Preservation Fund, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. GREGG. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to meet to continue markup of S. 2131, the Water Resources Development Act, Thursday, July 23, 10:45 a.m., Hearing Room (SD–406).

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, July 23, 1998 at 2:30 pm to hold a business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, July 23, 1998 at 4:00 p.m. to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, July 23, 1998 at 9:30 a.m. in room 216 of the Senate Hart Office Building to hold a hearing on: ''Competition and Innovation in the Digital Age; Beyond the Browser Wars.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing of Presidential Nominees Ida Castro and Paul Igasaki to be Members of the Equal Employment Opportunity Commission during the session of the Senate on Thursday, July 23, 1998, at 10:00 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON THE YEAR 2000 TECHNOLOGY PROBLEM

Mr. GREGG. Mr. President, I ask unanimous consent that the Special Committee on the Year 2000 Technology Problem be permitted to meet on July 23, 1998 at 9:30 a.m. for the purpose of conducting a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CLEAN AIR, WETLANDS, PRIVATE PROPERTY, AND NUCLEAR SAFETY

Mr. GREGG. Mr. President, I ask unanimous consent that the Subcommittee on Clean Air, Wetlands, Private Property, and Nuclear Safety be granted permission to conduct a hearing on FEMA reform Thursday, July 23 at 9:00 a.m., Hearing Room (SD–406).

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL OPERATIONS

Mr. GREGG. Mr. President, I ask unanimous consent that the Subcommittee on International Operations of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, July 23, 1998 at 10:00 am to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INVESTIGATIONS

Mr. GREGG. Mr. President, I ask unanimous consent on behalf of the Permanent Subcommittee on Investigations of the Governmental Affairs Committee to meet on Thursday, July 23, 1998, at 9:30 a.m. for a hearing entitled ''Cramming: An Emerging Telephone Billing Fraud.''

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON NATIONAL PARKS, HISTORIC PRESENTATION AND RECREATION

Mr. GREGG. Mr. President, I ask unanimous consent that the Subcommittee on National Parks, Historic Preservation and Recreation of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, July 23, for purposes of conducting a subcommittee hearing which is scheduled to begin at 2:00 p.m. The purpose of this hearing is to receive testimony on S. 2109, a bill to provide for an exchange of lands located near Gustavas, Alaska, and for other purposes; S. 2257, a bill to reauthorize the National Historic Preservation Act; S. 2276, a bill to amend the National Trails Systems Act to designate El Camino Real de los Tejas as a National Historic Trail; S. 2272, a bill to amend the boundaries of Grant-Kohrs Ranch National Historic Site in the State of Montana; S. 2284, a bill to establish the Minutemen Missile National Historic Site in the State of South Dakota, and for other purposes; and, H.R. 1522, a bill to extend the authorization for the National Historic Preservation Fund, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

SENATE CONCURRENT RESOLUTION 105

• Mr. ABRAHAM. Mr. President, I rise to co-sponsor S. Con. Res. 105, a resolution which I hope will bring justice to the many suffering people of the former Yugoslavia. For over a decade now Serbian leader Slobodan Milosevic has executed his policies of hatred, policies which have led to oppression and murder. And I am sorry to say that Milosevic's brutal assaults against the people of Bosnia and Croatia have gone unpunished.

Milosevic now seeks to extend his reign of terror over greater Serbia. His efforts already have destroyed the peace, security, and very lives of the people of Kosovo. He has turned Kosovo, once an independent state within Yugoslavia, into a virtual prison for non-Serbs. He has driven Kosovo's native Albanians, who have lived in the Balkans longer than any other ethnic group and who comprise 90 percent of the region's population, to flee the area out of fear for their lives and the lives of their families.

Mr. President, I believe it is important for us to keep in mind that, while the United States continues to offer peaceful and diplomatic support to the victims of Milosevic's campaign of terror, Serbian leaders continue their heinous policies. I am convinced that we must send a strong signal to Milosevic

and his cronies in order to stop the violence and oppression they are inflicting on the people of Kosovo.

Mr. President, I believe that we in the United States, the birthplace and homeland of freedom, have a responsibility to bring Milosevic and his fellow perpetrators to the Hague and make them answer for their crimes. It grieves me that so many people in the Balkans have suffered from Milosevic's policies of racial cleansing. I hope that a trial will end the suffering of countless civilians in Kosovo. I also hope that Milosevic's trial will send a message to other dictators that crimes against humanity will not be tolerated by the world community.

I urge my colleagues to support this important legislation.●

CONTEMPORARY AMERICAN THEATER FESTIVAL AND THE TOWN HALL MEETING ON THE PERFORMING ARTS AND RACE

● Mr. ROCKEFELLER. Mr. President, in June 1997, President Clinton announced his Initiative on Race, One America in the 21st Century. His Initiative was created to encourage all Americans to work together in understanding and dealing with our racial differences. In the course of the past year, President Clinton has traveled around the country hosting several events to pursue these goals and foster a national dialogue on the subject. I am proud to tell you that West Virginia not only listened to President Clinton's announcement but answered his call to join him in taking action on this important effort.

The Contemporary American Theater Festival (CATF), located in Shepherdstown, West Virginia, commissioned a play on Asian racism entitled Carry the Tiger to the Mountain, and Governor Cecil Underwood formed his own Initiative on Race, One West Virginia. Together, they planned a Town Hall Meeting on the Performing Arts and Race which was held this past weekend in Shepherdstown and will be broadcast by West Virginia Public Television this coming Thursday and Sunday.

Over 300 people attended the afternoon performance of Tiger and the Town Hall Meeting which followed and was narrated by Kwame Holman, of The Newshour with Jim Lehrer. The panelists for the event included choreographer Garth Fagan, who recently won a Tony Award for The Lion King; Angelo Oh, a member of the President's Advisory Board on Race; Molly Smith, the Artistic Director of Arena Stage; George Takei, a theater and television actor from Star Trek; Helen Zia, contributing editor to Ms. Magazine; Christian McBride, a jazz artist and composer; Abel Lopez, president of Non-Traditional Casting Project; Dr. Simon Perry, a faculty member from Marshall University; and Liz Lerman, artistic director of Dance Exchange. The audience included local community members of various backgrounds, West Virginia NAACP activists, and over 100 members of the Organization of Chinese Americans. This impressive list of panelists and audience gathered in this small town and produced a level of dialogue on the arts and race to further enhance President Clinton's vision for One America.

The afternoon discussion brought forth many ideas and questions in regard to the arts and race. The panelists discussed the role of the performing arts in society, how the depiction of minorities as stereotypes can further intensify racial misunderstandings, and how if we as a society would think of culture more than race, then perhaps we could succeed more. As George Takei mentioned, the performing arts are ''a forum for understanding and communication.'' Yet so much depends on who does the articulating and who has access to the art being presented. In its most truthful essence, the arts can allow ''cultures to touch each other,'' as Molly Smith of Arena Stage pointed out. And if we can ''touch each other'' or understand each other, then we can begin easing the tensions that separate us.

These are but a few of the ideas discussed in Shepherdstown at the Town Hall Meeting, but you can see the wealth of communication that transpired on the subject in just a few short hours. Imagine if a community in every state hosted a similar event to foster and promote honesty and understanding of our racial differences.

I am very proud of my fellow West Virginians' efforts and success in answering President Clinton's challenge to work towards living as One America in the 21st Century. And I congratulate Ed Herendeen, the producing director of CATF, and Cherylene Lee, the playwright of this commissioned work, for bringing Carry the Tiger to the Mountain to West Virginia for its world premier season. CATF is dedicated to promoting live, provocative theater that challenges us to think about issues in our society, and once again it has achieved that goal.●

TRIBUTE TO ALAN SHEPARD: NEW HAMPSHIRE NATIVE AND FIRST AMERICAN TO FLY IN SPACE

● Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to Alan Shepard, the first American to fly in space, and a native of Derry, New Hampshire. On Tuesday, this American hero fell victim to leukemia at the age of 74, and leaves behind his widow, Louise, two daughters and six grandchildren.

As the first American to fly in space, Alan Shepard was a pioneer for manned space exploration as we know it. On May 5, 1961, at a time when the American space program was marked by many failures and setbacks, Shepard courageously made a 15-minute suborbital flight, spending five of those minutes in space, and forever distinguishing himself as an American hero. Shepard was also one of the seven original Mercury astronauts, NASA's first space pioneers.

On January 31, 1971, Shepard returned to space for his second and last flight as the commander of Apollo 14. This trip allowed Shepard to become the fifth of only twelve Americans ever to walk on the moon, and the only man to hit golf balls playfully on the lunar surface.

In addition to his space endeavors, Shepard headed NASA's astronaut office in the years between his two flights, and he began investing in banks, oil wells, quarter horses and real estate. Shepard was also a Navy test pilot, sacrificing a great deal for the future of his country. He retired from the space agency and from the Navy as a rear admiral in 1974, in pursuit of many and varied interests.

Alan Shepard was known for his determination and ready wit. He never backed down from a challenge, and was characterized as the most eager to be picked from among three astronauts who were finalists for the historic first flight. These traits are exactly what make Alan Shepard nothing short of a hero in American history. Without his willingness to make sacrifices for the good of his country, the United States of America never could have achieved such glorious accomplishments in its space programs. He was a modest explorer, a man of integrity, a modern role model and one for ages to come. The bravery of this man gave Americans the confidence to continue pursuing the space program, in spite of the enormous challenges that were in sight.

Alan Shepard will be missed dearly across the nation, and especially in Derry, New Hampshire, the town of his birth. His motivation and dedication to the American space program and the American people serve to encourage all to welcome challenges and follow dreams to whatever heights they may soar. Let us mark the passing of this great leader not with sadness, but with gratitude and deep appreciation for being such a valiant American.●

TRIBUTE TO CHARLES L. FOX, BUSINESS & MILITARY LEADER, PATRIOT AND SERVANT OF THE UNITED STATES OF AMERICA

● Mr. SMITH of New Hampshire. Mr. President, it is with a great deal of personal pleasure that I recognize the major accomplishments of an individual who dedicated his career to serving the interests of our country by strengthening our national security for more than 30 years.

On August 31, 1998, Mr. Charles L. Fox will retire as Senior Vice President, Congressional Relations for the Raytheon Company. Under Chuck's leadership and dedication, Raytheon has contributed tremendously to the effectiveness of our national security.

Mr. Fox has headed Raytheon's Congressional Relations Office since May

1995. In this capacity he was responsible for ensuring that issues and programs of interest to Raytheon in supporting national security requirements were communicated to members and staff of Congress in an effective manner. Mr. President, I can tell you, I know of no one more professional than Mr. Fox. In all his dealings with the Congress, he was a true professional, dedicated to ensuring national security interests, and the security of our country were always well served.

Prior to joining Raytheon, Chuck served a distinguished career of more than twenty seven years in the United States Air Force, retiring as a Colonel. He served in a variety of staff, operations and command positions around the world. He served as both a base and wing commander, as well as the Chief of Staff of the Pacific Air Forces. In the two years prior to his retirement from the Air Force, Mr. Fox was the Deputy Director of Legislative Liaison for the Secretary of the Air Force in the Pentagon. He was responsible for managing all Congressional actions for the Secretary of the Air Force and the Air Force Chief of Staff, and supervised a staff of 90 personnel.

Mr. Fox holds a Bachelor of Arts degree from Seattle University with a major in Political Science. He received a Master of Arts degree in International Relations from the University of Washington.

Chuck and his wife Marilyn will reside in Charleston, South Carolina. Mr. Fox has two married daughters, Rachel and Sarah.

Mr. President, fellow colleagues, please join me in paying tribute to the exemplary accomplishments of Mr. Charles L. Fox, for a lifetime of achievements as a business and military leader, patriot and servant of the United States of America.●

RETIREMENT OF MR. CLARK BURRUS

● Ms. MOSELEY-BRAUN. Mr. President, I would like to take a few moments to honor Mr. Clark Burrus, a distinguished professional and a citizen par excellence. Mr. Burrus has recently announced his retirement from First Chicago Capital Markets, Inc. Although it was with great sadness that I heard of Mr. Burrus' retirement, this milestone provides an opportune moment to praise him for his long record of achievements. He has served Chicago and our nation in so many different ways that it is almost impossible to enumerate them all.

Mr. Burrus was born in Chicago and attended Englewood High School on the city's South side. Following high school, Mr. Burrus matriculated at Texas State University where he excelled in both academics and athletics. After his studies at Texas State University, Mr. Burrus returned to his hometown and continued his education at Roosevelt University, where he received both a Masters Degree in Public Administration and a Bachelor of Science Degree in Accounting.

Clark Burrus began his five decades of service to the City of Chicago during the administration of Mayor Martin Kenelley, and continued to serve under Mayors Richard J. Daley, Michael Bilandic and Jane Byrne. The hard work and dedication of Mr. Burrus were recognized when the late Mayor Richard J. Daley named him City Comptroller in 1973. As City Comptroller, Mr. Burrus was the Chief Fiscal Officer of the city and supervised the Department of Finance. Under his able guidance, the status of city-issued bonds climbed to its first Double-A rating. Mr. Burrus is also credited with engineering the low-interest rate mortgage revenue bond program of Chicago, the first such program in the United States.

In 1979, Mr. Burrus left public life and joined the First Bank of Chicago as a Senior Vice President in the Asset and Liability Management Department. Almost twenty years later, Mr. Burrus has risen to the position of Vice Chairman of First Chicago Capital Markets, Inc., a subsidiary of First Chicago NBD Corporation. Mr. Burrus also serves as the head of the Public Banking Department. The departments under the supervision of Mr. Burrus provide critical commercial banking services to a wide array of fields, including health care, higher education, governmental and cultural institutional markets.

Although he left public life in 1979, Mr. Burrus's commitment to the welfare of his hometown and fellow citizens did not end. Mr. Burrus has since served as Chairman of the Board of the Chicago Transit Authority and of its Deferred Compensation Committee. Additionally, Mr. Burrus was a board member of the Regional Transportation Authority, a member of its Strategic Planning Committee, and a member of the Chairman's Coordinating Committee. Recently, Mr. Burrus was appointed to the Cook County Deferred Compensation Committee. He is also a current member and past chairman of the Chicago Transit Authority's Pension Board of Trustees, and has served as a trustee of five other public pension funds. In addition, Mr. Burrus presently serves on a remarkable twenty eight boards and commissions. I never cease to be amazed at how well Clark Burrus is able to perform so many professional and civic duties simultaneously.

Mr. President, the civic service and public achievements of Mr. Clark Burrus are of breathtaking dimensions. Indeed, they serve as an enduring testament of his passionate commitment to the betterment of his community. As Mr. Burrus retires to private life, he leaves behind a record of excellence that will long be appreciated, and is model of service for all Americans to follow. I wish him Godspeed and hope that his years of retirement will be as enriching as his years of public service.●

CONGRATULATING KATRINA RUIZ AND MARCO CAKNESELLA

● Mr. MACK. Mr. President, I rise today to recognize and congratulate Katrina Ruiz and Marco Caknesella of Miami, Florida. Katrina and Marco were selected as national finalists in the 1998 Do the Write Thing Challenge Program sponsored by the National Campaign to Stop Violence. The National Campaign to Stop Violence is a coalition of businesses and nonprofit organizations who have joined together in an effort to work with young people to end youth violence in America.

Katrina, Marco and hundreds of other middle school students in Miami took part in the Do the Write Thing Challenge Program this year. The Do the Write Thing Challenge Program asks middle school students in 12 cities across the United States to provide a written commitment to reducing violence in their lives by submitting a written answer to the question ''What can I do about the violence in my life?''

It is always a pleasure to hear about programs, like the Do the Write Thing Challenge Program, which encourage young people to begin to think about the ways that they, as individuals, can have an impact upon the problems which confront their community. I am confident that Katrina, Marco and the thousands of other young people across the nation who participated in the program will set a positive example for their peers as they fulfill their written commitment to reduce violence in their own lives.

I commend Katrina Ruiz and Marco Caknesella for their selection for this high honor and wish them all the best for their continued success.●

IMPORTANCE OF ACCURATE ECONOMIC STATISTICS

● Mr. DOMENICI. Mr. President, I want to discuss a very important issue today that often does not get the attention that it deserves—the need for accurate economic statistics.

Policymakers rely on statistics to guide them in their decision-making process. For instance, the Federal Reserve sets interest rates based on the reported level of economic activity and inflation; Congress and the Administration craft multi-year budget proposals using an economic baseline that is built upon current data; we examine the effectiveness of different tax and fiscal reforms by their effect on measured savings rates.

In all cases, we take for granted that these building block statistics give us a reliable portrayal of current economic conditions. We seldom consider just how difficult it is to construct them nor realize that it is getting harder to do so as our economy continues to evolve.

We can no longer hope to measure overall economic activity by counting how many widgets roll off an assembly line. We have to put a value on financial and high-tech services. Increasingly, we will also need to be tracking

internet commerce. It is imperative that our data collection methods keep pace with our rapidly changing economy. Our statistical agencies employ exceptionally talented people who are working hard to ensure that this happens.

In the last several years, one can point to many notable data enhancements from our statistical agencies. For instance, BLS has worked hard to improve the accuracy of the Consumer Price Index; BEA has implemented ''chain-type'' measures for GDP which provide a more up to date reading of the economy.

Despite such progress, more needs to be done. Growth is booming in the service sector, where we have the least amount of source data. We need to increase our coverage of this important part of our economy. It is imperative that we do so immediately, because there are already signs that our statistics are lagging behind the economy's advances. There has been a growing discrepancy between economic activity measured on a product basis and an income basis. In recent years, Gross Domestic Product (GDP) has been growing 0.5 percentage points slower than Gross Domestic Income on an annual basis. In theory, these two items should grow at the same rate since they are technically measuring the same thing.

Economists speculate that GDP growth is being understated because much of our recent economic growth has been concentrated in the hard to measure service sector. While a 0.5 percentage point difference in GDP growth might not seem like a lot, it has an enormous effect on our budget projections. Over a five year period, this difference could yield up to a cumulative $140 billion swing in our surplus estimates. Indeed, many believe that an understatement of GDP is a major reason why CBO, OMB and major private economic forecasters have been underestimating revenues as of late.

Thus, if we want to ensure that we have more accurate budget forecasts going forward, we should be directing our energies at improving the accuracy of the data used to build these forecasts. The Bureau of Economic Analysis (BEA) which compiles the GDP series has laid out an ambitious agenda to make just such improvements to its data collection procedures. Amongst other things, they are seeking to step up their coverage of the information sector in order to ensure that comprehensive data is available for the computer industry.

This is just part of their initiative to improve the GDP accounts. In order to do so, they have requested an additional $4.5 million. While this money is hard to come by given our tight budget caps, I think it is fair to say that this investment might have one of the highest rates of return within this bill. Indeed, in recent testimony to the JEC, Federal Reserve Chairman Greenspan said that statistics are ''one of the areas where I believe the payoff is of sufficiently large magnitude where very small amounts of money can have very large potential rewards.''

I hope that we take heed of Chairman Greenspan's words and that we will be able to find the funds to allow our statistical agencies to improve their data collection processes. I believe that this is the most effective way to improve the accuracy of our budget forecasts and enhance the countless other policy decisions yet to be made.●

TRIBUTE TO THOMAS ESTES

● Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to the life and accomplishments of Thomas Clifford Estes, of New Ipswich, New Hampshire, who recently passed away at the age of 66.

The family of Tom Estes can take comfort and pride in the way that he lived his life. Born on November 28, 1931, to the late Bedford and Emily Estes of New York, Tom graduated from Erasmus Hall High School and later studied at RCA Institute.

Following his father's distinguished example in serving this country in the armed forces. Tom joined the United States Navy in 1951, shortly after the outbreak of the Korean War. For three of his four years of active duty, Tom served on the U.S.S. *Tarawa*, a Navy aircraft carrier that entered the Asian war zone. He earned a number of Navy awards, including the Korean Service Medal, the United Nations Service Medal, the China Service Medal, the National Defense Service Medal, the Good Conduct Medal and the Navy Occupation Service Medal.

Tom's service to the nation was commendable, not just during the Korean War, but throughout his thirty-two years of Federal civil service. He began his career as a quality assurance engineer for the United States military in Florida and later moved to Dallas, Texas, before settling in New Hampshire in 1967. Upon his retirement, Tom was recognized by the Defense Logistics Agency for his contributions.

Tom was admired for his integrity, dedication to his community and positive demeanor. He remained a devoted husband to his wife, Mary, throughout almost thirty-five years of marriage and helped care for his disabled sister for many years. An accomplished chess player, Tom also enjoyed baseball and studied the law. He and his wife ran a small, twenty-acre farm in New Ipswich for many years. He was a man who cared about the needs of others and his community, whose sense of humor, cheery smile and knack for storytelling will be missed by all who knew him.

Tom will be buried with military honors at Arlington National Cemetery on Monday, August 3, 1998. I extend my deepest sympathies to his wife, Mary, his daughter, Evelyn, his sons Thomas and Peter, and his sister, Nancy. It is my great pleasure to pay tribute to this special American in the official RECORD of the annals of Congress.●

TRIBUTE TO THE BLODGETT OVEN COMPANY IN HONOR OF THEIR ONE HUNDRED AND FIFTIETH ANNIVERSARY

● Mr. JEFFORDS. Mr. President, July 25, 1998, is a great day for Vermont as we celebrate the sesquicentennial anniversary of the Blodgett Oven Company. On behalf of all Vermonters, I want to wish the company a very happy anniversary.

For one hundred and fifty years, the Blodgett Oven Company has been a commercial cooking products manufacturer in Burlington, Vermont. Their products are renowned for their reliability and quality. Throughout the world, Blodgett ovens, broilers, steamers, and fryers are depended upon by the food service industry. Chefs know that they can trust the Blodgett name to deliver efficient, technologically advanced machinery. Within Chittenden County, the Blodgett Oven Company plays an important role, stimulating the local economy by providing hundreds of jobs to area residents.

Mr. President, the Blodgett Oven Company is one of the most successful businesses in the state of Vermont. Their innovative products are well-known and, among their clientele, the company is regarded very highly. This tribute recognizes the achievements of the Blodgett Oven Company and, equally as important, the workers who contribute to the company's success.●

40TH OBSERVANCE OF CAPTIVE NATIONS WEEK

● Mr. DOMENICI. Mr. President, this year's Captive Nations celebration is dedicated to the ''Memory of the Over 100 Million Victims of Communism.''

Behind the Iron Curtain millions were killed and millions more were victimized by the societal and political structures that coerced conformity and attempted to dictate thought in these authoritarian states.

The term victim in this context conjures up SS troops and gas chambers, the purges under Stalin, Hungary in 1956, and the Prague Spring. Countless tragedies are recounted in the stories of those who fought for freedom and died at the hands of a racist regime bent on genocide or in confrontation with a relentless and overpowering Red Army.

Fascism lasted for 12 years in Germany.

Stalinism lasted twice as long in the Soviet Union.

An estimated 6 million perished in Nazi concentration and work camps during World War II.

Between 30 and 60 million perished through the work of Stalin's secret police from torture and execution.

There were, however, many more who persisted and became victims for their beliefs but remained clear in their conscience. The yoke of oppression could

not smote their passion. That is the essence of the ''Power of the Powerless,'' according to Vaclav Havel, dissident, writer, and political prisoner who is now President of the Czech Republic.

The ideas contained in the ''Power of the Powerless'' is what I would like to convey to you on this occasion, because of its lesson in today's world where Captive Nations are few and the powerless seized the power, because it belonged to them all along.

In 1978, Havel wrote:

A specter is haunting Eastern Europe: the specter of what in the West is called ''dissent.'' This specter has not appeared out of thin air. It is the natural and inevitable consequence of the present historical phase of the system it is haunting. It was born at a time when the system, for a thousand reasons, can no longer base itself on the unadulterated, brutal, and arbitrary application of power, eliminating all expressions of nonconformity. What is more, the system has become so ossified politically that there is practically no way for such nonconformity to be implemented within its official structures.

The system was exemplified by the greengrocer whose store displays the slogan: ''Workers of the world, unite!''

Due to semantics, the greengrocer is indifferent to the slogan.

His obedience is verbalized in a manner that does not degrade his humanity so much as the truth. ''I am afraid and therefore unquestioningly obedient.''

Ten years later, the system collapsed in the wake of dissent. The Berlin Wall fell in response to the pressure of East Germans voting with their feet, and within a year a microcosm of the former World Order vanished. Glasnost and Perestroika shook the ossified foundation of the Party and its dogma to its core, and the Soviet Union collapsed, allowing for self-determination and the birth of democracy in many formerly Captive Nations.

It was the Power of the Powerless, the greengrocer's humanity, that eventually brought the system to its knees. Any political system is comprised of the individuals within it, and these individuals, victims or conformists, possess the power of conferring legitimacy to the system.

In the former Captive Nations legitimacy waned when the victims refused to perpetuate the lie.

When the gap between ideology and daily reality could no longer be bridged by pat slogans and prescribed ritual, the system's foundation crumbled.

By accepting the rules of the game, individuals became players. But their refusal to abide by the rules frayed the tightly woven fabric of falsity upon which the system was based.

Rejection of the system is encapsulated in the following description:

One day something in the greengrocer snaps and he stops putting up the slogans merely to ingratiate himself. He stops voting in elections he knows are a farce. He begins to say what he really thinks at political meetings. And he even finds the strength in himself to express solidarity with those whom his conscience commands him to support. In this revolt the greengrocer steps out of living within the lie. He rejects the ritual and breaks the rules of the game. He discovers once more his suppressed identity and dignity. He gives his freedom a concrete significance. His revolt is an attempt to live within the truth.

In his expression of his identity and human dignity, the greengrocer becomes the victim.

He is purged from the system and punished. His actions are a reminder that an alternate truth exists, thus, he is a threat.

He has done more than express his dissent, he has illuminated the lie that comprise his surroundings.

His power is augmented in its juxtaposition to the facade.

It was the many who expressed their identity in those Captive Nations who tarnished the ideological veneer that was to bridge the gap between truth and falsity. They were victimized, often murdered, for their unwillingness or incapacity to abide by the rules and forfeit their dignity.

Legitimacy is the glue that holds the system together. Legitimacy must be conferred by the individuals in the system. Without the power of individuals the system must utilize force, coercion and fear to maintain control. The days of an authoritarian state are always numbered, and democracy is the only legitimate social order. It is for this reason, I believe, that in time the remaining Captive Nations—Cuba, China, North Korea—also will join the community of democratic states. The ideological battle is over, and the system with the only solid basis for its legitimacy—its citizens—won.

In memory of the millions who perished under authoritarian regimes, it is only right for us to recognize their sacrifice. They rejected the facade and refused to perpetuate or propagate the lie. Their sacrifice is also a sobering reminder of our privilege.

It is also appropriate and important to recognize the victims who survived and are witness to the crimes of history. In commemoration of those who perished, it is all the more potent to recognize those who were victims and survived. Today we can applaud those who would not be victimized, the individuals who refused to be swayed by untruths and promises of power. They are the ones that I would like to remember today. The ones who fought tyranny and prevailed have offered the greatest gift to those who tried and failed. They serve as a reminder to those around them that living a lie is worse than living in fear. And in the Captive Nations they were many in 1989 and thereafter.●

CLIFFORD J. GROH

● Mr. MURKOWSKI. Mr. President, a good friend of the State of Alaska passed away on Sunday evening, Clifford Groh. He was a well-respected member of the Anchorage community and a leader in the Republican Party. He was educated in New York and New Mexico before settling in Alaska. He served his country in the Navy and plied his trade as a lawyer. Cliff served our state as a member of the Alaska Constitutional Research Committee, Chairman of the Anchorage Charter Commission, the Anchorage City Council, the Borough Assembly, and also as a State Senator. In 1967 he was appointed Honorary Chief by the Alaska Federation of Natives and in 1972, he was voted Outstanding Legislator of the Year by the Eagleton Institute of Politics at Rutgers University. Cliff served as our State Party National Committeeman from 1976–78 and General Counsel from 1978 to 1990. President Bush appointed Cliff to the Arctic Reserach Commission. In 1977, I had the pleasure of presenting him with the Republican Party of Alaska's Life Service Award. He is survived by his wife, Lucy and their three children.

Mr. President, we share the family's grief at their great loss and take solace in the fact that this talented, highly respected man will live on in the memory of all who had the pleasure to know him.●

TRIBUTE TO THE DEVONSHIRE MEMORIAL CHURCH OF HARRISBURG

● Mr. SANTORUM. Mr. President, I rise today to pay tribute to the youth group from Devonshire Memorial Church in Harrisburg, Pennsylvania. On Sunday, July 26 ten students from the church will travel to Manning, South Carolina to assist in the rebuilding of the Macedonian Baptist Church which the Ku Klux Klan destroyed by fire in 1996. The young people will also be working to renovate homes of church members that suffered damage due to the fire.

The teenagers, who raised their own support for the trip through things such as church-wide dinners and fundraising letters, will join approximately 250 other young people from across the nation to work on painting, hanging drywall, repairing roofs and caulking windows.

Church burnings are a violent act of hatred against the free exercise of religious faith. Arson, which has destroyed many southern African American churches, has also destroyed our dignity and our humanity. By dedicating their time and effort to rebuilding the walls of a church burned by hatred and bigotry, these young men and women are tearing down the walls of violence and racism and restoring faith to the Christian community.

Mr. President, I ask my colleagues to join me in commending the young men and women of Devonshire Memorial Church for their dedication to restoring a church and a community, as well as the ideals of freedom in this country.●

AMENDMENT NO. 3294, AS MODIFIED, TO S. 2260

Mr. SHELBY. Mr. President, on behalf of Senator HOLLINGS, I ask unanimous consent that amendment No. 3294, previously agreed to, be modified with the language now at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3294), as modified, is as follows:

On page 96, strike lines 3 through 16.

AFRICAN ELEPHANT CONSERVATION REAUTHORIZATION ACT OF 1998

Mr. SHELBY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 39, Calendar No. 435.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 39) to reauthorize the African Elephant Conservation Act.

The Senate proceeded to consider the bill.

Mr. CHAFEE. Mr. President, I am pleased that the Senate is considering H.R. 39, the African Elephant Conservation Reauthorization Act. The bill was introduced by Congressmen YOUNG on January 7, 1997, favorably reported by the House Resources Committee on April 21, 1997, passed by the House the same day, and referred to the Committee on Environment and Public Works. Senator JEFFORDS introduced a companion bill, S. 627, on April 22, 1997. The Committee held a hearing on both bills on November 4, 1997, and favorably reported them on May 21, 1998. Today we take up the House passed bill to expedite Congressional action on this important legislation.

The bill reauthorizes the African Elephant Conservation Act for four years, through 2002, at the current authorization level of $5 million annually. The current law was enacted in 1989, in response to a sharp decline in many populations of African elephants due primarily to poaching for ivory. Population estimates vary widely across its range, but the total population is estimated to have declined by as much as 50 percent, from 1.3 million elephants in the late 1970's, to less than 700,000 in 1987. The species continues to decline, with a population of about 540,000 elephants in 1996.

The Act established a process for implementing strict ivory import controls, and established a dedicated fund for cooperative conservation projects in African countries. The Act has been tremendously effective in assisting in conservation efforts worldwide. Under the authority of the Act, President Bush established a moratorium on all ivory imports into the United States, which served as the impetus for the worldwide ban on trade in elephant parts and products, approved by the Parties to the Convention on Trade in Endangered Species of Fauna and Flora (CITES) one year later.

Through the Act, the Fish and Wildlife Service has funded 60 projects in 19 countries since 1990. The law has generated approximately $22 million for elephant conservation programs, of which $6.8 million has been provided by the U.S. Government, with $15.8 million from other sources. Indeed, the success of this law has led to similar laws for Asian elephants, rhinos and tigers.

Again, I am pleased that the Senate is considering this legislation, and I hope that the President will sign it into law soon. Thank you, Mr. President. I yield the floor.

Mr. SHELBY. I ask unanimous consent the bill be considered read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 39) was considered read the third time and passed.

EXPRESSING DEEPEST CONDOLENCES TO THE STATE AND PEOPLE OF FLORIDA FOR LOSSES SUFFERED AS A RESULT OF WILD LAND FIRES

Mr. SHELBY. Mr. President, I ask unanimous consent that the Environment and Public Works Committee be discharged from further consideration of H.R. 298 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

H. Con. Res. 298, expressing deepest condolences to the State and people of Florida for the losses suffered as a result of the wild land fires occurring in June and July 1998, expressing support to the State and people of Florida as they overcome the effects of the fires, and commending the heroic efforts of firefighters from across the Nation in battling the fires.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. MACK. Mr. President, I rise today to again address the ongoing situation in my home state of Florida. As I mentioned earlier this month on the Senate floor, devastating wildfires have ravaged Florida, imp;acting all of our 67 counties since May 24, 1998. Since this crisis began, more than 2,000 separate fires to date have been identified and more than 500,000 acres have been burned.

The massive campaign which has been undertaken to contain these fires is encouraging. Firefighters from across the country have been part of this effort. On behalf of the state of Florida and its people, I would like to thank all of the states, communities, and families that have committed resources to these efforts.

Today, I join with the Florida Congressional delegation in support of H. Con. Res. 298. This resolution expresses our condolences to the people of the state of Florida who have suffered throughout this ordeal; and commends the important and heroic efforts of the firefighters, as well as the numerous federal, state, and community entities aiding in the struggle to contain and extinguish the fires.

I appreciate the work of my Senate colleagues who have enabled us to bring this resolution to the floor quickly. I hope this swift action by Congress will help bring attention to the continuing efforts of government and community leaders, and will help lift the spirits of those closely engaged in this battle. I thank the chair and I yield the floor.

Mr. GRAHAM. Mr. President, I rise today in strong support of H. Con. Res. 298, expressing our deepest condolences and support to the State and people of Florida for the losses they have suffered as a result of wild land fires that occurred throughout June and July of this year.

Many of my colleagues will remember that Andrew roared ashore in the middle of the night and vented its fury on the people of South Florida. The storm severely disrupted the lives of thousands of families. This August, Floridians will remember Hurricane Andrew with another natural disaster on their minds. Since May 24, a deadly combination of intense heat and prolonged drought sparked more than 2,200 forest fires in Florida's 67 counties.

Even for a state that is experienced in dealing with natural disasters, these fires have been spawned during what may be one of the worst years in Florida meteorological history. In late January and early February—in the midst of our state's dry season—several Northern Florida counties were deluged by massive floods. Not long after, parts of Central Florida were devastated by thunderstorms and tornadoes that are more typical in the summer months.

The fire crisis is the latest example of our state's climactic reversal of fortune in 1998. Florida's hot summer temperatures are typically accompanied by afternoon thunderstorms and tropical weather. This year's heat and drought, and the lush undergrowth and foliage that sprung up in the wake of Florida's unusually wet winter, combined to fuel the fires that have put the state under a cloud of smoke and chased nearly 112,000 residents from their homes—7,040 of them into emergency shelters.

Florida has sustained almost $300 million in private damage, and state and local governments have spent over $100 million in responding to the fires. In a step never before taken in Florida's long history with violent weather,

every one of the 45,000 residents of Flagler County—a coastal area between Jacksonville and Daytona Beach—had to be evacuated from their homes over the Independence Day weekend.

Mr. President, Mother Nature has once again subjected Florida to unprecedented weather conditions. But with the memories of Andrew's aftermath still fresh in our minds, we know that the national response to our pleas for help is anything but unprecedented—and are moved by the immediacy of Americans' heartfelt offers of assistance.

In response to this crisis, Americans from 44 states are fighting side-by-side with Floridians to prevent these fires from endangering families and engulfing even more homes, businesses, and roads. For example, U.S. Marines, National Guardsmen, and National Weather Service meteorologists from all over the country have converged on Florida.

California, Oregon, and South Dakota—states whose residents are not strangers to violent weather and natural disasters—sent nearly 1300 fire fighting personnel to Florida. North Carolina, a state that is even more heavily forested than my own, sent 47 fire trucks and 169 firefighters to Florida. Pennsylvania, which lost more than 2,200 citizens in less than ten minutes during the catastrophic Johnstown flood of 1889, has contributed 89 volunteers to combat this natural disaster in 1998. In fact, so many states have donated equipment that two-thirds of all the firefighting helicopters in the United States are now working in Florida.

Mr. President, I have lived in Florida for more than sixty-one years. In that time, I have never observed wildfires as widespread and unmanageable as those that have plagued our state for the last forty-four days. On behalf of 14 million Floridians, I offer my deepest thanks to the thousands of Americans who have voluntarily left their homes and risked their lives so that our state's fire victims might not lose theirs. They are true heroes, and all of us who proudly call Florida our home are forever in their debt.

I am pleased to announce that the Herculean efforts of these brave firefighters were not in vain. Floridians who were forced from their homes have now returned, and almost all of the fires have been brought under control. Mr. President, I urge my colleagues in the Senate to support H. Con. Res. 298 to pay tribute to the citizens of Florida and those from around the nation who came to our assistance.

Mr. SHELBY. I ask unanimous consent the concurrent resolution be agreed to, that the preamble be agreed to, the motion to reconsider be laid upon the table, and statements relating to the resolution appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 298) was agreed to.

The preamble was agreed to.

ORDERS FOR FRIDAY, JULY 24, 1998

Mr. SHELBY. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:15 a.m. on Friday, July 24. I further ask that when the Senate reconvenes on Friday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate immediately proceed to the vote on passage of the transportation appropriations bill as previously ordered.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SHELBY. I further ask consent that following disposition of the transportation bill, the Senate proceed to the consideration of H.R. 1151, the credit union bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. SHELBY. For the information of all Senators, tomorrow, at 9:15 a.m., the Senate will vote on passage of the transportation appropriations bill. Following that vote, the Senate will begin consideration of the credit union legislation. The leader has announced that any votes ordered with respect to the credit union bill or any other legislative or executive items will be postponed, to occur on Monday, July 27, at a time to be determined by the two leaders.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 9:15 A.M. TOMORROW

Mr. SHELBY. Mr. President, if there is no further business to come before the Senate, I now ask the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 9:14 p.m., adjourned until Friday, July 24, 1998, at 9:15 a.m.