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Senate

The Senate met at 10:30 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious Father, our hearts are filled with gratitude. We are thankful that You have chosen to be our God and chosen us to know You. Your love embraces us and gives us security, Your joy uplifts us and gives us resiliency, Your peace floods our hearts and gives us serenity, Your Spirit fills us and gives us strength. You have blessed us with the privilege of prayer so that we could receive Your wisdom and guidance. With never-failing faithfulness You hear and answer our prayers as we seek first Your will and the courage to do it. During the intensely busy past few weeks, You have been with the Senators through long days and late evenings. You have honored their commitment to hard work. Thank You for the magnitude of legislation that has been accomplished. Grant the Senators and all who work with them the perspective of taking victories and defeats in stride. Our best efforts are incomplete so we press on; our steps in each day are only part of the long journey of progress, so we do not lose heart.

We commit this day to You and ask that You will grant us a second wind of renewed energy and vision for the challenges ahead of us today. In the name of our Lord. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. Our able majority leader, Senator LOTT, is recognized.

SCHEDULE

Mr. LOTT. Mr. President, this is the day we can accomplish an awful lot for the American people in passing conference reports which are completed and ready to go to the President for his signature. Truly monumental accomplishments can be achieved today—or tomorrow. We have a lot of work to do, but it is work that we can finish, I think, in a responsible and agreeable way.

For the information of all Senators, there are a number of important matters that are available for consideration that I hope the Senate will be able to proceed to and complete action on today. I understand at this time that the D.C. appropriations conference report, the military construction appropriations conference report, the Department of Defense authorization conference report, the legislative appropriations conference report and the health care reform conference report are available for Senate action. I hope all my colleagues will cooperate in allowing the Senate to do its business and complete action on these measures prior to recess.

It is also still my intention to consider the Veterans' Administration, Housing and Urban Development appropriations matter this week. We need to get that bill completed so we can get into conference. Our veterans and people who seek the American dream of home ownership are dependent, in many instances, on this very important legislation. This is a bill I believe we can get completed, get it into conference, and then move it on to the President early in September.

I will, once again, remind my colleagues there is a lot of work to be done and not a lot of time to accomplish it if we want to get out sometime today or tomorrow to go be with our constituents in our respective States. Therefore, Members can expect a full day and evening with rollcall votes throughout that time. Also, it may be necessary for the Senate to convene tomorrow, if we are unable to complete action on these important matters.

Mr. President, if I could continue, I am prepared now to ask consent to approve the nomination of Ann Montgomery to be a district judge for Minnesota. I would like to do that. I am also, though, then going to move to approve the Commodities Futures—CFTC nominees. I believe there is a Republican nominee and a Democratic nominee. That has been held up for weeks and weeks and weeks. After a lot of effort and serious consideration we have cleared that. We are ready to go with that.

We need desperately to have the Chief of Naval Operations in place. It has been a very slow but very careful consideration of the next admiral to be the Chief of Naval Operations, Admiral Johnson. His nomination is ready to be moved, along with a long list of other military personnel that deserve the opportunity to have their nominations completed. I would like to do that.

We have a number of other very noncontroversial actions that we can take, including the naming of Federal buildings and a list—I mentioned some of them last night that we can get approved. So I am prepared to get started with that. I hope that would break through the logjam and get things started in the right direction.

I am prepared also to begin discussing the D.C. appropriations conference report, the military construction appropriations report, the legislative appropriations conference report, and also to begin discussion on the all-important health insurance reform package. Is it perfect? No. Is it everything we want? I know it is not. But it is a major, major step forward for the women and men and children of this country—the guarantee of available and affordable health care. Could we leave this building tonight, not having done that?

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

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After a lot of fuss and carrying on yesterday and complaining and grousing, the House voted 417 to 2 for genuine, responsible, affordable health care reform that will make it available to people, with choice of the medical savings account. Senator KENNEDY, Senator KASSEBAUM, Congressman HASTERT, Congressman ARCHER, have worked heroically to bring this to conclusion. Can we not begin debate and come to conclusion on this important legislation now? Why not?

Who among us here today, for whatever reason, wants to stop funding for the District of Columbia, as desperately as it is struggling to survive and stand on its feet? And we are going to walk off and leave this conference report uncompleted? I do not believe that will happen.

Are we going to walk away from safe drinking water? Safe drinking water?

Mr. FORD. It's not here yet.

Mr. LOTT. I am a little worried that that bill would not be completed. I live in the District of Columbia. I worry about the water.

It is not here yet. The distinguished minority whip makes that point. It will be here today.

I am just racking them up, as to what we can do today. I urge my colleagues to come on over and let us get started. Let us not wait until the Sun goes down. Let us show them the Senate does not have to be nocturnal. While it may look dark here, it is light outside. We can bring some sunshine to this institution by doing these very important pieces of legislation.

I am prepared to go to the first nomination, but I see at least two or three Senators who appear to be wishing to make some comments. I would be glad to yield the floor.

Why do I not yield the floor and then, if Senators would like to comment, then I will move these nominations when they are prepared to do that.

I yield the floor.

Mr. WELLSTONE. I am prepared.

Mrs. HUTCHISON addressed the Chair.

The PRESIDENT pro tempore. The Senator from Texas.

THE STALKING BILL

Mrs. HUTCHISON. Mr. President, I would like to just get a little clearer idea of where we are. I feel like there has been a mixture of issues here.

I did object to Judge Montgomery's going forward, because I wanted to finish looking at this. There are a number of people who have been concerned about the nominations that had gone through and want to look at the overall record. I am not prepared—I will object until I know a clear field and have a better idea of where we are going. But I am not saying that I will keep the objection on Judge Montgomery.

But in the rhetoric that has been flying around on the floor I think the stalking bill has been brought up. I did not put them together. But in his statement the night before last, when I objected, the distinguished leader of the Democratic Party said that I should be grateful to him for his help on the stalking bill and, therefore, not use my right to object to a judge. And I was just very concerned about that, because I have worked on this stalking bill since Memorial Day. I have tried to pass a bill that would protect the stalking victims of this country since Memorial Day. I have been held up by a Senator, whose sincerity I do not doubt, but, nevertheless, he knows that the amendment that he wanted to put on had some problems. He knew that it might cause a problem.

I suggested that if he would just put his amendment on another bill, mine then could go forward to the President and we could have the protection for the stalking victims of this country today, because the President, I believe, will sign it very quickly.

All the indications are it passed unanimously in the House. We wanted it to be passed unanimously in the Senate without amendment so it could go straight to the President. We wanted that on Memorial Day. But nevertheless, the minority leader says I should be very pleased he helped me pass my bill, and my bill is dying in the House right now because of the amendment that he forced me to take in order to move on another issue.

So I don't doubt anyone's sincerity here, but I do want to have a clear picture of when we are going to take up the stalking bill. I said I would be happy to work with the Senator, whose amendment is causing the problem, to do it on another issue. But since they have been joined—not my me—I do think that it is fair for us to take a little time and let me see what the clear picture is on the stalking bill, and then I think we can—I am sorry that they were joined. I didn't join them. But now that they are, I would like to have a clear picture. I don't want rhetoric to continue to get out of control here, but I would like an answer.

So, 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. 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. Mr. President, I was talking when I should have been listening. If I can ask the Senator from Texas, I heard you at the beginning of your remarks indicate that you were perhaps not prepared to allow this consent to go forward at this time. I am sure you heard some of the discussion last night. I was one of the ones who mentioned it in some way had been attached to the stalking bill, and the minority leader had talked about how he had tried to be helpful to the Senator.

I am very much committed to the stalking bill which the Senator from Texas has been working diligently on for months now. I was here the night it was all cleared right up to the last minute, and all of a sudden something happened and it was objected to.

There is not a Senator who thinks we should not pass the stalking bill. If you really care about women and children and how they are treated across State lines, being harassed and stalked, this bill should be done. But it was held up for quite some time by a Senator that had an amendment he wanted to offer.

There was a lot of cooperation from the Senator from Texas, the Senator from New Jersey, the Senator from Idaho, Senator CRAIG. It was worked out. It was sent to the House. It looks like it may not get through the House now. The understanding was if it got tangled up, we would bring it back freestanding without the amendment.

Mrs. HUTCHISON. If the Senator will yield.

Mr. LOTT. I yield.

Mrs. HUTCHISON. I think it is important to know the arrangement that was given, because I have not mentioned that because I did not want to jeopardize the ability of the amendment to stay on the bill in the House. I have been in good faith. I supported the amendment. I have tried to get House support for the amendment. But I did not mention that we had an agreement with the minority leader, with the majority leader, with myself, with the Senator from New Jersey, that, in fact, if it got bogged down that they would let us pass it clean in the Senate. It has gotten bogged down.

Now I want to have an assurance that everyone's word is going to be kept here, and then I will certainly get out of this picture. But it has now become clouded, not of my making, but it has been. That is why I was trying to have the opportunity to see what the commitment will be to see if we cannot have help for the stalking victims starting right now.

Mr. LOTT. Mr. President, if I could respond to that, I want to assure the Senator from Texas, I am absolutely committed to working with her on this very important legislation. I am committed to doing whatever is necessary to get it through with amendment, without amendment, clean, and I commit right here today, after you have had a chance to see what will happen in the other body—I am talking frankly about what is involved here because I don't think we have time to deal in nuances. We need to get right upfront as to what is happening and what we can do to solve it.

We will bring that bill back up by unanimous consent. We will move it, if we have to. We will do it when the Senator from Texas is satisfied that it is not going to move in the House, and it may.

Mrs. HUTCHISON. If the Senator will yield.

Mr. LOTT. I will be glad to yield.

Mrs. HUTCHISON. It was attempted to be brought up last night in the

House, and it was thwarted. So it has now had an opportunity and it was to be brought up in a way that the amendment would not be on it.

I have supported the amendment. I would like to see the amendment stay on it. But nevertheless, it is not one person in the House, it was several who have objected to it. And when it was to be brought up in that way, Members of the New Jersey delegation objected, and, of course, I understand that. I am not being critical. That is everyone's right, but nevertheless, I have been told I should be grateful for the help in passing my bill, which is now dying, and I am trying to see where we can make an agreement on this in order to free the business of the Senate.

Mr. LOTT. Mr. President, if the Senator will yield further, I commit to her I will stalk this bill across party lines, across State lines.

Mrs. HUTCHISON. Mr. President, I am not worried about the majority leader being committed.

Mr. LOTT. Let me go one step further. I want to assure her of my own commitment. I will be prepared to try to get unanimous consent to do it this night if that will be helpful.

Let me say, before I yield to the Democratic whip, the Democratic leader and I work together. We try very hard, in our trusting relationship. I think we have that. Sometimes we hope we can do things, we hope to achieve, but we have to deal with 98 other people. Every now and then, we get a little further out on the limb, and we have to back off.

The minority leader is a man of his word, and he has assured the Senator from Texas that he will work with us to try to get this done at the earliest time that the Senator from Texas would like to get that done. I don't want to speak for him or put words in his mouth, but I know him and I know, as he has already worked with me and with the Senator from Texas, that he is for this stalking bill, and he is going to work with us to try to get it done. He has another Senator, or Senators, who have an interest. We have to work through all that, but we will work through that.

Would the whip like to say something? I yield to the whip.

Mr. FORD. Mr. President, I was not privileged to the agreement among the distinguished Senator from Texas and New Jersey and our leader. So I am somewhat in a difficult spot here this morning. I will have to wait until the leader has arrived. He is not here at the moment, and we all understand why he is not, and also the Senator from New Jersey.

Two things happened. I remember the distinguished Senator from Texas making a statement on the floor about how much stronger her bill was after the Lautenberg amendment was attached, and you made a very strong statement about the bill as it left here.

The bill was only passed last week. We have been trying to get bills passed for 8, 9, and 10 months. So it was just passed last week. The problem in the House, as I understand, was they tried to strip the Lautenberg amendment from the stalking bill, and that is where it ran into trouble.

The day is not over and tomorrow is not over, as the majority leader has said. Maybe things can work out. I am willing to help in any way I can, but I am somewhat at a disadvantage, if I may use that as a tool here. I will work with the majority leader, as Senator DASCHLE has.

So I think what I am saying is correct here, that attempting to take the Lautenberg amendment off the stalking bill last night caused the problems, and that was the reason it was not brought up. Today is another day.

Mr. LOTT. Mr. President, if I could seek recognition again.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. LOTT. Before I press the Senator or give assurances to the Senator from Texas even further, could I inquire of the Democratic whip—I was under the impression that, if we could work out the difficulties with the nomination of Ms. Montgomery, we could also move the CFTC nominations, which are Republican and Democrat, we could move the military nominations, and we could begin to move the appropriations conference reports.

I am informed that maybe that is not the case if I move forward in good faith on the nomination of the judge from Minnesota. Have I been informed correctly we are not going to move these other nominations?

Mr. FORD. That depends. That would be my position as of this time, that only the one judge. We can do judges, and that is plural. We can do safe drinking water. We can do the small business minimum wage conference report.

Mr. LOTT. Oh, yes.

Mr. FORD. We could do health care and those sorts of things.

Mr. LOTT. Can we do the health care conference report?

Mr. FORD. Yes, we could. But, I mean, we have a little problem with that bill. As the majority leader knows, we want to have a striking provision relating to a drug patent that was put into the conference report. We would like to have an opportunity to remove that before we move to it.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. FORD. You have the floor.

Mr. LOTT. We are going to have to have some good faith and cooperation. If the Democrats are going to hold up all the legislation until we get agreement on all the judges, then I think that is exceeding anybody's expectations. It is not going to happen. I have acted in good faith. I continue to act in good faith. I have been here before everybody trying to work out one more. But if you are going to hold up agreed-to CFTC nominations and health insurance legislation and all these other bills until there is some agreement on all of the judges here today, then I think that is just not going to be possible.

POINT OF PERSONAL PRIVILEGE

Mr. LOTT. I want to say one other thing, Mr. President, because I have been waiting for an opportunity to rise on a point of personal privilege.

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

Mr. LOTT. My integrity has been questioned by a Member of the House of Representatives. The Congressman from California, PETE STARK, alleged that I had committed an ethical violation because, as the majority leader in the U.S. Senate and as a conferee on the conference with the House on the health insurance legislation, I urged consideration of the conference on a specific issue, this drug that was just mentioned.

Mr. FORD. Drug patent.

Mr. LOTT. The drug patent. That tells you how much I know about this. First of all, I resent the fact that my integrity was impugned. I do not act that way. This is not an issue that I have a direct personal interest in, even though I understand, I have been told, that this is intended to be a dagger aimed at my heart, that we are going to take out this drug patent to get at the majority leader.

Why? This is a product for arthritic patients. It is not produced in my State. There is no plant in my State. I do not have a vested interest in this. I act at the request of my colleagues in the Senate, Republicans and Democrats, Senate and House, as a conferee.

I was presented this issue as a fairness issue. I talked to a lot of different Congressmen and Senators. I talked to Congressman WALKER of Pennsylvania. He is the first one that mentioned it to me. I did not know what he was talking about. There are Democratic Congressmen who spoke up in defense of this issue yesterday.

I remind you, after questioning my integrity, Congressman STARK was one of only two—two—House Members who voted against that health insurance reform package. He is totally out of order, and I resent it. I am not going to tolerate that sort of thing.

Also, Senators came to me from all over America, Republicans and Democrats, saying this is something that ought to be done—Senator GORTON of Washington, I do not know what his interest is; Senator SPECTER of Pennsylvania; Senator SANTORUM. These are good and honorable men who made a case for it.

I have a staff member who is an expert tax lawyer, a woman. We discussed it. It seemed like the right thing to do. I urged, if it were possible, that this be included in the package.

That is the whole story. If you are aiming a dagger at my heart, you better pick another issue. I ''ain't got no

dog in this fight.'' I am just trying to help work it out with Senator KASSEBAUM and Senator KENNEDY and Democrats and Republicans, House and Senate, to get important legislation done for the women and children and the sick and the elderly in this country. A drug for arthritis, for Heaven's sake. So, you know, take it out; it is OK with me. But before you do it, you better check with a lot of Senators, Republicans and Democrats, that say they wanted that. But, in conclusion, Mr. President, if this is to get at the majority leader, you missed. I yield the floor.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, the argument of the majority leader is not with us here on this side. It is with Representative STARK over there, because we are not in—as he said, our dog is not in that fight. We do believe, however, that this drug for arthritis is one that, if you keep this language in the bill, will be manufactured for 2 more years and the price will be up. It will not be a generic drug.

That is our legislative problem with this and not an argument between the majority leader and Representative STARK. I think they should not jump on us. I think we will come together on it.

But the other side of the coin is there is a legislative problem that we would like to try to work out if we could as it relates to the bill. If that is possible, we will try to do that. I do not like personalities at all. I do not like this, taking another Member on in the press. I think it is wrong. I will defend myself. I am just as political as the next person, but I try, as best I can, not to be personal. I think it is unfortunate.

Mr. WELLSTONE. Will the Senator yield for a question?

Mr. FORD. Yes. I will be delighted.

The PRESIDING OFFICER. The Senator from Minnesota.

NOMINATION OF ANN D. MONTGOMERY

Mr. WELLSTONE. It is in the form of a question, if my colleagues would be tolerant for just a moment. The first question or comment is, again, I understand what the Senator from Texas has said. I do want to point out that Judge Montgomery does not have anything to do with what is going on in the House of Representatives or anywhere else. She is just back in Minnesota waiting to be confirmed.

I say to the majority leader, whom I have worked with in good faith and appreciate all that he is doing, that a long time ago we discussed Judge Montgomery. We were going to do it judge by judge. I hope she just does not get held up in this big puzzle, and we can please go forward with her.

The last point I want to make is just to follow up on the minority whip. Since then I talked to the majority leader yesterday about Lodine. I said this was something I would challenge on the floor. But I understand exactly what the majority leader had to say, and I, in no way, shape, or form, believe this should have anything to do with any kind of personal attack or anything like that. I am opposed to that. When we have this discussion and I have a point of order, I will stay far away from that.

The majority leader has been someone I have enjoyed knowing and enjoyed working with, and I want him to know that, as somebody who will be on the floor later on in that debate. But could we please—Judge Montgomery is just waiting back in Minnesota for us to move this. Could we please do that for her? I have told her that Senators, Democrats and Republicans, are good people, that we all have a big heart. Could we please move her forward?

Mr. FORD. Mr. President, I yield the floor.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

HEALTH INSURANCE REFORM

Mrs. KASSEBAUM. Mr. President, first I would just like to say, it has been a year ago today that the health insurance reform legislation passed unanimously in the Labor Committee. So, it has been a bumpy road to achieve what has been achieved, and, I think, a very important piece of legislation. One of the reasons it is on the floor today has been the active participation and support of the majority leader.

The Senator from Mississippi has been insistent that we achieve the passage of this bill, the conference be successful. I just want to say that I think any differences that may have arisen because of the patent extension provision, which was added late, can be addressed.

But certainly the majority leader is one of the reasons we have before us today the health insurance reform bill, and it is my hope that we can bring it up and we can address this and not put it off to the point that we are going to lose an opportunity to pass this, which is a small but historic step for health insurance reform. I yield the floor, Mr. President.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

LAUTENBERG AMENDMENT TO THE STALKING BILL

Mr. LAUTENBERG. Mr. President, I regret that I was not here at the time this debate began because we are now engaged in a discussion about what it is that is holding up the progress of the U.S. Senate on behalf of the American people. We have a most extraordinary situation here in the Senate. I think it is important the public understand what has happened.

The public is being victimized by procedural gridlock that is going to cost thousands of people across this country an opportunity to have their cases heard, to see justice dispensed, and fairness dealt with.

Last night, the U.S. Senate was thrown into gridlock once again, although an agreement had been reached between the respective leaders to move forward with several important judicial nominations. That agreement was undermined at the last minute when one Member of this body objected unexpectedly, and much contrary to the rules and protocol here—courtesy, if you will—when the minority leader, the Democratic leader, asked the Senator what was her objection, she turned on her heel and walked out. I have never seen that in the 14 years I have been in the U.S. Senate. Usually, there is a courtesy that says, ''Well, I object for the following reasons,'' and that makes sense. That is the way this body operates.

Now the basis of the objection has become clear. It is truly remarkable. The Senate is being held hostage and so is the American public for one reason, and one reason only: So that we do not take away guns from wife beaters and child abusers. We want to make sure they can get their gun if they want it. That is why some 2,000-plus women a year get killed by men who have already beat them up, have been hauled into court, and in many cases convicted of misdemeanors, and then they want their gun back. Around here, we want to make sure those nice boys can get their guns.

Mr. President, the situation is too absurd. It would almost be a comedy, but it is too serious, a matter of life and death for thousands of women and children whose futures are being threatened by a narrow faction of extremists.

I want to take a moment to explain. Mr. President, for months I have been trying to get an amendment included in the bill that deals with the problem of stalking. Stalking is a terrible thing for anyone to have to endure. We see it in New Jersey. We see it across the country. I am sure all 50 States have the problem. I support the bill. In fact, I am cosponsor of the legislation.

I wanted to make it even more effective. That is the right that we have here. When you have an opportunity to add a piece of legislation you think has merit, you put it on a piece of legislation that has already been introduced. I have been working to include an amendment that would prohibit anyone convicted of domestic violence from possessing a firearm. It is pretty simple. My amendment stands for the simple proposition that if you beat your wife, if you beat your kid, you should not have a gun. It says ''beat your wife, lose your gun; abuse your child, lose your gun.'' It is pretty simple. It is little more than common sense.

Mr. President, for months I tried to include my proposal as part of the

stalking bill. Finally, on July 25, after agreeing to several changes at the request of my Republican colleagues, my legislation passed the Senate by a voice vote. The compromise, Mr. President, that was worked out was supported by even the most ardent progun Members of this body. Even those Members were not willing to go on record and stand up here and vote to say that someone accused of wife abuse, child abuse should have to have a gun.

They did not want to vote on it, because it would have been a shameful experience. Maybe they would have pleased some, but they would not have pleased all. So our sense was that with the changes that were made at their request, the stalking bill, which was here with my amendment attached, should be able to move quickly and easily through the House.

It was my understanding that the majority party here was going to help work it through the House. Well, Mr. President, it looks like the extremists are back. Although the House passed a large number of noncontroversial bills earlier this week, this legislation was not among them. Now we hear that there is a move afoot among Republican leaders in the House to eliminate my proposal, the proposal that wife beaters should not get guns.

I think, Mr. President, the American people would share my outrage at this. Every year thousands of women and children die at the hands of a family member, and 65 percent of the time those murderers use that gun. There is no reason why wife beaters and child abusers should have guns, and only the most progun extremists could possibly disagree with that. Unfortunately, these same extremists seem to have veto rights in the House of Representatives.

Mr. President, I made it clear that if the stalking bill comes back from the House with my proposal gutted I will not just sit back and take it. The lives of thousands of women and children are at stake. We are not just talking about the use of a gun in a murder; we are talking about a gun that is used in intimidation, to threaten and to strike fear and harass. Imagine what a child must think when he sees a man holding a gun, threatening a woman, even if he does not pull the trigger. What kind of a society are we that says by law we should not remove the gun from the hands of that individual? I will fight for this every step of the way.

Now we have the progun extremists dictating how this body is going to function. It is across the Capitol, but we are willing to do it here. Things like judicial appointments, so that justice can be administered, so that we can move the process that this country has in its very foundation, a country of laws.

''No, no,'' the Senator from Texas says. ''No, no, you are not getting those judges. I don't care how good they are.'' What she is saying is, ''Unless you take off the denial of a convicted wife abuser to own a gun, I am not letting judges go through.'' What a contrast. It is perfect. Want to control the law, not let the judges go through, not let other important legislation go through? Tie the place up in a knot.

Well, maybe that is where we are going to be, but I hope the American public hears it. I hope they understand what is being said here, that you can have a gun even though you may have beaten your wife. It reminds me of the story I repeated on this floor now a few times about the judge in Baltimore County, not far from here, who, faced with a sentencing of a man who murdered his wife, sentenced him to 18 months, time to be done on weekends, because he said he ''didn't like giving a noncriminal a criminal sentence.'' In other words, murdering a wife is not the same as murdering a stranger.

Those who want to shut this place down are ignoring what the consequences are of this, not to let us consider noncontroversial judicial appointments. So eager that we protect the rights of child abusers that they will not let us consider a bill to fund veterans health care, environmental protection; so eager not to deprive a wife beater of a gun that they are willing to grind the Senate to a halt on all appropriations bills.

Mr. President, this is extremism run amok. It is outrageous, almost unbelievable. So I hope the people and the press will tell the American people what is going on here. It is quite an amazing story, stranger than fiction. It is unbelievable, in my view. It says a lot about this Congress and the power of the National Rifle Association. It says a lot about our values, priorities, and about our commitments to people victimized by domestic violence.

Mr. President, I am hoping that we can overcome the extremism on this issue, because special interests may have a lot of power in Washington. Extremism may have a lot of power in Washington, but, at the end of the day, the real power in this country rests—and so it should—with the American people. I am convinced that the overwhelming majority of Americans would agree with these basic principles: Wife beaters should not have guns. Child abusers should not have guns.

It is time for Congress to put these principles into law.

Mr. President, I just want to refer to the RECORD of July 25, 1996, when the Senator from Texas [Mrs. HUTCHISON], said:

> Senator Lautenberg is to be commended for working with us to make his amendment a good amendment, and it is a good amendment, and I applaud him for it. I think it adds to the bill. He was willing to work with us, and I think we now have a very strong bill. Because of Senator Lautenberg's amendment, we are also going to be able to keep people who batter their wives or people with whom they live from having handguns. So I think it is going to be a great bill that will give the women and children of this country some protection that they do not now have, and I am very pleased to be supportive of the compromise.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I am pleased that Senator LAUTENBERG has come to the floor, because I think that he is partially correct in his scenario of July 25, and that is that he and I and the leader of the Democratic side and the leader of the Republican side came together and made an agreement, and it was an agreement that I was concerned about but, nevertheless, was willing to work with all of my colleagues to make happen. That was the following: I do agree with his amendment. I think it is a good amendment. That was never the question. The question is, do we hold up a good bill that protects the stalking victims of this country with an amendment that might bog the bill down because it has to go back to the House?

Now, I supported his amendment, but I asked, ''Could we put it on another bill? Could we make the agreement that Senator LAUTENBERG would get his vote on another bill?'' The distinguished leader of the Democratic Party said, ''Well, they can take it up on a suspension in the House. It really won't delay the bill if they will do that.'' And I said, ''What if it runs into opposition in the House?'' at which time the Senator from New Jersey and the Senator from South Dakota agreed that they would let the Senate pass a clean bill that could go directly to the President, pass the same bill clean so it could go directly to the President, to get relief for the stalking victims, with the agreement of the distinguished majority leader that Senator LAUTENBERG would be able to go to another forum, another bill for his amendment.

So when we talk about the extremists that are for wife beaters having guns, that is really not the issue. The issue is, are we going to have the stalking bill, which is a good bill, which passed unanimously in the House of Representatives, if we can't get Mr. LAUTENBERG's amendment on the bill? That is the question.

Now, the Senator from New Jersey and the Senator from South Dakota gave their word that if it ran into trouble in the House, they would help pass a clean bill so that we could do that much and give the Senator from New Jersey another opportunity on another bill for his amendment. So that is the issue here. Now it has run into trouble in the House.

The distinguished Senator from Kentucky says, ''It has only been passed for a week.'' We got the bill Memorial Day. I had hoped that we could have it passed before Memorial Day. It has been 2 months since the bill came from the House, and we have had this opportunity.

I am certainly in sympathy with the Senator from New Jersey in wanting to have his amendment. But he did make

an agreement that he would not hold up one good bill for his amendment having to go just on that bill. We have other options. There will be other bills. The majority leader, whose word is good, will find another opportunity for the Senator from New Jersey. But we must know that we are going to have the stalking bill at some reasonable time. I would like to see it before the recess so that we can put this law into place. It has been pending since Memorial Day. So I would like to ask if we could work on having this bill out and work with the Senator from New Jersey for his amendment to go on another bill. It is really quite simple. If everyone is in agreement that the underlying stalking bill is good, then I think we should move forward on that.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

VA–HUD APPROPRIATIONS BILL

Mr. BOND. Mr. President, while we are talking about bills that need to be moved, I want to return to the matter of the VA–HUD appropriations bill. As Members in this body and those who are observing our actions will recall, last night, proceeding to the bill was objected to by the Senator from Minnesota. This bill is being held hostage for another issue not related to it.

I rise today to point out to my colleagues the importance of passing this bill as quickly as possible. This is an appropriations bill. This is an important appropriations bill that provides money for the Veterans Administration, the Department of Housing and Urban Development, Environmental Protection Agency, National Aeronautics and Space Administration, National Science Foundation, and others.

We not only have to pass that bill, however, to provide funds beginning on October 1, the start of the new fiscal year, there are, at the request of the administration, certain emergency supplemental matters that have to be dealt with now. Let me advise my colleagues that the consequences of continuing to delay action—and the delay last night may already have made it too late to get this bill through—I am ready, however, to stay here and work as long as the leadership wants us to work, because this bill contains a supplemental appropriation for Ginnie Mae, the Government National Mortgage Corporation. This bill provides a $20 billion increase in the current limitation on loan guarantees for mortgage-backed securities needed to finance FHA and Veterans Administration mortgages through September.

If we do not pass this bill, it means that sometime probably in early September, the VA and FHA will no longer be able to sell in the secondary mortgage market the paper that is generated by an issuance of loans to veterans and to those who qualify for the FHA. These people will be without the financing that should be available to them, and it will be the fault of this body and those who have held up this bill if veterans in my State, in the State of California, the State of New York, or the State of Minnesota are not able to get mortgages in September.

The effect will be ultimately increasing mortgage interest rates and constraining home financing availability.

In addition, if this bill is delayed past the signing after October 1, as of September 30 the Federal Emergency Management Agency advises us that they will no longer be able to write flood insurance policies. Property owners in every State in the Nation depending upon Federal flood insurance will no longer be able to get Federal flood insurance. The authority expires. We have been asked to include an extension of the authorization for one more year in this bill. Without this bill, flood insurance will not be available.

There has also been discussion of water projects. Everybody knows that the District of Columbia is suffering from drinking water problems. This bill includes $2 million for water infrastructure funds, including funds that will go ultimately to the safe drinking water revolving fund in every State and the District of Columbia.

That requires some additional explanation. We know that the House has passed the safe drinking water bill. We know also that the appropriations measure which passed both bodies and was signed into law for the current fiscal year had a provision that if the safe drinking water law was reauthorized prior to August 1, there would be roughly $725 million available for that fund. August 1 has come and gone. As a result of the terms of the appropriations bill for this year, that money goes into the clean water fund. Those moneys are in the process of being paid out by the EPA to the State revolving funds.

When this bill is ultimately passed and signed by the President, traditionally the EPA takes about 3 months to get regulations issued so that funds can be paid out to all of the States under the formula for the drinking water revolving fund.

We are prepared in this measure when the President signs the safe drinking water bill, as I hope he will, to credit the safe drinking water fund with the money that is poured over into the clean water fund and provide additional appropriations, reducing the clean water funds for the next fiscal year.

I have assured the authorizing committees that we will make those moneys available as soon as we can approve this bill. As soon as we can send it to the President and get it signed, that money will be there.

The opposition to moving forward to VA–HUD means that we are holding up money to go to drinking water projects and clean water projects. The money that was temporarily set aside until August 1 for the States for the drinking water funds is now in the clean water fund, and the EPA can continue to distribute that money. It can go to the States and the State revolving fund.

So that money is not lost. There have been some irresponsible statements by people who do not understand the process that the money is being lost. The money is not lost. The money can go to work today, tomorrow, this week on the clean water fund, but if it gets passed by both Houses and the President signs the safe drinking water fund at the direction and at the request of the authorizing committees, I will recommend to the committee and to this body that we put an equivalent amount from the 1997 appropriations into the safe drinking water revolving fund so that the District of Columbia and other States—as soon as the Environmental Protection Agency writes the regulations and can hand out the money—will have the dollars available to improve the drinking water supplies. That is another reason this bill must be protected.

In addition, this bill includes the funds needed as of October 1 to send out benefit checks to about 2 million poor and disabled veterans and veterans' widows. When this bill is held hostage, as it was last night, we are threatening the money that goes to the poor and disabled veterans and their widows.

This bill, Mr. President, also has $1 billion to restore FEMA's disaster relief fund so that disaster victims from floods and other disasters across the country may be helped by FEMA. Mr. President, when someone holds up this bill and holds it hostage, it is holding hostage the money that would go to aid victims of disaster.

I ask my colleagues to quit playing games with a vitally important appropriations bill. Deal with the other matters. There are many sensitive matters. There are many things that I have that are being held up, and I am doing my best to work out agreements with those who are holding them up. But I say to you that the appropriations bills need to go forward not only to fund vital programs that begin October 1, but in the instance of the Ginnie Mae loan limitation, the bill has to be enacted as soon as possible so that Ginnie Mae's ability to sell VA and FHA mortgages will not expire.

In addition, as of October 1, there will be no authority for FEMA to write flood insurance.

Mr. President, we have talked enough about all of these problems. I hope that very shortly the majority leader will be able to ask unanimous consent to move forward on some of these vitally important measures that are pending before this body.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Thank you, Mr. President. I say to my colleagues that I will take only 2 minutes.

Look, the Senator from Missouri—we know each other. We work together on the Small Business Committee. If we want to talk about being held hostage, we have a judge who is being held hostage. The Senator knows—he was up here earlier—that there are a lot of discussions going on. And I think the majority leader is confident that this can be worked out very soon.

Nobody is trying to stop everything. This all started with a wonderful judge. You would think she is wonderful. She thought she was going through the other night. Everybody had given their word. It was going to be by unanimous consent. And then, all of a sudden, for a variety of different reasons, it did not.

It does not do any good for anybody to get angry at anybody any longer. It did happen. We are now trying to work this out. Believe me, this really was the judge that was held hostage. But we are beyond that now. We are working hard on an agreement, and that is going to happen.

That is all I would say to my colleague. I think he knows that.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I would say simply that the effect of what has been done is to hold this bill hostage. I am not in here to fight about judges. I have had judges held up before. I sympathize with people who want to move things forward that are held up. I am simply pointing that out for whatever reason. I am not here to judge whether this judge may or may not be important in all the measures and all of the provisions that I have cited.

I want to call attention to everybody in this body the likely consequences of holding up this bill. It was held hostage last night, and until we hear differently, I regret that it apparently is being held hostage, and the consequences.

I yield the floor.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, let me just take 1 minute, and then I will sit down.

The Senator from Missouri is fussing quite eloquently here about not getting his bill up and giving a lot of reasons. The objection this morning came from your side, not from this side. It came from your side to bringing things up over a bill that is in the House, not in the Senate.

Mrs. HUTCHISON. Will the Senator yield? There has been no objection this morning. There has been no offer. There has been no objection. The objection was last night by the Senator from Minnesota on a judgeship.

Mr. FORD. Mr. President, I know what the objection would be. The reason it has been brought up is because there would be an objection, and the objection was made last night.

The finger pointing has gone too far here. I think we need to call a quorum, wipe the sweat off, and try to work things out instead of pointing fingers at each other. We are getting too harsh.

The majority leader is working hard, trying to make this thing work, and then we have people jumping up and down fussing back and forth. It is time it stopped. It is time it stopped.

I yield the floor.

Mrs. HUTCHISON. The Senator is correct. I suggest the absence of a quorum.

Mr. DORGAN. I want to make the same point. The Senator from Missouri makes an appropriate point about the urgency, and we need to move this legislation. I understand that. I accept that. I hope we can do that.

To suggest somehow that one Senator, the Senator from Minnesota, or anyone else in the Chamber is deliberately holding something hostage is not appropriate.

What has happened here is there are a series of issues that get done by consent and by agreement, and the majority leader and minority leader and others have worked hard to put these things together. Some of them become unraveled, and there are a number of reasons that they become unraveled.

The fact is when you start talking about taking hostages, if we wanted to spend some time we could talk about hostagees here for a while, but I do not think it would serve your interests or mine. I just think it is not appropriate to suggest that the Senator from Minnesota or anyone else is holding up this bill. There is a whole series of things that have to be done by agreement here, and when they are done all these things are going to work and happen.

Again, I say that it is appropriate to talk about the urgency of this bill. I do not want to go back and talk about how this started, but I know how it started and so does the Senator from Missouri, and it needs to get unraveled, which includes a whole series of issues including this bill.

I appreciate the Senator yielding.

The PRESIDING OFFICER. The Senator from Vermont.

DISTRICT OF COLUMBIA APPROPRIATIONS

Mr. JEFFORDS. Mr. President, I rise to raise the awareness of the Senate as to the importance of being able to pass the D.C. appropriations bill today.

The reason for that is that we have in this city a serious problem with the drinking water. And I will mention that in a little more detail in a moment. The bill is at the desk. It has passed the House. There is an appropriation in that bill to provide for immediate efforts to clean up the serious circumstances with the city's drinking water. I do not want to alarm anyone too much, but it is a health hazard to certain individuals who have immune problems as well as elderly people.

In order to correct it, it is going to take some effort from private contractors, and it is going to take funds in order to contract with respect to certain pumps that may be broken in the efforts to flush the pumps out.

In addition to that, we also have serious problems right now which need attention immediately, that is, we have public safety funds which have been increased in this bill. We have police cars right now on the blocks; we have fire engines in the shop and computer systems in chaos. There are funds in the bill which will allow us to do that and to get started immediately upon passage of the D.C. appropriations bill.

Let me read to you from the report on the drinking water matter so that everybody is fully aware of the situation the city finds itself in:

> The conferees are deeply concerned about recent violations of Federal drinking water standards and continuing problems that beset the drinking water supply and the distribution systems in District of Columbia. The Federal Environmental Protection Agency recently completed a preliminary investigation of the water quality problems attributed to the District water distribution system and concluded that there is an urgent and immediate need for the District to implement steps to assure the integrity of drinking water quality in the District. Among the most important of these recommended actions is that the District hire a private contractor or contractors to flush the drinking water distribution system completely and to inspect and repair water valves. The conferees agree that there is a strong Federal interest in assuring that those who visit, live, and work in the Nation's Capital have safe drinking water. Accordingly, the conference agreement includes $1 million in Federal funds for this purpose under Amendment No. 2. These funds are provided to the Financial Control Board to contract with a private entity or entities to conduct an inspection, the flushing and repair work recommended by the EPA. The conferees direct the Control Board to consult with the Department of Public Works, D.C. Water and Sewer Authority, and EPA in implementing this activity. Further, the conferees encourage the Control Board to move expeditiously to contract for the work in anticipation of the funds provided.

I just want to point out that if this bill passes, an immediate action will be taken to be able to correct the serious problems we have with the water in the city. So I hope that it would come to a point where we can pass that expeditiously today. The majority leader may or may not wish to call it up, but I want to let everyone know I am ready. It has passed the House. I want to assure all of the citizens of the District as well as those who visit us that we are doing everything possible and any delay would, again, impair the safety of certain individuals in the District, and I hope that does not occur.

In addition, we are ready to move on this, and it is important for the city to get into a position where they know where they stand. There are significant

differences that have been reconciled in favor of the city with respect to the amount of funds that will be available and to other matters.

So I am hopeful that we will be able to take this bill up. It is ready to go. We are ready to act on it now and we could have this down to the President for his signature this afternoon if and when it is brought up there is no objection, and I hope that would be the case.

Mr. President, I just hope that everybody is aware of the serious problem we are dealing with and that any attempt to forestall this would imperil people and I hope that will not occur.

Mr. President, I yield the floor.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

MILITARY CONSTRUCTION APPROPRIATIONS

Mr. BURNS. Mr. President, last night the House of Representatives passed and sent to the Senate the conference report on military construction, and that bill, too, is at the desk to be considered today. We have worked very, very hard with both sides of the aisle to work out our differences—and sometimes on the same side of the aisle.

I applaud my good friend from Vermont, with whom I used to serve on D.C. Appropriations, on the work they have done on the D.C. appropriations bill. And the work that Senator BOND has done in his committee as far as VA–HUD.

We have worked very hard, too, on the thrust of military construction in this particular year, not only dealing with less dollars but also dealing with some very important items which have always been put on the shelf. One of them is the environment because of the Base Closure and Realignment Commission, and the other one is family housing and support services for families that serve this country on our posts around the world.

This bill provides the necessary funding for the planning, the design, the construction, the alteration, and the improvement of military facilities around the world, and included in that, of course, is the appropriation that keeps us strong, the NATO Security Investment Program. It also provides the funding to implement base closures and realignment as called for by law.

Again, let me emphasize that in this bill there is included child development centers. We worry about children. We hear speeches made about children. Repairs are needed also for the damage that was done by Hurricane Bertha. In this bill is funding for family support centers on our bases and environmental compliance projects. I think one of the most important parts of the funding in this bill is environmental cleanup when these bases are closed and, of course, taking new actions where active bases are still in operation; hospitals, public safety such as fire stations.

There is $1.2 billion for the implementation of BRAC, $4 billion for family housing. Out of a $9 billion appropriation, $4 billion will be spent on families and family housing to improve the life of our military people. Just to give you an idea on that: Yuma Marine Air Station in Yuma, AR; Camp Pendleton Marine Corps Base, 202 units, spending $29 million; Lenmoore Naval Air Station in California; Florida, Mayport Naval Station; in Hawaii, almost $60 million being spent for family support and housing; in Maryland, just outside of Washington here, the Naval Testing Center at Patuxent River; Camp Lejeune, community centers; family centers in Texas, Corpus Christi Naval Complex; Kingsville Naval Air Station; in Virginia, Chesapeake, Wallops Island; State of Washington, at Bangor Naval Submarine Base, and Everett Naval Air Station, Puget Sound.

The list goes on of those projects that are started or being planned and started, and all of them in support of families that serve this country. One has to remember that they, too, have to live, and we have started a new project, the Secretary of Defense working with the corporate sector in partnership for private housing off base, which is a new approach. By the way, there is funding in the bill for his program. There is certain types of community impact assistance that has to be provided for our military who face the loss of a sale of private residences due to installation realignments and due to some closures.

So, Mr. President, that is what is in limbo here whenever we start talking about gumming up the process. Here is a bill that we have worked very hard to overcome the objections on both sides of the aisle, to make it through not only committee, subcommittee and full committee and, yes, on the floor to pass a bill, send it to the House and then conference and bring it back and it is ready to pass this body because the House passed it last night and it is ready to be sent to the President for his signature to implement what we think is very important in support of our military families around the globe.

So, I ask, if we could work out this so-called flap and get the process back on the move again, lay aside some of our emotions and do the right thing and allow us to bring the conference report of the military construction to this floor, pass it, and let us send it to the President.

Mr. President, I yield the floor.

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. 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.

ORDER OF PROCEDURE

Mr. LOTT. Mr. President, I think we had some good discussion this morning and I believe we made some progress in talking to Senators on both sides of the aisle, working out problems.

I know several Senators are going to need an opportunity to talk to the minority leader. I know the minority whip will be doing that here in a few minutes. So, hopefully, after those conversations we can get an understanding of how we can move on these very important issues. So, at this time, rather than just keeping the Senate here, what I propose to do is to have the Senate stand in recess until 2:30 p.m., at which time I will again enter into a colloquy with the Senator from Texas and the Senator from New Jersey about how we will deal with the stalking issue and the Lautenberg amendment; and then I would move to get unanimous-consent agreement on Judge Montgomery; and then I would move the CFTC nominees, and then the military nominations, including the new Chief of Naval Operations, which is needed very badly to be on duty. Then I would move to take up the health care issue.

In the meantime, I understand there will be some efforts made to deal with the drug patent issue in a way that, hopefully, is acceptable. And then we would go to the small business tax relief and minimum wage issue, and the safe drinking water conference report; all three of those conference reports.

I would also go to the DOD authorization and I would—of course, we would need to talk to the minority leader about exactly how we deal with that.

I would also attempt to move the three noncontroversial, universally supported military construction appropriations, legislative appropriations and D.C. appropriations. If we could get those issues worked out and completed, we would have made tremendous achievement here today.

If at 2:30 we cannot get an agreement on these, or an agreement on a package of these items, it would be my intent to take the Senate out for the balance of the day and come back tomorrow morning. I see no sense in standing around here waiting or going in and out on recess. So we will have 2½ hours now in which we can consider the situation, decide if we want to pass health insurance reform that so many people labored so hard on, that every voting representative in the House but two voted for just yesterday, the small business tax relief, minimum wage—everybody wants to get this done—and the safe drinking water. Everybody wants these three bills done.

I understand the White House is very anxious for us to get that done. There is no reason why we should not do these three appropriations conference reports. So we will have some time here to work through that and have a chance to talk to the minority leader. I hope to hear from him in the next hour or two. And we will see if we can

get this all worked out. And if we can, it would be really great. If we cannot, we will just go out and come back in the morning. I have had that on my mind all week anyway. So we can do that.

Mr. FORD. Would the Senator yield?

Mr. LOTT. I would be glad to.

Mr. FORD. I have no objection to the recess. But we do have a couple Senators that were on their way to make some remarks on our side. If you could withhold that or set it at the end of the statements by Senator KENNEDY and Senator WYDEN and maybe Senator BAUCUS, because those three would like to make some remarks. That way we would not be wasting the time.

Mr. LOTT. As long as there are Senators who would like to speak, obviously, we want to allow that. If those three are going to speak, we would probably want to have maybe some response on our side. But when we reach the point where Senators are not here speaking, instead of just keeping everybody here waiting, I would propose we recess then until 2:30. But at 2:30, regardless, I will move to get this underway.

MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business with Senators permitted to speak for up to 5 minutes each.

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

Mr. LOTT. When Senators have had their say, I will come back and ask that we stand in recess until 2:30. But we will wait on that.

Mr. FORD. With that understanding, Mr. President, I do not think anybody has any problem with that at all. I do have some colleagues that would like to make some remarks. And listening to the majority leader, you may have somebody that would like to come over and make some remarks too after these three Senators have on our side.

Mr. LOTT. We may eat up the time.

Mr. FORD. With the $435 a page, or whatever it is, it costs to print the RECORD.

Mr. LOTT. I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

HEALTH INSURANCE CONFERENCE REPORT

Mr. KENNEDY. Mr. President, I am very hopeful, and I know the American people are, that we will move ahead this afternoon on the conference report dealing with the Kassebaum-Kennedy bill. As we know, it was a year ago today that we passed that bill out of the Human Resources Committee. It languished for close to 9 months on the Senate calendar before it was considered. Then it was considered. And it has been several more months before we were able to get resolution of the principal items which were at issue, the portability issue, the MSA issue and the other provisions in the legislation. And we saw a successful conclusion of those issues just some 2 days ago. All of us are very eager to get that measure down to the President of the United States.

However, I must say, a number of us were very surprised to find that our staffs, around 10:30 or 11 o'clock the night before last, after a number of us were assured that there were only technical corrections in the legislation, discovered that a special provision had been included into the act at page 76. That special provision, which no one knew about, was a patent extension and special treatment for a drug called Lodine which people take for arthritis. And now that is in the health care legislation that we all want to get to the President of the United States as soon as we can. But, this afternoon we are faced with this special interest provision being put into the whole proposal.

I just want to make it very clear that neither I nor do I understand any other Member of our side, and to the best of my knowledge on the other side, had any idea whatsoever that this special interest provision benefiting a single company had been included in the health care bill. It is a special interest provision for one particular company that has annual revenues from this one drug, Lodine, of some $275 million.

The special interest provision gives that company 2 additional years of patent protection and other special benefits. As I understand it, in return, the company would have to pay $10 million each year for a total of $20 million to the Federal Government and pay the States so they do not have to pay for the increased costs due to the patent extension.

So the question is, Who pays? Well, the answer to that is, everyone else in America will pay more for Lodine. Every senior and every American who uses this arthritis drug will pay more because this special provision says no one else can compete with this drug for 2 more years. This provision eliminates competition and gives this company a monopoly, which means it can charge whatever it wants for its drug. Our seniors and everyone else will be paying the bill for this special interest provision.

The question is, then, How much more? How much more money will people have to pay? We know that generic competitors historically undercut the price of drugs like Lodine by 30 to 50 percent. That means that when a patent expires, other companies can make and sell inexpensive generic versions of the drug to compete. This provision means that there can be no competition for 2 more years and that means Americans will pay between $80 to $130 million more each year for this sweetheart deal.

Now, Mr. President, we all know that this sweetheart deal will cause all the other companies to come in here and ask for special favors also. This deal for one drug will open the floodgates and will cost consumers hundreds and hundreds of millions of dollars.

Mr. President, the claim is made that we ought to go ahead with this special deal because their competitor has received an extension. That a competitor, called Daypro, got a deal stuck into the continuing resolution in April 1996, without any hearings, without any testimony, without any public review by the committees with jurisdictions, does not make this right. It is an old saying, but it is true: Two wrongs do not make a right. Because one snuck through, we cannot do it again and again and again.

It will not stop with Lodine. There are 12 drugs in this class on the market. You do this for Lodine, and the other 10 will be here tomorrow. In fact, in the last 2 weeks alone, three or four of those other companies have already been in this building asking for special treatment like Lodine. It will not stop here. The special interests will be banging at the door.

Mr. President, this is not really a new issue for some Members of the Senate because there was an effort to include a special deal for Lodine in June 1996, in the Defense authorization bill in the Senate as part of the Hatch-Specter GATT loophole closing legislation. But, then the lobbyists started lining up asking for special treatment for other drugs. They claimed that if Lodine gets special treatment, then they we would have to do it for others.

Then there was the Bliley-Dingell letter to the Defense conferees saying, ''Take Lodine out''. And the House Judiciary also objected to Lodine, and the conferees took Lodine out of the Defense authorization bill.

That didn't stop the Lodine special provision. The special deal for Lodine was put into the House agricultural appropriations bill in July. But, Senator PRYOR and Senator CHAFEE drafted a letter dated July 26, 1996 to Senator COCHRAN and Senator BUMPERS saying there was no merit and no basis for a Lodine extension. They said there were no hearings or deliberations of any kind in either the House or the Senate to determine if there were any public purpose served by granting this special extension. They urged that it be taken out of the agricultural appropriations bill.

At about the same time, the Senate health care conferees were appointed on July 25. And on July 30, the Republicans gave the Democrats a draft of this section of the health care bill. That draft was dated June 25, but it had no provision relating to the patent extension.

Then, at about the same time, the agriculture appropriations conferees took the special provision for Lodine out of the bill. That, I believe, was also on July 30.

Now, back to the health care bill. On July 31, there were extensive negotiations on both of the issues of portability and on the MSA issues.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KENNEDY. Mr. President, could I ask for 5 more minutes?

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

Mr. KENNEDY. Then at 6:30 that night, July 31, after we worked out the portability and the MSA, I remember the call from Senator KASSEBAUM saying that we only had about 10 more minutes to sign. And so this Senator signed on the basis of the representations of what I knew was in the bill and the representations that were made by the various staff and other Members who were familiar with the language. There was never any mention of any special interest provision for Lodine.

We had the press conference announcing the agreement around 8 p.m. that night.

Then, around 10:30 that night, the Democratic staff go to legislative counsel and see the administrative simplification section, which they were being shown for the very first time. And there it was. Stuck in the administrative simplification section was this special provision for Lodine. This is the first time that anyone had seen this provision. Indeed, it was the first time anyone had even heard about it in connection with the health care bill.

They thought they killed it in the Defense authorization. They thought they killed it in the agriculture appropriations bill. But, they didn't. No. It was snuck into the health care bill and no one knew it and the rest is history.

It is interesting that over in the House on August 1, there was a Democratic effort to recommit the bill due to the special patent provision and also because of the nonparity for mental health.

The vote to re-commit in the House was 224 to 198. I have heard from a number of my colleagues that if that motion had only dealt with the patent provision, it would have been rejected and returned to the conference.

Now, Senator LOTT's spokeswoman was quoted in today's CongressDaily. I know Senator LOTT would want to clear up the alleged quote in Congress Daily because it said that this special provision was added with full knowledge of the conferees and was done for fairness. He was either misquoted or wrong on that, because it was not done with the knowledge of the conferees. If it were done with the knowledge of some of the conferees, then I hope they will come over here and explain it. Explain who knew about it. Explain who didn't know about it. Explain why this special provision was slipped into the health care bill without our knowledge.

Now, it certainly was not done for fairness. It was slipped into the bill without telling anyone, because it is not fair, and it is not deserved. Now, Mr. President, I will not take the time now to go into all of the details, but I will draw the Senate's attention to the fact that we have been addressing these kinds of issues for the last 20, 25 years. Because of the series of different requests during the 1970's and 1980's, the Senate and the Congress, in their wisdom, passed the Hatch–Waxman bill in 1984 to deal with issues of justice and fairness that perhaps arose under some circumstances due to the arbitrariness or termination of patent extensions. To avoid this very problem, that law was passed to treat all companies equally and fairly. That system has worked pretty well. As a matter of fact, Lodine itself has already gone through that process and it has already received a 2-year extension.

But it still claimed that it was treated unfairly by the FDA. It still claimed that the FDA delayed its approval and was unfairly denied years of patent protection. But, as everyone knows, the claim that the FDA delayed approval has no merit. Everyone knows this, because this claim was thoroughly reviewed in 1992 and 1993. In fact, the GAO did a full review and published a detailed report in April of 1993. The conclusions were unambiguous and firm: any delay was the company's fault, not the FDA.

I will conclude with this: In 1993, the GAO issued its report specifically about the Lodine patent. GAO concluded there was no basis for recommending a patent term extension. Lodine's approval was delayed because of the company's actions and for public health reasons. I have that GAO report right here. We will have a chance to get into it in greater detail, but for now let me tell you their fundamental conclusions:

(1) it is a ''me-too'' drug which provided no significant public health benefit or therapeutic breakthrough, which would justify expedited review (such as AIDS or cancer drugs);

(2) concerns about Lodine's carcinogenicity were raised both in Canada and the United States, which had to be resolved before the drug could be approved;

(3) FDA found that the Lodine submission was ''piecemeal, voluminous, disorganized and based on flawed clinical studies.''

(4) the Lodine submission to FDA did not contain ''enough data to prove efficacy until September 1989''—almost 7 years after the submission was made to FDA.

It goes on and on. Every single claim made by the company was investigated, reviewed and rejected on the merits. That is why this special interest provision keeps being slipped in under cover of darkness. It can't stand the light of day. There is no merit or basis for special treatment. Indeed, the facts show that this particular drug and this company was already treated fairly and appropriately. Under the rules that everyone else has to abide by, Lodine was treated right. It should have to play by the same rules as its competitors and everyone else.

Mr. President, I had hoped this special interest provision would not be included. It is not the way to do business. It is a special interest provision that was added without the knowledge of the members of the conference. It is bad policy.

Furthermore, it will result in the fact that millions of senior citizens will pay an unwarranted, unjustified additional amount for their prescription drugs because of one particular drug company which refused to follow the rules in terms of going through public hearings, public notice, and to give consumers a right to speak. It is absolutely wrong, Mr. President.

I hope we will have an opportunity to address this more, then move very quickly to the final consideration of the very important health care bill which we have reached resolution on. I see no other reason, if that unjustified special provision was resolved, that we could not resolve the conference report in an hour, or even less, so that it could be on its way to the President of the United States.

But, before we can do that, this special interest slipped into the health care bill will have to be examined. The American consumers deserve better than this type of shabby treatment.

The PRESIDING OFFICER (Mr. KYL). The Senator from Vermont.

MOLLIE BEATTIE REMEMBERED

Mr. LEAHY. I will be very brief, Mr. President. A few weeks ago, one of Vermont's most noted and valued citizens, Mollie Beattie, died. Much was said on the floor of the Senate about her. Much was said in Vermont at her memorial service and again at the Department of Interior when the Secretary of Interior, as well as the Vice President, her husband and others spoke. Much also was written in Vermont.

I noted a commentary by Jim Wilkinson in one of our Vermont newspapers about Mollie Beattie. Jim Wilkinson is one of those quintessential Vermonters who represents the best values of our State. I have known him for decades, both in his role as the commissioner of Vermont Department of Forest, Parks and Recreation, and more recently as the consulting forester for the tree farm my wife and I have in Middlesex, VT. He is a man of great depth, great honesty, and, frankly, great wisdom.

I ask unanimous consent that what he had to say about Mollie Beattie, reported in the Rutland Daily Herald, be printed in the RECORD.

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

[From the Rutland Daily Herald, July 23, 1996]

MOLLIE BEATTIE REMEMBERED

(By Jim Wilkinson)

Webster defines ''memoir'' as ''a report on an event of significance.'' This memoir is a personal observation on the life of Mollie Beattie, an event of great significance.

Mollie has been proclaimed as a scholar, a forester, a writer, a philosopher—all that and more. She was known as a friend, a public servant, a leader. In all of these roles Mollie's time with us was lived to the fullest, with vitality, commitment, and serenity.

Others have written or spoken of her career in public service to Vermont and to the

nation. Her political savvy and integrity brought professional respect, as well as outstanding accomplishment. The great courage of her final year has been cited as she fought and at last accepted death with confidence, peace and encouragement for others. Not only at death's door was courage so evident. Her professional standards and personal values demanded courage and confidence and determination in reaching the goals she set for herself.

Mollie recognized the importance of maintaining a strong, healthy persona—physically, mentally and spiritually—not a selfish concern for her ego, but the pragmatic acceptance that thus only could she give the most of her life. Carlyle wrote that ''Life is a little gleam of time between two eternities.'' Mollie's life was a great burst of light in that time allotted to her. We have been blessed by it.

She had one unusual and wonderful attribute—that of an unconscious but strong sense of personal presence, not one of power or command, but a presence that, of itself, demanded attention and got it. Hard to describe, but easy to recognize when you were exposed to it. Yet there were occasions when, while looking directly at you, she would leave you dreaming or thinking of some secret, transmundane reality, some mystic other world that only she could know and could not share. Then with a glance and a grin she would return her attention to you.

At the end Mollie could have assured us, ''I own only my name. I've only borrowed this dust.'' Mollie's dust has returned to the earth from which it evolved. But her name will live long in our memories. May those memories serve to guide, strengthen and encourage us in our lives of service.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I thank the Chair.

BLANKET HOLDS ON ENERGY COMMITTEE BILLS

Mr. MURKOWSKI. I rise today to inform my colleagues of my degree of frustration with the gridlock that has occurred this entire Congress preventing passage of virtually every bill reported by my committee, the Committee on Energy and Natural Resources. As chairman of that committee, I obviously have the obligation of moving the bills out. I have attempted to do that.

I think it was the night before last, Mr. President, that the minority leader, Senator DASCHLE, expressed similar frustration over an objection from this side of the aisle to a judicial nominee. You can imagine my frustration when a few Senators from the Democratic side have prevented passage of all 72 bills from my committee currently pending on the calendar. Those objections, Mr. President, were not based on the merits of the bills being held; they were based on a problem with some other bill. So we have this chain of ''you are not going to support my bill unless your bill passes.''

I think it is fair to note that during part of the last year and a half, all of my committee bills were being held not because of any inaction by the Senate or my committee, but the excuse was the House was not acting quickly enough on some matter of interest. There are many, many items that are very important to Senators. I want to get them cleared and get them out.

For example, Sterling Forest, my good friend Senator D'AMATO has been urging me, clear Sterling Forest. The New York Times has taken up the charge. I certainly want to see Sterling Forest cleared. I want to support the position of my friend, Senator D'AMATO from New York, who responded to the editorial of the New York Times as it affects New Jersey, as it affects New York. We attempted to clear that, along with the Utah ski bill, and a couple of small native items for Alaska.

I cannot recall how many holds—it was like a rabbit trail. You could not keep up with it fast enough. Once we attempted to clear them, one hold would go on, someone would attempt to remove the hold, and, bingo, it is back on. My good friend from Utah, Senator BENNETT, spent endless hours trying to clear that. This is a blatant abuse of the whole process. It has to stop. I know the leadership feels that way. The Members are going to have to recognize a few realities.

Over the past several months, I have been working with my House counterparts to put together a package in conference on the Presidio bill. It has virtually everything in it. Everybody is not going to like everything in it, but there is virtually something in it for every Member. If you want to get behind this bill and get these land issues passed, you are simply going to have to recognize that we will have to keep the bill together.

Due to the holds and the situation of the Senate, the process has become cumbersome, to say the least. Virtually everyone who has a parks or public lands bill introduced in the House or Senate wants to be included in any package that is moving.

On the other hand, if I try to move an individual bill separately, Members think the Presidio package is dying and want to be included in the measure, as well. So what we have, Mr. President, is gridlock. I am not going to point fingers. It is just the reality.

Mr. President, frankly, I have had it. Unless those Members who have blanket holds on Energy Committee bills, unless they lift those holds and allow me, as chairman, to work the system, to start moving individual bills and packages where appropriate, no bills are going to move. That would be a shame, Mr. President, because these bills affect our Nation's parks, public lands, our forests. They are good public policy, and they are good for the environment.

I want to also add one more thing, because there is some confusion about the interests of the Senator from the State of Alaska. The Tongass is not part of this package. There is a proposal to allow an extension, for 15 years, of a competitive timber contract with the Forest Service for Louisiana Pulp Co., Louisiana Pacific Co. The rationale behind that, or the necessity, is that they are prepared and required, under the new laws governing effluent and air quality, to invest roughly $200 million in converting this plant—which, I might add, is our only year-round manufacturing plant—in southeastern Alaska, upon which 2,000 jobs are dependent. They simply must have a contractual commitment from the Forest Service for supply of raw material.

Now, why is that different in Alaska? It is different in Alaska, Mr. President, because we have no other source of timber. There is no private timber. There is no State timber. It is all owned by the Federal Government, and their current contract is about to expire.

I ask unanimous consent to have 1½ more minutes.

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

Mr. MURKOWSKI. If the 15-year contract is not extended, this plant—the only manufacturing plant, with 2,000 jobs—will be lost, and the pulp timber will be exported out of the State, which is really a travesty.

Now, that is the interest of the Senator from Alaska in this package. So, Mr. President, I hope that clears up any doubts in the minds of anybody relative to the environmental aspects of the merits of this contract. This is to provide a chlorine-free new mill to replace the old one. But it can only happen if there is a contractual commitment for timber, because nobody is going to spend $200 million without an assured supply and a contract with the Federal Government.

So I am committed to moving these bills. My committee has held hearings on these bills and held the markups. I have supported and voted for each of these bills. I am not the problem, Mr. President. But unless these holds are lifted, I don't see how I can be part of the solution. So I urge my colleagues—particularly the leadership—to do what they can to end this gridlock. It just has to be stopped.

I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

EXTENSION OF PATENT FOR LODINE

Mr. WELLSTONE. Mr. President, I will be very brief.

Mr. President, I have sent a letter to my colleagues about the inclusion of the extension for the patent of the drug Lodine in the health insurance conference report and announced my intention to raise a point of order about this, since a similar provision was not included in either the House or the Senate bill. Whatever the intentions of whoever inserted this into conference committee report in the dark of night—and I don't know what their intentions were—certainly the impact of

this provision on consumers will be disastrous. Moreover, granting such an extension in the dark of night is not the way to legislate.

So all of my colleagues have a letter announcing my intent to challenge this provision on a point of order. I am also considering offering a concurrent resolution to delete this provision from the conference report. My hope is that we can get bipartisan support for this effort, in which case, one way or the other, we can knock this special interest giveaway out of conference committee report.

I want to state to my colleagues that this patent extension that we see before us for the manufacturer of Lodine essentially means that for a period of 2 years, and in effect over a period of 5 years because of the way the provision is written, cheaper versions of the prescription drug will not be made available to consumers. People who are suffering from arthritis and are not able to buy a cheaper drug will pay millions of dollars that they should not have to. This is really outrageous.

When I was a college professor, I talked about conference committees, and I knew they were kind of the third House of the Congress, but I had no idea that this type of thing happened all the time, or some of the time. But it should not happen any of the time.

What we have here is a company that sells over a quarter of a billion dollars worth of a drug, willing to pay the Government $10 billion a year for the additional costs that the patent extension will cost the Government in increased Medicaid and health care costs, but not willing to do anything for consumers and seniors. And quite frankly, the payments to the Government are nothing compared to the ripoff of seniors and consumers.

I hope that we may be able to do something about this situation together, in a bipartisan way. I believe that Senator KENNEDY, Senator KASSEBAUM, and many other Senators will be interested in doing that one way or the other. I started talking about this yesterday when I realized that, in the dark of night, this provision had been inserted, and one way or the other I am going to take action as a Senator from Minnesota to do everything I can to knock this provision out.

This provision represents a giveaway to a special interest at the expense of patients and senior citizens, and, quite frankly, the mysterious manner in which it was added to the conference report late at night is not the way we ought to be conducting our affairs here. This is a perfect example of the kind of practice that makes people lose confidence in our political process. Therefore, I hope all Senators, Republicans and Democrats alike, will join me in my effort to knock this provision out.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

FAMILY HOUR PROGRAMMING

Mr. DEWINE. Mr. President, earlier this week, the President of the United States gathered the TV networks together to work out a much-trumpeted agreement on quality TV programming for children. I certainly applaud the President's efforts, and I am pleased that the meeting has served to at least spotlight this important issue. But the sad fact remains that this new and improved agreement to bring quality programming to our children is really nothing more than a ratification of the status quo. In fact, two of the major networks announced they already met this agreement. Another said that it is just barely short of compliance now.

So, essentially, the President has come out and said he approves of what the networks are already doing about quality programming; the status quo is OK.

Mr. President, as the father of eight children, and now the grandfather of three, let me just say that I do not approve of what the networks are doing. In fact, I find that some of what you see on television during the so-called family hour, from 8 to 9 o'clock at night, is absolutely outrageous today. I do not approve of it. I can say with assurance that parents I have talked to are clearly frustrated with television programming today. The last thing we want to say to the networks is, ''Just keep on doing what you are doing.''

Parents do not want a measure that has a lot of fanfare and no substance. They want to do something real. Personally, I would like to be able to sit down after dinner with my 13-year-old daughter, Alice, or my 9-year-old son, Mark, or my 4-year-old daughter, Anna, and watch a half an hour or an hour of TV without having to always be in some sort of high state of alert for things that might not be appropriate for any one of them to see.

You know, Mr. President, it was not that many years ago that we did not have this problem. We could all watch TV with our children between 8 and 9 o'clock at night without having to worry about them. While every show between 8 and 9 wasn't a great show, at least you could find one show between 8 and 9 o'clock at night that was appropriate for a child to watch with a parent.

Mr. President, I think we should take advantage of the attention that the White House has focused on this issue, and I think we should use it to call for some measures that really would make a difference.

Our distinguished colleague from Connecticut, Senator LIEBERMAN, has recently proposed a resolution that I think would do a great deal to accomplish this goal. His resolution would call upon the networks, on a strictly voluntary basis, to restore the idea of family hour programming.

That, Mr. President, would make a real difference in the lives of America's families. I would guess that, on this issue, my experience is not unique or unusual. Who among us—among all the parents in this country—has not been very worried about what their children might suddenly be exposed to on TV?

Just a few years ago, during the family hour, you did not have to do that. I am not talking about just the 1950's or the 1960's; I am talking about as recently as less than a decade ago. I think many of us in politics do not fully realize how much and how fast TV has changed just in the last few years. That is why I think my colleagues will be interested in seeing a comparison of the TV Guide listings for the hour between 8 and 9 o'clock as they have changed over the years.

I ask unanimous consent that this very interesting document be printed in the RECORD at the conclusion of my remarks, and I recommend it to the attention of my colleagues.

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

(See Exhibit 1.)

Mr. DEWINE. This was put together by Dan Wewers, a young man who interned in my office. He researched the TV Guides going back to 1954 and looked at a typical week. We take it every so many years, in 1954, in 1960, all the way up through July 14 through the 20th of 1996. People are not going to approve or like every program on here. They weren't all great shows. But the point is, I think there were very few times where you could not at least find one program between 8 and 9 o'clock that was suitable to watch with your children.

Mr. President, the networks recognize, at least in principle, that they have a responsibility to the public. As parents and citizens, we have both the right and the duty to tell the networks what we think they should do—the little changes they can make that we believe will make a positive difference in the lives of our children and our families.

Scheduling 1 hour of programming in the early evening that is appropriate for parents to watch with their children would be a very big positive step, and it would be a great change from the status quo. That is why I support the Lieberman initiative, and I think my colleagues, if they look at the document I am submitting today, which I asked be printed in the RECORD, they will come to the same conclusion.

I think the President should talk to Senator LIEBERMAN about this idea. It is a good idea, and it would make a real difference.

I yield the floor.

EXHIBIT 1

FAMILY HOUR PROGRAMMING

(8:00–9:00 p.m.)

TV GUIDE LISTINGS

New York Metropolitan Area[1]

Major Network Stations

(CBS, NBC, ABC, and FOX)

For the dates of:
APRIL 2–8, 1954

[1] Washington, D.C. Metropolitan Area

APRIL 2–8, 1960
APRIL 4–10, 1964
APRIL 4–10, 1970
APRIL 5–11, 1975
APRIL 5–11, 1980
APRIL 6–12, 1985
APRIL 4–10, 1992
JULY 14–20, 1996

WEEK OF APRIL 2–8, 1954

TV GUIDE

New York Metropolitan Area

Friday, April 2, 1954

8:00 p.m.
CBS Mama—Peggy Wood
NBC Dave Garroway—Variety
ABC Ozzie & Harriet—Comedy
8:30 p.m.
CBS Topper—Comedy
NBC Life of Riley—Bendix
ABC Playhouse—Anita Colby

Saturday, April 3, 1954

8:00 p.m.
CBS Jackie Gleason—Comedy
NBC Spike Jones—Variety
ABC My Hero—Comedy
8:30 p.m.
CBS Amateur Hour—Mack
ABC The Unexpected—Film

Sunday, April 4, 1954

8:00 p.m.
CBS Toast of the Town
NBC Comedy Hour—Variety
ABC The Mask—Drama

Monday, April 5, 1954

8:00 p.m.
CBS Burns & Allen—Comedy
NBC Name That Tune—Quiz
ABC Sky King—Kirby Grant
8:30 p.m.
CBS Talent Scouts—Godfrey
NBC Concert—Barlow
ABC Movie—''World Without End''

Tuesday, April 6, 1954

8:00 p.m.
CBS Gene Autry—Western
NBC Milton Berle—Comedy
ABC The Mask—Drama
8:30 p.m.
CBS Red Skelton—Comedy

Wednesday, April 7, 1954

8:00 p.m.
CBS Godfrey & Friends
NBC I Married Joan—Comedy
ABC Film Drama
8:30 p.m.
NBC My Little Margie—Comedy
ABC Into the Night—Mystery

Thursday, April 8, 1954

8:00 p.m.
CBS Meet Mr. McNutley—Film
NBC Groucho Marx—Quiz
ABC Boston Blackie—Film
8:30 p.m.
CBS Four Star Playhouse
NBC Justice
ABC Ray Bolger—Comedy

WEEK OF APRIL 2–8, 1960

TV GUIDE

New York Metropolitan Area

Saturday, April 2, 1960

8:00 p.m.
CBS Perry Mason—Mystery
NBC Bonanza—Western
ABC High Road—Gunther
8:30 p.m.
CBS Wanted—Dead or Alive—Western
NBC Man and the Challenge
ABC Leave It to Beaver

Sunday, April 3, 1960

8:00 p.m.
CBS Playhouse 90—Drama
NBC Hollywood Sings—Variety
ABC Maverick—Western
8:30 p.m.
ABC Lawman—Western

Monday, April 4, 1960

8:00 p.m.
CBS Texan—Western
NBC Riverboat—Adventure
ABC Cheyenne—Western
8:30 p.m.
CBS Father Knows Best
NBC Wells Fargo—Western
ABC Bourbon Street Beat

Tuesday, April 5, 1960

8:00 p.m.
CBS Dennis O'Keefe
NBC Laramie—Western
ABC Bronco—Western
8:30 p.m.
CBS Dobie Gillis—Comedy
NBC Startime—Drama
ABC Wyatt Earp—Western

Wednesday, April 6, 1960

8:00 p.m.
CBS Be Our Guest—Variety
NBC Wagon Train—Western
ABC Spring Night—Music
8:30 p.m.
CBS Men Into Space—Adventure
NBC Price Is Right—Contest
ABC Ozzie and Harriet

Thursday, April 7, 1960

8:00 p.m.
CBS Betty Hutton—Comedy
NBC Bat Masterson—Western
ABC Donna Reed—Comedy
8:30 p.m.
CBS Johnny Ringo—Western
NBC Producers' Choice—Drama
ABC Real McCoys—Comedy

Friday, April 8, 1960

8:00 p.m.
CBS Rawhide—Western
NBC Troubleshooters
ABC Walt Disney—Cartoon
8:30 p.m.
CBS Hotel De Paree
NBC Art Carney—Drama Special
ABC Man From Blackhawk

WEEK OF APRIL 4–10, 1964

TV GUIDE

New York Metropolitan Area

Saturday, April 4, 1964

8:00 p.m.
CBS Jackie Gleason
NBC Lieutenant—Drama
ABC Hootenanny—Songs
8:30 p.m.
CBS Defenders—Drama
NBC Joey Bishop—Comedy
ABC Lawrence Welk

Sunday, April 5, 1964

8:00 p.m.
CBS Ed Sullivan—Variety
NBC Walt Disney's World
ABC Empire—Drama
8:30 p.m.
NBC Grindl—Imogene Coca
ABC Arrest and Trial

Monday, April 6, 1964

8:00 p.m.
CBS I've Got a Secret—Panel
NBC Movie—''The Virgin Queen''—Biography
ABC Outer Limits—Drama
8:30 p.m.
CBS Lucille Ball—Comedy
ABC Wagon Train—Western

Tuesday, April 7, 1964

8:00 p.m.
CBS Red Skelton—Comedy
NBC Mr. Novak—Drama
ABC Combat!—Drama
8:30 p.m.
NBC You Don't Say!—Kennedy
ABC McHale's Navy

Wednesday, April 8, 1964

8:00 p.m.
CBS CBS Reports
NBC Virginian—Western
ABC Patty Duke—Variety
8:30 p.m.
CBS Suspense—Mystery
ABC Farmer's Daughter

Thursday, April 9, 1964

8:00 p.m.
CBS Rawhide—Western
NBC Temple Houston—Western
ABC Donna Reed—Comedy
8:30 p.m.
NBC Dr. Kildare—Drama
ABC My Three Sons

Friday, April 10, 1964

8:00 p.m.
CBS Great Adventure
NBC International Showcase
ABC Destry—Western
8:30 p.m.
CBS Route 66—Drama
NBC Ernie Ford—Variety
ABC Burke's Law—Mystery

WEEK OF APRIL 4–10, 1970

TV GUIDE

New York Metropolitan Area

Saturday, April 4, 1970

8:00 p.m.
CBS Jackie Gleason
NBC Andy Williams
ABC Newlywed Game
8:30 p.m.
CBS My Three Sons
NBC Adam–12
ABC Lawrence Welk

Sunday, April 5, 1970

8:00 p.m.
CBS Ed Sullivan
NBC World of Disney
ABC FBI
8:30 p.m.
NBC Bill Cosby

Monday, April 6, 1970

8:00 p.m.
CBS Gunsmoke
NBC Laugh-In
ABC ABC News Special
8:30 p.m.
CBS Here's Lucy
ABC Movie—''An Eye for an Eye''—Western

Tuesday, April 7, 1970

8:00 p.m.
CBS Lancer
NBC NBC White Paper
ABC Mod Squad
8:30 p.m.
CBS Red Skelton
NBC Julia
ABC Comedy Special

Wednesday, April 8, 1970

8:00 p.m.
CBS Hee Haw—Variety
NBC Virginian
ABC Nanny
8:30 p.m.
CBS Beverly Hillbillies
ABC Room 222

Thursday, April 9, 1970

8:00 p.m.
CBS Jim Nabors
NBC Daniel Boone
ABC That Girl
8:30 p.m.
NBC Ironside
ABC Bewitched

Friday, April 10, 1970

8:00 p.m.

CBS Adventure
NBC High Chaparral
ABC Tales From Muppetland (Regularly, the Brady Bunch)
8:30 p.m.
CBS Hogan's Heroes
NBC Name of the Game
ABC Ghost/Mrs. Muir

WEEK OF APRIL 5–11, 1975

TV GUIDE

New York Metropolitan Area

Saturday, April 5, 1975

8:00 p.m.
CBS All in the Family
NBC Emergency!
ABC Kung Fu
8:30 p.m.
CBS The Jeffersons

Sunday, April 6, 1975

8:00 p.m.
CBS Cher—Variety
NBC World of Disney
ABC Jacques Cousteau—Documentary
8:30 p.m.
CBS Kojak—Crime Drama
NBC McCloud
ABC Movie—''Man in the Wilderness''—Adventure

Monday, April 7, 1975

8:00 p.m.
CBS Gunsmoke
NBC Carl Sandburg's Lincoln
ABC Rookies

Tuesday, April 8, 1975

8:00 p.m.
CBS Good Times—Comedy
NBC Adam–12
ABC Happy Days—Comedy
8:30 p.m.
CBS M*A*S*H
NBC Cavalcade of Champions Awards
ABC Movie—''Guess Who's Sleeping in My Bed?''

Wednesday, April 9, 1975

8:00 p.m.
CBS Tony Orlando and Dawn—Variety
NBC Little House on the Prairie—Drama
ABC That's My Mama—Comedy
8:30 p.m.
ABC Movie—''The Story of Pretty Boy Floyd''—Drama

Thursday, April 10, 1975

8:00 p.m.
CBS The Waltons
NBC Movie—''Conspiracy of Terror''—Comedy-Drama
ABC Barney Miller—Comedy
8:30 p.m.
ABC Karen—Comedy

Friday, April 11, 1975

8:00 p.m.
CBS Comedy Special—''Rosenthal and Jones''
NBC Sanford and Son
ABC Night Stalker—Drama
8:30 p.m.
CBS We'll Get By
NBC Chico and the Man—Comedy

WEEK OF APRIL 5–11,1980

TV GUIDE

New York Metropolitan Area

Saturday, April 5, 1980

8:00 p.m.
CBS Tim Conway—Variety
NBC B.J. and the Bear
ABC Easter Bunny is Comin to Town—Cartoon

Sunday, April 6, 1980

8:00 p.m.
CBS Archie Bunker's Place
NBC Chips—Crime Drama
ABC Movie—''The Ten Commandments''—Biography
8:30 p.m.
CBS One Day at a Time

Monday, April 7, 1980

8:00 p.m.
CBS WKRP in Cinicinnati
NBC Little House on the Prairie
ABC That's Incredible
8:30 p.m.
CBS Stockard Channing

Tuesday, April 8, 1980

8:00 p.m.
CBS White Shadow
NBC Misadventures of Sheriff Lobo
ABC Happy Days
8:30 p.m.
ABC Laverne & Shirley

Wednesday, April 9, 1980

8:00 p.m.
CBS Movie—''A Boy Named Charlie Brown''—Cartoon
NBC Real People
ABC Eight is Enough

Thursday, April 10, 1980

8:00 p.m.
CBS Palmerstown, U.S.A—Drama
NBC Buck Rogers in the 25th Century—Sci Fi
ABC Mork & Mindy
8:30 p.m.
ABC Benson—Comedy

Friday, April 11, 1980

8:00 p.m.
CBS Incredible Hulk
NBC Here's Boomer—Adventure
ABC When the Whistle Blows—Comedy
8:30 p.m.
NBC The Facts of Life.

WEEK OF APRIL 6–12, 1985

TV GUIDE

New York Metropolitan Area

Saturday, April 6, 1985

8:00 p.m.
CBS Daffy Duck—Cartoon
NBC Diff'rent Strokes
ABC T.J. Hooker—Crime Drama
8:30 p.m.
CBS Bugs Bunny—Cartoon
NBC Gimme a Break!

Sunday, April 7, 1985

8:00 p.m.
CBS Murder, She Wrote—Mystery
NBC Movie—''Florence Nightengale''—Drama
ABC Movie—''Superman II''—Fantasy

Monday, April 8, 1985

8:00 p.m.
CBS Scarecrow and Mrs. King
NBC TV's Bloopers and Practical Jokes
ABC Hardcastle and McCormick—Crime Drama

Tuesday, April 9, 1985

8:00 p.m.
CBS Lucie Arnaz—Comedy
NBC A–Team
ABC Three's a Crowd
8:30 p.m.
CBS Movie—''Coal Miner's Daughter''—Biography
ABC Foul-ups, Bleeps & Blunders

Wednesday, April 10, 1985

8:00 p.m.
CBS Double Dare—Crime Drama
NBC Highway to Heaven—Drama
ABC Fall Guy

Thursday, April 11, 1985

8:00 p.m.
CBS Magnum, P.I.—Crime Drama
NBC Cosby Show
ABC Wildside—Western
8:30 p.m.
NBC Family Ties

Friday, April 12, 1985

8:00 p.m.
CBS Detective in the House—Mystery
NBC Knight Rider
ABC Webster
8:30 p.m.
ABC Mr. Belvedere—Comedy

WEEK OF APRIL 4–10, 1992

TV GUIDE

New York Metropolitan Area

Saturday, April 4, 1992

8:00 p.m.
CBS NCAA Basketball
NBC Golden Girls
FOX Cops
ABC Who's the Boss?
8:30 p.m.
NBC Powers That Be
FOX Cops
ABC Billy—Comedy

Sunday, April 5, 1992

8:00 p.m.
CBS Murder, She Wrote
NBC Mann & Machine—Crime Drama
FOX ROC—Comedy
ABC Funniest Home Videos
8:30 p.m.
FOX In Living Color
ABC America's Funniest People

Monday, April 6, 1992

8:00 p.m.
CBS Evening Shade
NBC Fresh Prince
FOX Movie—''Night of the Comet''—Science Fiction
ABC FBI: The Untold Stories
8:30 p.m.
CBS Major Dad
NBC Blossom
ABC American Detective

Tuesday, April 7, 1992

8:00 p.m.
CBS Rescue 911
NBC In the Heat of the Night—Crime Drama
FOX Movie—''Tough Enough''—Drama
ABC Full House
8:30 p.m.
ABC Home Improvement

Wednesday, April 8, 1992

8:00 p.m.
CBS Royal Family
NBC Unsolved Mysteries
FOX Movie—''All the Right Moves''—Drama
ABC Wonder Years
8:30 p.m.
CBS Davis Rules
ABC Doogie Howser

Thursday, April 9, 1992

8:00 p.m.
CBS Top Cops
NBC Cosby Show
FOX Simpsons
ABC Columbo
8:30 p.m.
NBC Different World
FOX Drexell's Class

Friday, April 10, 1992

8:00 p.m.
CBS Tequila and Bonetti—Crime Drama
NBC Matlock
FOX America's Most Wanted
ABC Family Matters
8:30 p.m.
ABC Step by Step

WEEK OF JULY 14–20, 1996

TV GUIDE

Washington, DC. Metropolitan Area

Sunday, July 14, 1996

8:00 p.m.
CBS Murder, She Wrote
NBC Mad About You
FOX Simpsons
ABC Lois & Clark: The New Adventures of Superman
8:30 p.m.
NBC Movie: ''Tequila Sunrise''—Drama
FOX Married . . . With Children

Monday, July 15, 1996

8:00 p.m.
CBS Nanny
NBC Fresh Prince of Bel-Air
FOX Movie: ''So I Married An Axe Murderer''—Comedy
ABC Marshal
8:30 p.m.
CBS Almost Perfect
NBC Fresh Prince of Bel-Air

Tuesday, July 16, 1996

8:00 p.m.
CBS The Client
NBC 3rd Rock From the Sun
FOX Movie: ''Alien Nation: Dark Horizon''—Sci Fi
ABC Roseanne
8:30 p.m.
NBC Newsradio
ABC Drew Carey

Wednesday, July 17, 1996

8:00 p.m.
CBS Dave's World
NBC Dateline
FOX Beverly Hills, 90210
ABC Ellen
8:30 p.m.
CBS Can't Hurry Love
ABC Faculty

Thursday, July 18, 1996

8:00 p.m.
CBS Wynonna: Revelations—Special
NBC Friends
FOX Martin
ABC High Incident
8:30 p.m.
NBC Mad About You
FOX Living Single

Friday, July 19, 1996

8:00 p.m.
CBS Movie: ''National Lampoon's Vacation''—Comedy
NBC Summer Olympic Games: Opening Ceremony
FOX Sliders
ABC Family Matters
8:30 p.m.
ABC Boy Meets World

Saturday, July 20, 1996

8:00 p.m.
CBS Dr. Quinn, Medicine Woman
NBC Summer Olympic Games
FOX Cops
ABC Movie: ''Project ALF''—Comedy
8:30 p.m.
FOX Cops

Mr. WYDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

HEALTH CARE REFORM

Mr. WYDEN. Mr. President, I rise today to discuss for a few moments what will, hopefully, be before the Senate before too long. Also, I will make some comments with respect to the antiarthritic drug, Lodine.

I am particularly pleased that the Senate will have a chance to vote shortly on the Kassebaum-Kennedy legislation, because breaking this political logjam on health care reform means that millions of Americans who are stuck in jobs because they have a preexisting health problem will have a new margin of health security and economic freedom.

This legislation is good for American families. It is good for our workers and our business. What it means is that fear of losing critical health insurance coverage no longer would be a roadblock on the road to a better job and a better life. I want to applaud the bipartisan efforts of the Senate conferees, particularly Senator KENNEDY, Senator KASSEBAUM, and Senator BREAUX, who put long and hard service into this legislation, and it will be an important step forward when adopted.

Besides guaranteeing portability of health insurance coverage, this legislation contains little-noticed provisions that I think are going to make a great difference with respect to expanding health insurance coverage. This legislation, to the bipartisan credit of those Senate leaders, protects State flexibility with respect to State health insurance reforms. States like mine are laboratories for health care reform, and it is essential that we not turn out the laboratories at the State level with unnecessary Federal restrictions.

Senators KASSEBAUM and KENNEDY worked very closely with me so that the exemption language in this legislation will allow Oregon's humane, rational, and far-reaching health insurance reform program to go into effect later this year. It would provide extensive group to individual policy reform in much the same way our Federal legislation envisages, but the approach that Oregon is taking is one that I think other States and possibly the Federal Government will want to emulate in the days ahead.

Mr. President, there are features of this bill and provisions that were not included that I think are unfortunate.

During this debate, I have expressed concern about the possibility of some vulnerable Americans being left behind if medical savings accounts become widespread. Every Senator should want to oppose the balkanization of medicine, where the young, the healthy, and the wealthy get good affordable health coverage at the expense of the sickest, the neediest, and the elderly. It is appropriate to test out the MSA concept, however, and I do believe this conference report offers a reasonable compromise in the form of a limited MSA demonstration project.

I join Senator DOMENICI and Senator WELLSTONE and many of my colleagues in mourning the loss of mental health parity in this legislation. Parity, in my view, is not just fair, it is good health care policy that saves health care dollars in the long run by assuring quality mental health coverage and particularly early intervention. I do not intend to vote against a good, bipartisan bill because of the loss of one provision, but I intend to join with colleagues of both parties to make sure that mental health parity is an issue revisited early in the next Congress.

Finally, as happens often in large conference reports, a few stray cats and dogs find some homes. This bill is no exception. I am going to talk for a moment about a mongrel in this bill that seems to have a pretty bad case of fleas. There is a provision in this legislation that would give the antiarthritic prescription drug Lodine a 2-year patent extension. Supporters of this idea first tried to maneuver it into the 1997 agriculture appropriations bill in the House. It is now in this legislation, page 76, subtitle H.

This is a bad idea, in my view, and it certainly should not be a part of an important bipartisan health reform bill. Lodine has already received one extension under the terms of the 1984 Hatch-Waxman amendments allowing for additional patent life on drugs which become involved in long regulatory approval delays. With that extension, the drug's manufacturers have built sales of $274 million. Many of these purchasers are seniors. Many of those who buy this anti-inflammatory drug are older people, walking on an economic tightrope, balancing their food costs against their fuel costs, their fuel costs against their medical bills, and they are paying for this drug, many of them, out of their pocket.

Mr. President, if Lodine's current extension is allowed to run out in 1997, this drug likely would get a generic competitor, and those consumers, those vulnerable older people would get a price break as a result of the competition. They are not going to get that break with this extension. I think it is unwise for the Senate to take more money out of the pockets of older people in this fashion. There have not been any congressional hearings, have not been any deliberations to look at any public purpose served by another 2-year extension of the Lodine patent. I think granting this extension creates a poor precedent. I am sorry to see this provision in this bill. It is a good bill, a bipartisan bill that needs to be enacted, but it is wrong to have this special-interest provision in this legislation.

Mr. President, I yield the floor.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

MISSOURI WATER RAID OF 1996

Mr. BAUCUS. Mr. President, in the past 2 years, the House of Representatives has made some good decisions, but I must say they have also made some rather questionable ones that is, from the two Government shutdowns not too long ago to the attempted cuts in school lunches, Medicare, and college loans. I think it has left a lot of us not only in the Senate but across the country shaking our heads. But the great water raid they pulled off under

Speaker GINGRICH's leadership last Tuesday may be the worst decision yet.

Let me sum up the water raid very simply. The House, operating under a procedure that allowed no vote in the Chamber, passed a water resources development bill that takes 30 days' worth of water out of Montana, out of Wyoming and the Dakotas and sends it downstream.

This was done to give bargeowners downstream 1 month's worth of extra navigation, bypassing the Army Corps of Engineers, putting scientific and environmental analysis in the trash basket, and ignoring basic economics.

For many years—in fact, ever since Fort Peck Dam went up 60 years ago—the Army Corps of Engineers has discriminated in favor of downstream navigation and against the far more economically valuable recreation and tourism industry upstream. They have done it by draining water out of the Upper Basin States, leaving farmers and dockowners high and dry.

Only in the last 3 years has the Army Corps of Engineers finally begun to make decisions on sound science and good economics rather than special interest pleading. They have limited the navigation season and allowed higher pool levels in our upper reservoirs, and that is good. I hasten to say that the system is still grossly biased against our part of the country. I think the corps need to do better, but we have made some progress.

That was up until last Tuesday, when the House decided to take an extreme step backward and steal 1 month's worth of water from us. That is the water we drink. It is the water farmers use to grow their crops. It is the water ranchers need for their stock. It is the water families, tourists, and sportsmen use for fishing, swimming, and rafting. It is our water. And the House has used a rigged procedure—what my colleague, PAT WILLIAMS, called a midnight slam dunk—to take it away.

This great water raid, I might hasten to add, is not a done deal—far from it. The Senate, acting with considerably more fairness, much more clear thinking, did nothing of the kind. In the overall bill that is now headed to the conference committee, we will iron out the differences between the good bill we passed here—and to use a charitable term—flawed bill passed in the House.

There is a good chance that the conference committee will strip out this water raid provision. As ranking member of the Environment and Public Works Committee and a member of the conference, I will do all I can to assure that we take it out. And I, certainly, will strenuously oppose any conference agreement that contains the water raid.

But I must tell my colleagues that if worse comes to worst, I want to put all of them on notice that there could well be a full discussion of all the ramifications of the Missouri River issue. It is very complicated. It requires a lot of background and a lot of study.

So to prepare the Senate fully, I may read aloud the entire Army Corps' ''Master Water Control Manual.'' This was published in July 1994, and it gives the corps present view of the optimal way to manage the Missouri River.

This manual, even in its present form, is inadequate and unfair to the Upper Basin States—that is, Montana, Wyoming, North Dakota, and South Dakota. But it is a crucial document if one hopes to first understand the genesis and present state of the Missouri River debate and, second, to grasp what management changes we need. That is why I will most likely read the entire manual to the Senate.

Now, for the curious who may be listening in on this little discussion, I must say that the manual comes in nine parts. I will just read off the entire front cover to let Senators know what the manual contains and to give them a little preview.

Volume 1: ''Alternatives Evaluation Report.''

Volume 2: ''Reservoir Regulation Studies: Long-Range Study Manual.''

Volume 3A: ''Low-Flow Studies: Gavins Point Dam to St. Louis, Missouri.''

Volume 3B: ''Low-Flow Studies: Gavins Point Dam to St. Louis, Missouri,'' including Appendix A on ''Ice Impacts'' and Appendix B on ''Water Quality Impacts.''

Volume 4: ''Hydraulic Studies: Upstream from Gavins Point Dam.''

Volume 5: ''Aggradation, Degradation and Water Quality Conditions.''

Volume 6A: ''Economic Studies: Navigation Economics.''

Volume 6B: ''Economic Studies: Water Supply Economics.''

Volume 6C: ''Economic Studies: Recreation Economics.''

Volume 6D: ''Economic Studies: Hydropower Economics, Flood Control Economics, and Mississippi River Economics.''

Volume 6E: ''Economic Studies: Regional Economics.''

Volume 7A: ''Environmental Studies: Reservoir Fisheries,'' including the main report along with Appendix A, ''Description of Resource,'' and Appendix B, ''Reservoir Fish, Reproduction Impact Methodology.''

Volume 7B: ''Environmental Studies: Reservoir Fisheries,'' including Appendix C, ''Coldwater Habitat Model.''

Volume 7C: ''Environmental Studies: Riverine Fisheries,'' including the main report, and Appendix A, ''Description of Resource.''

Volume 7D: ''Environmental Studies: Riverine Fisheries,'' including Appendix B, ''Physical Habitat Analysis Upstream of Sioux City,'' and Appendix C, ''Physical Habitat Analysis Downstream of Sioux City.''

Volume 7E: ''Environmental Studies: Riverine Fisheries,'' Appendix D, ''Assessing Temperature Effects on Habitat.''

Volume 7F: ''Environmental Studies: Wetland and Riparian,'' including the main report along with Appendix A, ''Field and Mapping Methods,'' and Appendix B, ''Plant and Wildlife Species List.''

Volume 7G: ''Environmental Studies: Wetland and Riparian,'' including Appendix C, ''Fate of Wetland/Riparian Types,'' Appendix D, ''Diversity,'' Appendix E, ''Backwater Analysis,'' and Appendix F, ''Value Function Testing.''

Volume 7H: ''Environmental Studies: Least Tern and Piping Plover, Historic Properties, and Mississippi River Environment.''

Volume 8: ''Economic Impacts Model and Environmental Impacts Model.''

And Volume 9: ''Socioeconomic Studies.''

I know my colleagues must be wondering. They must be wondering, ''That is an awful lot of volumes. If the water raid boils down to navigation and taking water from recreation uses, why doesn't the Senator from Montana just read Volume 6A and 6C on recreation and navigation?''

Well, I might say that is the reasonable question. But I believe the water raid issue is so important—it is such a basic, fundamental question of fairness and justice—that each Senator probably deserves the chance to hear the issue in its full context and have the benefits of the entire context of this issue.

So I decided it probably would be more fair and probably more prudent to read the entire manual than it would be, in essence, to cheat Senators by skipping straight to Volumes 6A and 6C and calling it a day.

I might say I have with me just two of the volumes, 6A and 6C. These are the ones that go straight to the heart of matter. They are just two of the total of nine volumes. As I said, I do not want to be unfair to my colleagues. So I feel that they should have the benefit of the entire reading of the entire list of all of the volumes.

Altogether, the manual runs to 21 bound volumes. If we add all of appendices, it comes down to 21, several thousand pages. And having finished the manual, I will then move on to the point of discussing the errors that I believe are contained in the master manual.

I might tell Senators that this probably would take some time. But the conference will be done in September. And if it contains the water raid clause, I will have no alternative. I will be down here each and every day so they can have the benefit of the entire context of all the volumes so they can make a good decision on this issue. And I am pretty confident. I think I can get most of the standards in by September. I may need a couple of weeks in October to get Senators fully informed. But it is, I think, important that we have that.

So I might say, Mr. President, in concluding, I thank my colleagues for allowing additional time. It is my fervent hope and strong intention that the water raid provision will be out before the conference ends, so that it will be in the Senate here and not taking

all of this time to learn the full issue, the ins and outs of it all. I do not look forward to reading it in its entirety, but I am taking this step, Mr. President, because it is very simple. This provision was put in totally unfairly, it is totally wrong, and in a procedure that is totally out of the question.

I might remind Senators that water is our lifeblood in Montana. It does not rain very much west of the 100th meridian. We very much want to stand up for what we think is right. I want Senators to know this issue may come up. I thank my colleagues.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I ask unanimous consent to speak for 20 minutes as in morning business.

The PRESIDING OFFICER. Is there objection to the Senator speaking for 20 minutes? Without objection, it is so ordered.

THE COLORADO DECISION

Mr. FEINGOLD. Mr. President, just a month ago we had a discussion here on the Senate floor about the issue of campaign finance reform. I think a lot of us worked hard on the effort. We have taken a bit of a breather for the last month and assessed the situation, and we are ready to consider resuming the fight for this very important issue. Although the debate was abbreviated, it was a pretty good debate. We certainly did not suffer from any shortage of speakers offering their ideas on how we could best reform our campaign finance laws. In the end, I was pleased the bipartisan reform bill offered by myself and the senior Senator from Arizona was able to receive the support of the majority of this body, actually a bipartisan vote, obtaining 54 votes. So I feel very strongly, although we did not complete the task, we are well on our way.

And even though we fell 6 votes short necessary to ward off a well-staged filibuster, I think it is clear that there is a bipartisan majority in favor of acting on campaign reform, and many of us intend to press forward on this issue in the coming months and into the 105th Congress.

The vast, vast majority of the American people want the Congress to act on campaign finance reform and we cannot allow a small minority of Senators to thwart the will of the American people and wage a stealth attempt to sweep this issue under the rug.

Interestingly, less than 24 hours after the Senate voted against further debating the issue of campaign finance reform, the Supreme Court handed down a much anticipated decision that will undoubtedly affect the Federal election landscape.

The case was Colorado Republican Federal Campaign Committee versus Federal Election Committee. It arose out of a 1986 incident in Colorado, in which the Colorado State Republican Party made some $15,000 worth of expenditures on radio advertisements attacking the likely Democratic candidate for a Senate seat.

The FEC had charged that this expenditure had violated the Federal limits on so-called coordinated expenditures and the tenth Circuit Court of Appeals agreed with the FEC's assessment.

The Federal coordinated expenditure limit is the amount of money the national and State parties are permitted to spend on express advocacy expenditures for the purpose of influencing a Federal election. The coordinated expenditure limit is based on the size of each State.

It is important to understand what the litigants were arguing before the Court, because many people have tried to interpret this decision as something other than what it is.

The Colorado Republican Party, joined by the Republican National Committee, argued that the Federal limits on coordinated expenditures were unconstitutional on their face and an infringement on the First Amendment rights of the political parties to participate in the Federal election process.

In other words, these parties wanted the Federal spending limits on coordinated expenditures tossed out completely, not just the narrow ruling that was handed down.

The FEC, on the other hand, argued that the Federal spending limits helped prevent both actual corruption and the appearance of corruption.

In short, the FEC argued that these spending limits were necessary and valid for the same reasons that the Supreme Court found Federal contribution limits constitutional and necessary in the Buckley decision some 20 years ago.

Who won, Mr. President? Really, no one won. The Court, in a 7 to 2 decision, found that this particular case out in Colorado was a unique situation. At the time the expenditures in question were made, there was neither a Democratic nor Republican nominee for the open Senate seat. Moreover, the expenditures were made some 6 months before the date of the general election.

And finally, and perhaps most importantly in the Court's eyes, there was no demonstrable evidence that there was any coordination between the Colorado State party and any of the Republican candidates vying for that party's nomination.

That is the key.

That, Mr. President, is what these Federal limits on coordinated expenditures are supposed to be about. The word ''coordinated'' implies that there is some sort of cooperation between the party and the candidate in making the expenditure, and in this particular case the Court found that there had been virtually no coordination whatsoever.

The lack of any coordination led the Court to decide that this was an express advocacy, independent expenditure, much like the independent expenditures we see so often made by organizations such as the National Rifle Association, the National Right to Life Committee, and the AFL–CIO.

In the landmark Buckley decision and subsequent decisions such as the 1986 decision in FEC versus Massachusetts Right to Life, the Supreme Court has ruled that the Government cannot limit independent expenditures which the Court found to be pure expressions of political speech protected by the first amendment.

These rulings are the basis for the absence of Federal limits on independent expenditures made by individuals, organizations, and political action committees.

The key determination in the Colorado decision was that the Court found that this particular expenditure was an independent expenditure, and an independent expenditure made by a political party is entitled to the same constitutional protections as an independent expenditure made by anyone else. In short, political parties may make unlimited independent expenditures in Federal elections in the same manner other organizations are free to make such expenditures.

In addition, the Supreme Court, unfortunately, did leave certain key questions unanswered. For example, the Court found the Colorado expenditure to be an independent expenditure largely because it was 6 months before the general election and there was no Democratic nominee and no Republican nominee, to make an express, coordinated attack on.

What would happen if the same expenditure was made 1 month before election day, when both the Democratic and Republican nominees had been chosen?

The Court did not address this question.

Instead, the Court elected to issue an extremely narrow ruling by focusing on the peculiar circumstances relevant in the Colorado decision.

The Court simply ruled that an expenditure made without coordination, made far in advance of an election and before there are any nominees of either party must be treated as an independent expenditure and is therefore not subject to limit.

Mr. President, for the 80 percent of the American people who want us to reduce the role of money in congressional elections, this is not the best news.

What it means is that the parties are free to independently pour millions and millions of dollars into each State months and months before the voters are to go the polls. It will open the door to more expensive campaigns, longer campaigns and if current trends continue, increasingly negative campaigns.

It can mean a proliferation in everything that repulses Americans about our campaign finance system.

That is bad news Mr. President. But it must be understood and the reason I

am speaking today, so that this is clarified, this decision could have been far worse.

The Colorado Republican Party had advocated that the Court strike down the actual Federal limits on coordinated expenditures, and in fact, many of the so-called legal experts had predicted that this conservative court would do just that. But they did not.

But the Supreme Court specifically refused to strike down these limits. The Court ruled that this issue needed to be addressed further by the lower courts before the high court could adequately issue a determination of whether such limits are constitutional.

That, Mr. President, is why this was such a narrow ruling. It only affects a certain type of expenditure made by a political party. The Federal limits on coordinated expenditures were left in place and are still a part of the current election system.

Some have suggested that this decision will allow the parties to play a greater role in the election process. I agree. The question is, in the end, will this have a positive or negative effect on our political system.

I think it could go either way. For example, the parties may decide to use this decision to run negative television ads against a particular candidate 8 months before election day.

I do not think that is a positive contribution to the process, and in fact, I think it is exactly the type of activity that has turned the American people against our current political system. I am hopeful, Mr. President, that the American people will reject those kinds of tactics, if they are, in fact, used by the parties.

On the other hand, on a brighter note, there is a possibility that this decision could have a positive impact on the system. If, for example, a challenger is severely underfunded and is facing an incumbent with a colossal war chest, expenditures made by the parties could aid the challenger in running a competitive race.

But I do not think this is the best approach to the very real problem of an uneven electoral playing field.

Why shouldn't we instead empower the challenger to make such reasonable expenditures in this situation in his or her own favor? Why not, in this particular situation, allow the candidate, rather than the party, to play a somewhat greater role in the election process?

That is precisely the approach advocated by the senior Senator from Arizona and myself and many others and was embodied in the bipartisan legislation we offered just a couple of weeks ago. Our proposal created a mechanism that offered candidates who agreed to a reasonable set of limits on their campaign spending the tools to run an effective, credible, and competitive campaign for the U.S. Senate.

I want to make something very clear, Mr. President. The effect of the Colorado decision on the McCain-Feingold legislation, or any legislation like that legislation, is, at best, nominal. I realize that many have tried to say just the opposite, somehow suggesting that the Colorado decision contradicts everything in the McCain-Feingold bill or other reform bills. Mr. President, that is not true. It is wishful thinking on the part of those very same people who have done everything they can to kill campaign finance reform.

The Colorado decision has nothing to do with any of the key components of our proposal, whether it is the voluntary spending limits, the broadcast and postage discounts, the PAC restrictions, bundling restrictions, franking reforms or any other provision. None of these are affected by the Colorado decision.

Some have said that the spending limits in our bill will prevent a complying candidate from responding to an attack made by these new party-independent expenditures.

There is concern expressed that a candidate who has agreed to abide by the voluntary spending limits who is then hit with $100,000 worth of television ads bought by the national party will be unable to respond effectively. That is a fair concern to raise. But, Mr. President, the answer is the same as it was when we debated the proposal 2 weeks ago.

There is a provision in our bill that provides that if any complying candidate is the target of an independent expenditure, that candidate's spending limits are raised in proportion to the amount of independent expenditures made against them. So candidates would not be restrained from reasonably responding to an independent expenditure by the voluntary spending limits that they have agreed to. It is really that simple.

So, Mr. President, I am confident that this legislation will be debated again, if not this year, then early in the 105th Congress. It doesn't matter whether the Senate is under Republican or Democrat control next year, but the American people will surely reject what I like to call the two escape hatches of campaign finance reform, in addition to saying the Supreme Court has foreclosed the matter.

The first escape hatch, which will allow the Congress to talk the talk without walking the walk, is to create yet another commission to study this problem. I say ''another'' because it has already been done a few years ago. Commissions are meritorious when a relatively new issue needs to be studied, but that is not the situation when it comes to campaign finance reform. In fact, this issue has been the subject of more congressional hearings and testimony than the vast majority of the issues debated on the Senate floor.

Clearly, at a time when so much is known about the issue and when so many creative ideas have been offered, establishing another commission to study the problem is unwarranted and nothing more than a dodge.

The other escape hatch, which has turned into the escape hatch for seemingly every other issue that the Senate has debated in the 104th Congress, is to call again for yet another constitutional amendment. This particular constitutional amendment would allow Congress to set mandatory spending limits on campaign expenditures.

Mr. President, I have no doubt that the people who are supporting this concept are sincere. At one brief moment, I supported such a constitutional amendment before I realized that the 103d Congress will be followed by a 104th Congress that seems to be trying to turn the Constitution into a billboard for every imaginable campaign slogan.

Let's be honest here. A constitutional amendment requiring 67 votes is not going to pass before the turn of the century and, frankly, I don't think would pass by the turn of the next century. We could not even get 60 votes for a modest bipartisan and bicameral bill that had an unprecedented level of public support.

Moreover, even if such a proposal were to somehow miraculously receive 67 votes in the Senate and 291 votes in the House of Representatives, then it has to be ratified by three-fourths of the States.

So I think it is clear that anyone who suggests that a constitutional amendment is the solution to our campaign finance problems must also admit that sort of solution is years and years and years away from realistically coming into play.

We just cannot put off a decision any longer, Mr. President. No games, no side shows. The American people are tired of campaigns in which issues and ideas have become secondary to dollars and cents. They view our electoral system not as part of the American dream, but just another chapter in the ''lifestyles of the rich and famous.''

The voters have become inherently mistrustful of any individual elected to public office because they know that individual is now part of the Washington money chase, where their principal goal as an elected official sometimes looks like not representing their communities but, instead, raising the requisite millions of dollars for their reelection efforts.

Those are the trademarks of a dysfunctional campaign finance system that is crying out for meaningful bipartisan reform. I remain optimistic that early next year, this Senate can come together on a bipartisan basis and pass the sort of comprehensive reforms that the American people have been demanding for so many years.

I thank the Chair, and I yield the floor.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I ask unanimous consent that I may proceed as in morning business for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator is recognized for 15 minutes.

Mr. PELL. I thank the Chair.

RECENT RIOTS IN INDONESIA

Mr. PELL. Mr. President, I know we all have been saddened in recent days by reports of rioting and violence in Indonesia. Last weekend, the government cracked down on a political opposition group in Jakarta. Supporters of that group took to the street in protest and as a result, several people have been killed and over 200 arrested. The crackdown has reportedly been widened to include other known political activists including Muchtar Pakpahan, the head of the Indonesian Labor Welfare Union.

We also read this week that the military commander in Jakarta ordered his troops to ''shoot on the spot'' any protestors who are seen to be threatening the peace, a particularly disturbing development. I would urge the government in Jakarta to seek to negotiate and to work with the opposition forces in a peaceful manner, rather than calling on the military to quell any protests. This is the same approach I suggest in the report of my visit to Indonesia 2 months ago.

The root of the current problems is, I believe, the lack of an open political system in Indonesia. Two token legal opposition parties are allowed to exist, but they have little influence over policy. They cannot seriously challenge the ruling Golkar party. The current political and electoral systems are designed such that Golkar is assured of retaining power. But in the most recent parliamentary elections in 1992, Golkar unexpectedly lost a percentage of the parliamentary seats. Hoping for a trend, the two opposition parties were beginning to talk of making greater gains in the parliamentary elections scheduled for next year, although observers never thought either was likely to take the majority. This talk upset the government. Even though retaining ultimate political control was never in question, the government has reacted to even a slight loss in that control by calling on the military.

The government is centering its efforts on the Indonesian Democracy Party—or PDI—led by Megawati Sukarnoputri, the daughter of Indonesia's first president, Sukarno. Megawati had begun a very visible campaign in preparation for the parliamentary elections next year and indicated that she might challenge President Suharto in the presidential elections in 1998, a first for Suharto who has always been unopposed. In what appears to be a nervous reaction, the government allegedly orchestrated a coup within the PDI to force Megawati out of her leadership position. Her supporters took over the PDI headquarters and refused to leave until the military took over the headquarters this past weekend.

President Suharto has done much that is good for his country. Indonesia's population control program, for example, is a model for the developing world. The country's economic development has been admirable and many U.S. companies benefit from their investments throughout the archipelago. But as the country has grown and developed economically, it comes as no surprise that certain elements of Indonesian society now want their country to grow and develop politically as well. The government's current approach to the threat of a serious political challenge—to arrange for Megawati's overthrow within her party, blame the riots on virtually extinct communist sympathizers, and threaten to shoot any protestors—I believe will both hamper Indonesia's continued economic development and cause great harm to our bilateral relationship. Internally, the Indonesian currency and stock market are beginning to fall.

For several months now the U.S. Government has considered selling F–16s to the Indonesian military. In light of the events in Jakarta, I urge the administration to rethink the wisdom of this sale. My own view is that we should not rush forward with a high-technology, glamorous weapon sale to a foreign military that is threatening to shoot peaceful protestors in the street. I am encouraged, Mr. President, by some signs that the administration is considering holding off on this sale.

Indonesia is poised to be one of the region's most important and influential countries. President Suharto has the chance now to accelerate that process by allowing for Indonesia's transition to modern political governance. He could follow the model of Taiwan, which transformed itself from a single-party, authoritarian regime to a thriving multi-party democracy without violence. Indonesia is more than ready to allow full-fledged, active opposition voices to publicly make their case to the people. I would urge the Indonesian Government to call back its military, deal peacefully with the opposition, and show the world it is indisputably ready for the 21st century.

RATIFICATION OF THE LAW OF THE SEA CONVENTION IS AN URGENT NECESSITY

Mr. PELL. Mr. President, the United States will shortly become one of the first and perhaps the first Nation to ratify the Straddling Fish Stocks Agreement. This agreement was approved by the Senate on June 27. I am very pleased that prompt Senate action on the Agreement enabled the United States to continue its leadership on international fisheries issues. The agreement will significantly advance our efforts to improve fisheries management. In effect, it endorses the U.S. approach to fisheries management and reflects the acceptance by other nations of the need to manage fisheries in a precautionary and sustainable manner.

That being said, Mr. President, in advising and consenting to ratification of the Straddling Stocks Agreement, the Senate's work is only partially done. Having approved the Straddling Stocks Agreement, the next logical step for this body is to consider and pass the treaty which provides the foundation for the agreement, namely the United Nations Convention on the Law of the Sea. My purpose today is to highlight the connections between the two and to underscore the many benefits that will accrue to the United States if the Senate grants its advice and consent to ratification of the Law of the Sea Convention, a step that should have been taken long since, and I hope will come about shortly.

Prima facia evidence for the tight linkage between the Law of the Sea Convention and Straddling Stocks Agreement is found in the latter's title, the ''Agreement for the Implementation of the United Nations Convention on the Law of the Sea of 10 December 1982 Relating to Fish Stocks.'' Clearly, the Agreement was negotiated on the foundation established in the Law of the Sea Convention. The connection between the two is made explicit in Article 4 of the agreement which stipulates that the agreement ''shall be interpreted and applied in the context of and in a manner consistent with the Convention.'' Further, Part VIII of the agreement provides that disputes arising under the agreement be settled through the convention's dispute settlement provisions. Indeed, the Law of the Sea Convention establishes a framework to govern the use of the world's oceans that reflects almost entirely U.S. views on ocean policy.

Can the United States become a party to the agreement, but remain outside the Law of the Sea Convention? The answer is yes. The more important question is: Does this best serve U.S. interests? The answer to that question is no. Only by becoming a party to the Law of the Sea Convention can the United States maximize its potential gain from the agreement and protect its fisheries interests.

One way to do this is to ensure that U.S. views on fisheries management are represented on the Law the Sea Tribunal. That is the body which settles disputes arising under the agreement, and it is established in the Law of the Sea Convention. Not surprisingly, in order to nominate a judge to the tribunal, the United States must become a party to the Law of the Sea Convention.

A second way to ensure that U.S. gains are maximized is to ensure that our country's views on fisheries management are well represented in the convention processes themselves. To do this, we must be a party to the convention. The Straddling Stocks Agreement's provisions are to be applied in light of the convention. As the convention itself is an evolving, living document, the United States must be part of the dialogue that will affect not only the Straddling Stocks Agreement, but other oceans management policy.

Mr. President, there are sound reasons for the United States to become a party to the Law of the Sea Convention in order to enhance the benefits of the Straddling Stocks Agreement. There are, however, reasons to become a party to the Law of the Sea Convention far beyond the connection with the Straddling Stocks Agreement.

Indeed, I have always held the view that the strength of the Law of the Sea Convention lies in the multiplicity of interests that it protects and enhances for the United States. It is precisely because the convention addresses our Nation's broad range of interests so comprehensively that the United States has so much to gain by becoming a party. Indeed, I believe there is no action that the Senate can take before the end of this session that would have greater long term benefits for the world as a whole than to ratify the Law of the Sea Convention.

The implications for world peace are enormous; the potential for trade and development is equally far-reaching. I hope this will not be caught up in a spate of politics as usual, but will be seen in the framework of a renewed commitment to bipartisanship in foreign policy.

The old saying was that ''politics stops at the water's edge.'' That would be an apt motto for our consideration of Law of the Sea, since its scope begins precisely at the water's edge.

Perhaps more than any other nation, the United States has a broad range of interests in the oceans and their uses. We are the world's predominant sea power. The United States Navy operates on a global scale and has vital interests in seeing the convention's provisions on freedom of navigation implemented. The Air Force too shares many of these interests. We are also a maritime nation, Mr. President. Fully 95 percent of U.S. export and import trade tonnage moves by sea, with direct repercussions for American workers' jobs. The United States is also a coastal nation—we have one of the longest coastlines in the world—with strong interests in the sound use of resources on our continental shelf.

Mr. President, I think it is useful to remind my colleagues that, more than 20 years ago, the United States was a driving force in initiating the negotiations that produced the Law of the Sea Convention. At that time, the Navy in particular was concerned about other nations' ever increasing maritime jurisdictional claims. To address this problem, the Department of Defense sought a treaty that would set out as a matter of international law a regime to govern such claims. Given this history, it is more than a little ironic that the United States ultimately led efforts to block adoption of the convention upon conclusion of negotiations in 1982.

In my view, while the convention's critics raised some legitimate concerns regarding provisions related to deep seabed mining, they allowed these concerns to blind them to the overriding benefits the convention would confer on the United States. Moreover, all of these concerns have now been addressed in the recently negotiated agreement on deep seabed mining. I would like to recount those benefits for my colleagues' information.

First and foremost, the convention enhances U.S. national security. Remember, Mr. President, that this was the original driving force behind U.S. participation in the convention. The convention establishes, as a matter of international law, freedom of navigation rights that are critical to our military forces. In testimony before the Foreign Relations Committee, Admiral Center stated,

> The Convention strongly underpins the worldwide mobility America's forces need. It provides a more stable legal basis for governing the world's oceans. It reduces the need to fall back on potentially volatile mixture of customary practice and gunboat diplomacy.

The need to protect freedom of navigation is not merely a theoretical issue. There have been recent situations where even U.S. allies denied our Armed Forces transit rights in times of need. Such an instance was the 1973 Yom Kippur war when our ability to resupply Israel was critically dependent on transit rights through the Strait of Gibraltar. Again in 1986, U.S. aircraft passed through the Strait to strike Libyan targets in response to that government's acts of terrorism directed against the United States, after some of our allies had denied us the right to transit through their airspace.

I have heard arguments that the convention's provisions on freedom of navigation are not really important because they reflect customary international law. I disagree. Customary international law is inherently unstable. Governments can be less scrupulous about flouting the precedents of customary law than they would be if such actions were seen as violating a treaty.

Moreover, not all governments and scholars agree that all of the critical navigation rights which are protected by the convention are also protected by customary law. They regard many of those rights as contractual; that is, only available to parties to the convention. For example, it was not long ago that our country claimed a territorial sea of only 3 miles. This zone now extends to 12 miles, as allowed by the convention. But other countries have claimed territorial sea zones that extend to 200 miles, in direct violation of the convention. Currently, the United States routinely challenge such excessive jurisdictional claims through the Freedom of Navigation Program.

I do not doubt that, if necessary, the U.S. Navy will sail where it needs to to protect U.S. interests. But, if we reject the convention, preservation of these rights in nonwartime situations will carry an increasingly heavy price for the United States. By remaining outside of the convention, the United States will have to challenge excessive jurisdictional claims of states not only diplomatically, but also through conduct that opposes these claims. Each time we conduct an operation in contested waters we are sending our young men and women into harms way. Mr. President, we don't need to do that. A widely ratified convention would significantly reduce the need for such operations. A widely ratified convention would also afford us a strong and durable platform of principle to ensure support from the American people and our allies when we have no choice but to confront claims we regard as illegal.

Now I would like to turn to the issue of the Law of the Sea Convention and U.S. economic interests. The convention promotes these interests in a number of ways. It provides the U.S. with exclusive rights over marine living resources within our 200 miles exclusive economic zone; exclusive rights over mineral, oil, and gas resources over a wide continental shelf that is recognized internationally; the right for our communications industry to place its cables on the sea floor and the continental shelves of other countries without cost; a much greater certainty with regard to marine scientific research, and a ground breaking regime for the protection of the marine environment.

Mr. President, seaborne commerce represents 80 percent of trade among nations and is a lifeline for U.S. imports and exports. As I noted earlier, 95 percent of U.S. export and import trade tonnage moves by sea. With continuing economic liberalization occurring globally, exports are likely to continue to grow as a percentage of our economic output. In addition, in some sectors, such as oil, our dependence on imports will continue to grow. Thus our economic well being—economic growth and jobs—will increasingly depend on foreign trade. Without the stability and uniformity in rules provided by the convention, we would see an increase in the cost of transport and a corresponding reduction of the economic benefits currently realized from an increasingly large part of our economy.

Consequently, the United States would stand to lose a great deal if it was no longer assured of the freedom of navigation: trade would be impaired, ports communities would be impacted and our whole maritime industry could be put in jeopardy. The convention addressees the concerns and failure of the United States to ratify would impose a tremendous burden on this industry.

Within its EEZ, the United States has exclusive rights over its living marine resources. Foreign fleets fishing in our waters can be controlled or even excluded, and our regional management councils are in a position to adopt the best management plans available for each of the fisheries on which our industries depend. The settlement of disputes provisions of the convention do not apply to the measures taken by the coastal State within its EEZ. Consequently, the United

States has discretionary powers for determining the total allowable catch, its harvesting capacity, the allocation of surpluses to other States and the terms and conditions established in its conservation and management measures.

Indeed, the Law of the Sea Convention will play a paramount role in the implementation of the important international agreements to which the United States is already a party. These include: the 1992 Convention for the Conservation of Anadromous Stocks in the North Pacific Ocean, approved by the Senate on August 11, 1992; the U.N. General Assembly Resolution on Large-Scale High Seas Driftnet Fishing, approved by the Senate on November 26, 1991; the Convention on the Conservation and Management of Pollock Resources in the Central Bering Sea, approved by the Senate on October 6, 1994; and the FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, approved by the Senate on October 6, 1994.

In approving these treaties, the Senate spoke to the importance of these issues to our Nation; however, the long-term benefits of these fishery agreements will only be realized and mutual enforcement ensured if the underlying principles of the Law of the Sea Convention—the new constitution of the oceans—are ratified by the United States.

Mr. President, in 1982, the Reagan administration was prepared to sign the convention on behalf of the United States, but for part XI. Part XI dealt with deep seabed mining and contained a number of provisions that the United States found objectionable. Unfortunately, at the time, the administration was not able to secure the changes it sought in time for the United States to sign the convention. As a result, neither the United States nor the other industrialized countries signed the convention.

During the Bush administration, with the prospect that the convention would actually enter into force, informal consultations were begun at the United Nations with the aim of resolving concerns with part XI. That goal was achieved in an agreement that, in effect, amends part XI of the convention in a manner that meets all of the concerns first articulated under President Reagan and carried forward through to the Clinton Administration. The modification of part XI is a bipartisan foreign policy success and is the culmination of three decades of U.S. oceans policy efforts.

I feel qualified to say this Mr. President, since I have closely followed the Law of the Sea negotiations from their early days to the present. The initial support for this idea was put forth by Arvid Pardo, Malta's delegate to the United Nations, with his famous ''Common Heritage of Mankind'' speech before the U.N. General Assembly in 1967. The convention then became the product of visionaries. I remember particularly the ''Pacem in Maribus''—Peace on the Seas—meetings organized by Elizabeth Mann Borgese, the daughter of Germany's great writer, Thomas Mann. Her book, The Ocean Regime, published in 1968, gave written expression to the ideas that were to gain a wider audience through Pacem in Maribus, on their way to being embodied in the negotiated texts of the Law of the Sea Convention.

For me the dream began even earlier, during my service in the U.S. Coast Guard during World War II. Why not declare the oceans a zone of peace, open to all peoples and nations, to be free forever from the ravages of warfare? My service on the staff of the San Francisco Convention that prepared the U.N. Charter, just 51 years ago this summer, further confirmed me in my belief that ways could be found to create a working peace system.

The Law of the Sea Convention is the product of one of the more protracted negotiations in diplomatic history. When the process began, the Vietnam war was nearing its peak; the cold war was at its height; it had been only 5 years since the construction of the Berlin Wall.

I was proud to serve as a delegate to those early Law of the Sea negotiations, one of the few who had also attended a Pacem in Maribus meeting. My enthusiasm led me in 1967 to introduce the first Senate resolution calling on the President to negotiate a Law of the Sea Convention.

That resolution and a draft treaty that I proposed in 1969 led to the Seabed Arms Control treaty, which was ratified by the Senate in 1972. This little-known treaty has permanently removed nuclear weapons and other weapons of mass destruction from the ocean floor, which is 70 percent of the Earth's surface. It has been signed by nearly 100 countries, it works, and it provides a good precedent for the Convention on the Law of the Sea. With the Seabed Arms Control Treaty as my model, you can appreciate my enthusiasm for the Law of the Sea Convention.

Now, Mr. President, we must look to the future and U.S. oceans policy for the 21st century. Our interests in the Convention lie not only in what it is today, but in what it may become. Just as form and substance have been given our Constitution by the courts, so too will future uses of the oceans be influenced and shaped by decisions made under the convention. With the convention's entry into force, the United States stands on the threshold of a new era of oceans policy. Under the Convention, U.S. national interests in the world's oceans would be protected as a matter of law. This is a success of U.S. foreign policy that will work to our benefit in the decades to come.

Mr. President, the United States was a leader in initiating the negotiations of the Law of the Sea Convention because our national security interests were at stake. We have also played a widely recognized leadership role in the Straddling Stock Agreement negotiations because our fisheries interests were threatened. Indeed, the United States will be among the very first parties to ratify this very important agreement. It is time for the United States to regain its leadership role by ratifying promptly the United Nations Convention on the Law of the Sea and thus protecting the entirety of our oceans interests.

I yield the floor.

Mr. GRASSLEY addressed the Chair.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER (Mr. FRIST). The Senator from California.

Mrs. BOXER. Mr. President, I understand we are working back and forth. If the Senator from Iowa wishes to be recognized for 5 or 10 minutes, I will be happy to yield to him.

Mr. GRASSLEY. Three minutes.

Mrs. BOXER. Mr. President, I ask unanimous consent that the Senator from Iowa be recognized for 5 minutes, and the Senator from California for 10 minutes immediately following his remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Iowa is recognized.

Mr. GRASSLEY. I thank the Senator from California for her kindness.

THE CASE OF RICARDO CORDERO ONTIVEROS

Mr. GRASSLEY. Mr. President, I am disappointed to have just learned that Mexican officials have arrested Ricardo Cordero. Mr. Cordero came to our attention this week with articles in the Washington Post and other papers in our country because of charges he made about the degree of narcotics-related corruption in Mexico's counterdrug efforts.

When I read those articles, the thought came to my mind, how come this guy is still in Mexico? He will be assassinated, executed, or something. But anyway, now he is arrested. It has been on charges of corruption and taking bribes himself.

I do not want to comment on the merits of those charges. He could be guilty, of course. But what concerns me, and what needs to concern all of us in this body,Cordero's accusations made this week printed in our own newspapers.

The arrest has the appearance of retaliation and intimidation. It gives the impression that instead of investigating his allegations, that the messenger, in fact, has been punished. If this is the case, then it raises further doubts about the ability of Mexico to take serious steps to end corruption and to deal with the problems posed by drug trafficking.

Even if Mr. Cordero is guilty of the charges brought against him, it is a clear indication of the thorough-going nature of corruption in the counterdrug fight in Mexico. If he is innocent, however—and at least in our

country we would believe that he is innocent at this point—then his arrest is an example of a system that is on the verge of going out of control.

I want to make it clear here that we will be following Mr. Cordero's arrest closely. How his case and his personal safety are handled will be the subject of considerable attention. I know that bureaucracies hate whistle-blowers, here or, I am for sure, they hate them in Mexico as well. The integrity of public institutions, however, can only be maintained if people in those institutions, with regard for documentation, are able to tell their stories without retaliation.

Mr. Cordero's case is very disturbing. And if it should prove to be a case of retaliation, it does not speak well of Mexico's ability to deal seriously with the problems of corruption.

I call on the Mexican Government to resolve this case quickly, and, of course, fairly. I ask our own U.S. administration, even those of us here in the Congress, to monitor this case very closely. And in the case of the administration, please keep Congress informed. I expect Mr. Cordero's rights—most importantly, his personal safety—will receive particular attention. Thank you.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Thank you very much.

Before the Senator from Iowa leaves the floor, I want to thank him for bringing this issue before the Senate.

Mexico is continually asking for cooperation with this country in the areas of trade. I say to my friend, I am in a little bit of a battle right now over the dolphin-safe fishing of tuna where the Mexicans are really fighting very hard to have us change the rules of the game so they can go out and purse seine on dolphin and sell their tuna here in competition with our dolphin-safe American tuna people.

They want our cooperation, and yet we know the drugs are coming from Mexico, yet we know they are doing, I would say, virtually nothing to stop illegal immigration. I believe it is important to have a warm and good relationship with our neighbor, Mexico. But I think the Senator has raised an issue that really requires the attention of the U.S. Senate. And I will work with him, and I know Senator FEINSTEIN, the senior Senator from California, will as well. Again, I want to thank him for raising this issue.

LEGISLATION PASSED BY CONGRESS

Mrs. BOXER. Mr. President, I came to the floor because I have been watching a series of dueling press conferences, one held by the Republicans this morning, the Republican leadership, one held by the Democratic leadership, to discuss who deserves credit for the flurry of legislation that has finally passed this Congress, after a do-nothing Congress.

Of course, the American people are going to make the decision about who deserves the credit or the blame, depending on how they view the legislation. The issues are welfare, health care, and minimum wage. We remember back to President Clinton talking about how it was important to reform welfare as we know it, the fact that he granted many waivers to the States to reform welfare, the fact that he presented some excellent welfare reform bills which I consider to be real reform.

I think what the Republican Congress put out is very hurtful to my home State. It is a huge, unfunded mandate, and it also hurts children. As I said yesterday, it amazed me that Senators who earn large paychecks in relation to most of the people in this country did not have the heart to mandate that the little kids who are helpless and hopeless, whose parents cannot find a job, that they are not assured diapers, school supplies, emergency food and other things. So people will decide on that one.

On health care, we know Senator KENNEDY, for years, has worked on that. Senator KASSEBAUM and he got together and passed two provisions of the Clinton health care reform bill, very important provisions. I am very hopeful we will see portability of health insurance, so that when Americans lose their jobs, they can take their health care with them and they will not be punished if they have a preexisting condition.

Who deserves credit for that? The Republicans say they do; I say look at the record. It was Senator Dole who blocked Senator KASSEBAUM from bringing up the bill time and time again. It is in the RECORD. Finally she said, ''I will offer it every day.'' We finally have a bill.

Minimum wage. I do not have to tell you that DICK ARMEY, the majority leader of the Republicans, said, ''I will fight a minimum wage increase with every fiber in my body.'' Well, it was not good enough, Mr. ARMEY, because the army of people in this country did not agree with you. Now you want to take credit over there for it. The most important thing to this Senator is that people will get a minimum wage increase—I am happy about that—millions of hard-working Americans who do not want a handout, they want to work for a decent wage. Most of them, by the way, are adults, and most of them are women.

So we have an argument going on. As I watched the Republican press conference, it brought to mind a little fable. I want to tell you the little fable. Once upon a time, in 1994, the real Republicans took over the U.S. Congress. They came in like the wolf in Little Red Riding Hood, and this is what they did, on the record: They tried to roll back environmental laws that protect our children. I know, I am on the Environment Committee. I saw it. They tried to sell off our parks. As a matter of fact, Chairman HANSEN said publicly it was not a question that they would close down the parks, it is just how they would do it.

They tried to give huge tax breaks to millionaires, paid for by the middle class. They put through the largest cuts ever in education in the history of our country. They denied many American women the right to choose. That is on the record. They even shut down the Government because Democrats would not let them destroy Medicare.

That is only part of it. Then the real Republicans read the polls and realized they were about to lose the elections. So before your eyes, the wolf has put on a grandma's disguise just like the wolf in Little Red Riding Hood, a grandma's smile, a grandma's voice, sweet, and it is telling the American people, ''Look at the goodies we have done for you.''

There are different versions for the end of Little Red Riding Hood. In one she gets eaten alive because she trusts the wolf. In the other she found out that Grandma is really a wolf in disguise, and she is saved.

We say, today we do not think the American people will be fooled by this costume because the real Republicans are on the record. I love the new ones. I have never enjoyed it more than the last few days of being able to get some work done around here, that will make life better for the people.

But I have to say in closing, do not take my word for it. Listen to what House Republican whip DENNIS HASTERT has said, on the record, quoted in the St. Louis Dispatch, June 9, 1996: ''After November, it will be a different story.''

So, for now, we see different Republicans. I am going to reach out to those different Republicans. Let's do something about pensions. Let's do something about paycheck security. Let's put more police on the beat. Let's do something about terrorism. Let's not back off of this taggant issue. Tag those explosives used in bombs. Let's work together on these issues. Let's go with President Clinton's idea to give our middle-class families a tax break for education. Let's put more investment into research for diseases like Alzheimer's and cancer and AIDS, and wipe these scourges off the face of the Earth.

We can to it. We can do it, I say to my friends in your new outlook, in your new desire to work. But I say to the American people, look out. Watch out for the disguise.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

A REPORT CARD ON SCHOOL BUS SAFETY

Mr. DEWINE. Mr. President, I rise today to communicate some very good news to my colleagues in the Senate. The good news is about an issue that I have previously talked about on two or three occasions on the Senate floor, the issue of schoolbus safety.

Over the last year and a half, I have been working on an important problem affecting the safety of America's schoolchildren. Mr. President, tragically, since 1991, at least six children have died in accidents involving defective handrails on schoolbuses. Other children have been injured.

My interest in this issue, Mr. President, came about because of a horrible tragedy in my home county in Greene County, OH. A little girl by the name of Brandie Browder was killed. She was killed because of one of these defective handrails and because the drawstring from her clothing was caught on that handrail as she was trying to get off the bus. She was stuck there, and unfortunately the bus ultimately ran over her.

We have been working for the last year and a half on this particular problem. As I indicated, we have made some, I think, very, very important progress.

Mr. President, ever since I learned about these accidents, we have been trying to warn communities, schools, and parents in Ohio and across the country about this danger. We have publicized some methods for reducing the risk to children, such as a test we use in Ohio to determine whether a handrail is safe.

Mr. President, I have also chaired two Senate hearings—two Senate hearings—to investigate this problem. At the most recent of these hearings, this past April, we displayed this chart. I might say, Mr. President, to explain this for a moment, the question, does your State remove schoolbuses with dangerous handrails? This was the status as of April, the red being ''no,'' the States that did not deal with this problem; the yellow being states that were dealing with this problem. This was an interim report. If we would have gone back a year before that, we probably would have seen virtually every State in the Union in the red with a ''no.'' So this was the progress as of April. You can see, Mr. President and Members of the Senate, at that time there were still at least 15 States that had these dangerous buses on the road.

Since that time I have been working with both my colleagues in the Senate and directly with officials in these States to see what we can do to fix this problem. We have come a long way. I am glad to announce today, that as of today, as you can see in this new chart, all States except one—all States except one—are taking active measures to get schoolbuses with defective handrails off the road.

Mr. President, as we approach a new school year, it is my hope that the last remaining State, the State of Georgia, will follow suit and will do this by the beginning of the school year. I have been working with Senator COVERDELL to bring this issue to the attention of the relevant officials in Georgia. We certainly hope that Georgia will take action soon.

Mr. President, we are close to a solution on the issue of defective handrails. I am encouraged by the cooperation I have received from my colleagues in this Chamber, and I want to help them for all the help they have given my office over the last year and a half. Let me stress that schoolbuses are already the very safest mode of transportation. They should be, because they carry the most precious asset that any of us have, and that is our children.

Mr. President, we do have to do everything we can to make them even safer. That is why I will continue to work on other areas of the schoolbus safety issue. But on this issue, Mr. President, we are very, very close to solving the problem. If we can continue working together in this effective, bipartisan manner, I expect to make a great deal more progress on school bus safety in the months ahead.

I thank the Chair and yield the floor.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. I thank the Chair.

(The remarks of Mr. THURMOND pertaining to the introduction of S. 2022 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

CONFERENCE REPORT TO ACCOMPANY H.R. 3230, THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1997

Mr. THURMOND. Mr. President, I want to urge the Senate to consider the conference report on the national defense authorization bill for fiscal year 1997 before we adjourn for the August Recess.

I need not remind my colleagues that the Constitution vests the power to raise and support armies, provide and maintain a navy and to make rules for the Government and regulation of land and naval forces in the Congress. We execute that power through the Defense authorization bill which is currently awaiting consideration by the Senate. The 1997 national defense authorization bill provides the funds and authorities for the Department of Defense to carry out its functions for the coming fiscal year. It is a good bill that provides critical funding for our forces deployed around the globe in support of our national security. It would be a travesty if the security and welfare of our forces is put at risk because of political squabbling in the Senate.

Throughout my 40 years on the Senate Armed Services Committee, it has been my philosophy that national defense is a bipartisan effort. The conference report that is pending before the Senate is a bipartisan effort. It passed the House last night by an overwhelming vote. It will pass the Senate in the same bipartisan vote if given a chance.

Mr. President, I urge my colleagues to work with the leadership to resolve the deadlock that is holding up consideration of the Defense authorization bill by the Senate. We owe it to the Nation, but more importantly we owe it to the men and women in uniform who are deployed to the trouble spots throughout the world.

Mr. President, I would also like to request that before the Senate recesses, it approve the military nominations that are pending. The nominations are not political and we must not allow these nominations, some of which are for critical positions, to be delayed any longer.

Thank you Mr. President. I yield the floor.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

THE HEALTH INSURANCE REFORM ACT CONFERENCE REPORT

Mr. HEFLIN. Mr. President, I am pleased to rise in support of the conference report to S. 1028, the Health Insurance Portability and Accountability Act of 1996. The road leading to this compromise has been long and tortuous, but I'm happy that the leaders in this effort have finally come to an agreement.

Over the past 5 years, the issue of health care reform has been at the top of our national agenda. The need for an overhaul in our health care delivery system was a centerpiece of the last Presidential campaign, and our inability to enact comprehensive reform legislation 2 years ago was a profound disappointment. At the same time, there remains a firm national consensus that something must be done to reform the health care system.

The Department of Health and Human Services estimates that between 32 and 37 million Americans have no health insurance, and an additional 50 to 60 million are underinsured. As stated by the Office of Management and Budget, a total of 13 percent of all Americans are completely uninsured, with as many as 28 percent without insurance for 1 month or more. The Labor Department reports that each year, 1 million people lose their health insurance.

As currently structured, the private health insurance market provides an insufficient level of coverage for individuals and families with major health problems and makes it difficult for employers to obtain adequate coverage for their employees. This is especially true of small businesses.

The Health Insurance Reform Act will reduce many of the existing barriers to obtaining insurance coverage by making it easier for people who change jobs or lose their jobs to maintain adequate coverage. As many as 25 million Americans will be helped by this legislation, since its protects portability and against losing insurance due to preexisting medical conditions.

This measure builds upon innovative and successful state reforms and enhances the private market by requiring health plans to compete based on quality, price, and service instead of refusing to offer coverage to those who are

in poor health and need it the most. It would also provide much-needed momentum for the more comprehensive reform that is still needed. Equally important, it would not increase Federal spending—because of offsets—impose new or expensive requirements on individuals, employers, or States, or create new Federal layers of bureaucracy.

This measure enjoys wide bipartisan support in Congress and from a host of organizations, including the National Association of Manufacturers, the U.S. Chamber of Commerce, the National Governors Association, the American Medical Association, the American Hospital Association, Independent Insurance Agents of America, and the Consortium for Citizens with Disabilities. Virtually every medical group in the country has endorsed the bill and the House passed it by an overwhelming vote of 421 to 2.

I want to commend Senators KENNEDY and KASSEBAUM for their outstanding leadership in bringing us this conference report. They have been tenacious and steadfast when it would have been understandable if they had just called it a day and moved on. It is a sound, targeted, market-based reform measure that will make it easier for millions of Americans to change jobs without the fear of losing their health coverage.

I must say that I share the disappointment of Senators DOMENICI, WELLSTONE, SIMPSON and others that their amendment guaranteeing parity of coverage for mental and physical conditions was dropped by the conference committee. I sincerely hope that the next Congress will again take a close look at mental health coverage and reconsider giving it parity. Too many citizens have mental health conditions that not only affect their personal lives, but also lower their productivity and lead to serious physical problems. This results in higher costs to the health care system and to employers.

While this bill does not make all the necessary changes we need in the health care system, it does make a series of valuable reforms that will make a discernible difference in the lives of millions of our citizens. It does so without interfering with those parts of the system which work and without taking away the ability of States to implement their own reforms. If we learned anything from the health care debate in 1994, it is that our system must be reformed gradually and incrementally. The Health Insurance Reform Act before us is an example of the kind of incremental changes that can be enacted step-by-step in a bipartisan, collegial manner. Hopefully, this will serve as a model for future legislative reforms to our health care system and prompt the two sides of the aisle to seek more ways of working together for the betterment of the Nation.

Again, I congratulate the managers of this bill and am proud to lend my support.

I thank the Chair and yield the floor.

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

THE 104TH CONGRESS

Mr. PRESSLER. Mr. President, I was pleased to participate in an event this morning which summarized the events of the 104th Congress up to this date. It has been a very productive Congress.

This Congress is near the end of passing a major health reform bill which will provide for portability of insurance. It will also provide that a person with a preexisting condition gets certain considerations.

This Congress passed the first major welfare reform legislation since 1963 to initiate ''workfare'' and to help both the taxpayers and truly deserving welfare recipients.

This Congress also passed a major telecommunications reform bill—a sweeping bill that will creates jobs and moves us into the wireless age.

In addition, this Congress passed the freedom to farm bill which will end some of the bureaucracy and costliness of the farm program, helping both taxpayers and farmers, and will usher us into a new age of deregulated agriculture.

The 104th Congress also passed several other bills of great note making the last 18 or 19 months probably the most productive of any 18 or 19 months that I have seen in the recent history of Congress.

I think that this fiscally responsible approach this Congress has taken has resulted in a prosperity and a confidence in the business community across the country. The business community knows that there is an effort to balance the budget, and we are moving closer to it. The business community knows that we have a Congress that is deregulatory in its intentions in legislation and that it wants to have a balanced budget and a sound fiscal policy.

But there is one more step that this Congress must take, and that is to pass legislation that will fully achieve a balanced budget.

I have been very proud to be associated with the Domenici budget here in the Senate. I proudly voted for it last year. It is a fair budget. It saves Medicare and Medicaid for our senior citizens. It move us to a real balanced budget with real numbers by the year 2002.

Mr. President, the national debt has spiraled upward to more than $5 trillion. Twenty years ago it was $524 billion—only about one-tenth of what it is today. The annual interest on the debt now exceeds $340 billion. It is unfair to us and especially to the future generations of taxpayers to allow the debt to continue on this course.

While the Congressional Budget Office recently revised its deficit estimate for fiscal year 1996 downward to $130 billion, one needs to be careful to note the true sources of this deficit reduction. As pointed out by the distinguished chairman of the Senate Budget Committee, Senator DOMENICI, a large part of the decline was a result of greater fiscal restraint by Congress, which blocked a number of White House spending proposals. Further, the deficit is expected to be lower due to revised technical assumptions and revisions in economic forecasts.

Though this represents progress, let us not kid ourselves. We certainly do not have a settled fiscal policy that will bring an era of unceasing deficits to an end. As the Congressional Budget Office has warned,

> . . . the retirement of the baby-boom population starting about 2010 will put severe pressure on the budget. CBO projects that, if spending and revenue policies are not changed, deficits and debt will soar to unprecedented levels in the following 20 years.

In response to this situation, Mr. President, I have supported and voted for measures that slow the growth of Government across the board. I also voted for the constitutional amendment to balance the budget and line-item veto authority for the President. I am pleased the line-item veto is now law. Yet the most important vote I cast in this Congress was for the Balanced Budget Act of 1995. This bill would achieve a balanced budget in 7 years, reform the costly welfare program, preserve Medicare for seniors, and reduce the tax burden on American families and small businesses. Regrettably, President Clinton vetoed the Balanced Budget Act. This is unfortunate. Each day we fail to pass a balanced budget, we add the cost of doing so on the next generation.

Mr. President, despite last year's veto, I am proud that the Senate continues to move forward in our efforts to achieve a balanced budget. Just a few months ago, we adopted a budget resolution for fiscal year 1997 that maintains our commitment to balance the budget by 2002. If we stick to this plan, we will achieve a $5 billion budget surplus in the year 2002 and, for the first time in decades, bring about a reduction in the national debt.

In addition, this resolution calls for much-needed reforms in the areas of welfare and Medicaid while continuing to allow the programs to grow at a fiscally responsible pace. This budget plan would maintain our commitment to low-income families, seniors, college students, and small businesses.

I am especially concerned with preserving and strengthening the Medicare Program. My mother is a senior citizen. I will be a senior citizen as well in the not-too-distant future. Under the Senate plan, Medicare would increase at an annual rate of about 6.2 percent—nearly twice the rate of inflation. Spending for each Medicare beneficiary would increase from $5,200 per person today to $7,000 per person in 2002. Just as important, we would preserve Medicare for years to come, and quality health care would continue to be provided to those seniors who need it.

Finally, our budget plan calls for tax relief in the form of a permanent, $500-per-child tax credit for families. Millions of middle-class families across the Nation would benefit from this measure. A family with two children, for example, would be given the opportunity to invest or spend as they see fit the $1,000 that otherwise would have been paid to the Federal Government. This is the way it ought to be. This is a true middle-class tax cut. In fact, the tax credit would be phased out for unmarried individuals with incomes over $75,000 and couples with incomes over $110,000.

Mr. President, not many days remain in the 104th Congress. I sincerely hope that before we adjourn, this Congress and the President will be able to agree on legislation to assure a balanced budget by 2002. Our Nation's economic future and the quality of life for the next generation depend on a balanced budget. We must not lose sight of this goal and we must not delay. I urge my colleagues to give their full support for legislation to implement this budget and to push forward in our efforts to ensure economic growth, more job opportunities, a higher standard of living, better opportunities for our children, and a country free from ever-increasing debt.

TRIBUTE TO SOUTH DAKOTA NATIONAL GUARD 57TH TRANSPORTATION DETACHMENT

Mr. PRESSLER. Mr. President, it is with a great sense of pride that I rise to pay special tribute to Capt. Andy Gerlach, Pfc. Jess Berg, Specialist Travis Nelson, Sgt. Alan Kludt, Sgt. Glenn Nordemeyer, Specialist Fred Emmetsberger, Sgt. Jim Aarstad, and my nephew Specialist Steve Pressler. These eight dedicated South Dakotans are members of the South Dakota National Guard 57th Transportation Detachment. Today, they will return to South Dakota after having been the only Guard unit from South Dakota called to serve as part of the peacekeeping mission in and around Bosnia. The 57th Transportation Detachment was called to active duty in December 1995 with the primary responsibility of supporting rail operations in Bamberg, Germany. The 57th coordinated the movement and transportation of military personnel, materials, equipment, and supplies to Bosnia.

Mr. President, all South Dakotans are proud of these eight outstanding guardsmen. As a Vietnam veteran, I have deep respect and high admiration for these young men. I am sorry I cannot be in Brookings, SD, personally to welcome them home and see them reunited with family and friends. The men of the 57th have done their duty to their country with professionalism and dedication. South Dakotans always have been ready to answer their country's call to duty. The men of the 57th are a shining example that Americans stand ready to defend the interests of their Nation and their values. I am confident the 57th will continue to serve South Dakota and our Nation in an equally outstanding manner in the future.

NATIONAL DEFENSE AUTHORIZATION ACT

Mr. WARNER. Mr. President, I rise to speak on behalf of the 1997 defense authorization bill. I am privileged to serve on the committee with the distinguished chairman, Mr. THURMOND, of South Carolina, and the distinguished ranking member, Mr. NUNN, of Georgia, and I wish to compliment them, together with their senior staffs, for putting together an excellent bill and conference report. It is my hope and expectation that conference report will be voted on favorably by this body very shortly.

Mr. President, as we deliberate this bill, let us put ourselves in any of 10 places beyond the shores of this country where men and women of the Armed Forces are standing guard, or actually in some instances basically looking down the rifle bore of a potential enemy, but standing guard and taking those risks in the cause of freedom.

It is for that reason I so fervently hope this body turns to the defense authorization conference report and passes it this afternoon such that it can go on to the President from the Senate and the House and receive the President's signature and be enacted into law.

This conference report goes a long way towards ensuring that our Armed Forces will remain capable of meeting the many challenges that lie ahead. Let me dwell on that for a moment—challenges that lie ahead. Today, we have the finest equipment for the men and women of the Armed Forces, but it takes basically 10 years, 10 years from the drawing board until the next generation of weapons systems are delivered by the American industrial base. And we are proud to have in this country the finest industrial base in the world. But it will take them 10 years from drawing board to delivery to the men and women of the Armed Forces.

Our actions today ensure that those young men and women today barely in their early teens will have that equipment when they, hopefully, volunteer to assume their role on the ramparts not only of this country but across the world to achieve freedom.

To achieve this goal the conferees had to add $11.2 billion to the Clinton administration budget request. We concentrated those additional funds on just that, providing the research and the development, from the drawing board to providing the funds for the production lines all across the America for airplanes and ships and missiles, trucks, tents, and the like for our men and women of the Armed Forces 10 years hence.

Earlier today I had the opportunity to talk by phone to Secretary of Defense Perry. We discussed his mission to Saudi Arabia. Deep in the hearts of every person in this Chamber is the sadness for the loss of life due to terrorism—make it clear, Mr. President, terrorism—when those barracks were maliciously partially destroyed by a truck bomb.

The Secretary advised members of the committee that he is taking steps to ensure greater security for those troops, and, indeed, that requires moving from their present quarters to places elsewhere in Saudi Arabia. But that is what this money is for.

I must point out, however, that even with the funding added by the conferees, this year will mark the 12th straight year of declining defense budgets. The funding level in the fiscal year 1997 conference report represents a real decline of $7.4 billion from last year's bill. Just 12 months ago this Chamber acted on that piece of legislation and already there has been that significant depreciation in the spending level for the Department of Defense. To all of our critics I say that we have not increased defense spending. This bill merely lessens the rate of decline.

As I stated, U.S. troops are currently deployed in 10 separate military operations overseas. Despite the end of the cold war, we are calling on the men and women of the Armed Forces at an ever increasing rate to endure more and more separation from families. What a joy for Members of this Chamber to go home in the evening and join their wives and their children, and for millions and millions of other Americans wherever they may live. But so often the man or the woman in uniform is deployed beyond our shores and separated from that which he or she regards most precious in life—their family. They do that, as volunteers, so that we can have the exercise of free speech and all the other many blessings that this country enjoys.

Despite the end of the cold war, we are calling on these men and women, again, to take more and more deployments abroad. It is our responsibility, then, to provide our troops with adequate resources so they can effectively and, I underscore, Mr. President, safely—not only effectively, but safely—perform their missions. We must not now, tomorrow, or ever send them into harm's way without the best possible equipment.

The conference report which passed the House last night and is currently waiting Senate action provides for our troops, not only by adding desperately needed funding for the procurement, which I have addressed in the R&D, but also by funding vital quality-of-life initiatives such as the 3-percent pay raise for our troops, enhanced military medical benefits, and almost $500 million of budget requests for construction of improved quality-of-life housing, both for families and single troops.

Just remembering back in my own lifetime, having had the privilege to serve in uniform, the pay raise is particularly very important, particularly

when you are beyond the shores and your family is back here in the United States. That pay raise means the difference in their quality of life. I cannot tell you the emotional stress on a military person, separated from his or her family, beyond the seas, when they hear that pay raise could well be in jeopardy should this body, this afternoon or tomorrow, not pass this legislation. We owe a duty to those who volunteer to see that they are adequately compensated. I hope we will do that.

In addition, this conference report adds almost $1 billion over the budget request to provide defenses for our troops and our Nation against the very real threat that is in the R&D report, the real threat, particularly to forward-deployed troops, against missile attack. Those of us who visited the gulf operations during the gulf war saw firsthand the damage by the crudest type of ballistic missile, the Scud missile, that Saddam Hussein relentlessly fired upon our troops and those of our allies, and relentlessly fired upon Tel Aviv. Many of us here saw firsthand the devastation of those crude weapons.

We had in place our best defense at that time, barely off the drawing boards, barely off the production lines. We have an obligation to the men and women of the Armed Forces and, indeed, to all of our citizens and others deployed abroad to put our greatest strength of research and development into deterring these systems in the future.

I yield the floor.

The PRESIDING OFFICER (Mrs. HUTCHISON). The Senator from New Hampshire.

Mr. GREGG. Madam President, may I inquire of the Chair what the regular order is? Are we in morning business?

The PRESIDING OFFICER. We are in morning business with Senators permitted to speak for 5 minutes.

Mr. GREGG. I ask unanimous consent, then, to proceed for 15 minutes.

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

TERRORISM

Mr. GREGG. Mr. President, I wish to talk a little bit today about an issue which is on everyone's mind in America, which is the question of terrorism. I spoke briefly yesterday on this matter, but I wanted to expand on those comments because there is a great deal happening within this body and the other body and in the Government generally on how we react to this new world, which has brought this threat to us with such immediacy, as we see in Atlanta, as we see in flight 800. I think it is important to review what is happening here in the Federal response to it, where we should go from here, and also to talk a little bit about other areas that need to be addressed.

First off, the scope of the problem, I think, cannot be overestimated. The immediacy of the problem cannot be overstated. The fact is, we have stepped out of the cold war into a very hot war, and it is a hot war that involves people who have targeted Americans and American institutions with the intention of bringing physical harm to those institutions and to our citizens.

We should not be naive about this. We are a nation which has some wonderful characteristics. One of the great characteristics of our Nation is that we always believe in the best in people. We always give people the benefit of the doubt. We are an optimistic and upbeat country. It is our nature to think positively, not only about ourselves but about our neighbors throughout the world. That is a wonderful characteristic, and, hopefully, nothing will ever cause us to lose that better nature which makes up the American personality. But it is time, also, for us to be realistic. There are evil people out there. Unfortunately, there are also governments out there which fund, support, and endorse those evil individuals. There are people out there whose intention it is to kill Americans, to destroy American institutions simply because we are Americans.

Some of this terrorist threat is obviously domestic. But the domestic threat is a manageable threat. It is a containable threat, and it is one which I believe our institutions are well structured to address already. The FBI and the various State agencies which do law enforcement are well-tooled and well-experienced in how to address, to meet, to obtain intelligence on and to respond to, domestic terrorism and acts of violence. We, as a nation, have had this happen in the past.

I remember in the 1960's we had a group called the Weathermen, in New York. We have been able to respond. I do not have any question in my mind but that we will find the perpetrator of the bombing in Atlanta and we will prosecute that person, and we will do likewise relative to Oklahoma in the prosecution area and obtain a conviction, hopefully, if that is what the jury finds appropriate.

So, domestic terrorism is a very severe problem, but it is not the core threat that we face as a nation. The core threat that we face as a nation is internationally sponsored terrorist acts, because here you have individuals who are backed up by governments or by institutions or large groups of people who have the physical and economic capacity to wreak incredible harm on our country and our citizens. This international terrorism is a new breed of threat. It is something we as a country have not faced before.

As a result, we need to take a new look from a different view of how we approach the prevention, anticipation, and, hopefully, termination of this threat.

It was reported in the press today that there are actually functions camps in Iran that may have as many as 5,000 individuals who are specifically being trained for the purposes of executing terrorist acts, killing of Americans, killing of people from other cultures around this world that these fanatics, these criminals disagree with.

Now, whether that report is accurate, I do not know, but it is legitimate enough to have been put on the wire by a reasonable news source, and it is clearly reflective of the concern which we, as a nation, must be ready to address.

So, how do we address it? How do we address this new international threat, this new cold war which is now a hot war for us?

I think we have to begin by recognizing that as of right now, the Federal Government is not ready to address it. We have to acknowledge our weakness in this area. We have very good people at the heads of the agencies which are charged with the responsibility for anticipating and developing a response to international terrorism directed at the United States.

There are four primary agencies involved: the State Department, the Central Intelligence Agency, the Defense Department, and the Justice Department. There are also a lot of ancillary agencies that have a role in this—the Treasury Department, for example—but the four primary agencies are headed by good people, in my opinion, and they are all committed to doing something on this issue.

But the problem is that there isn't a comprehensive, systematic plan in place. There are, on paper, some systematic plans. For example, the National Security Council is, by law, charged very appropriately with the responsibility of organizing, orchestrating, anticipating the threat of terrorism and the response to the threat of terrorism. But it doesn't really do it in practice. In practice, it does very little, actually.

If you talk to each of the heads of the different Departments in charge here, they will tell you of their sincere interest in pursuing this and what their Department is doing. You can ask them, "How are you interfacing with the other Department?" And they say, "Well, we're occasionally speaking on this point and speaking occasionally on this point," and it is almost always a personal-relationship-type exchange. There is no system in place, no management structure in place, no comprehensive plan in place which directs the response to the international terrorist threat. That has to be changed.

Now, in a bill that was reported out of the Appropriations Committee yesterday, the Commerce, State, Justice bill, which is the subcommittee I chair, we put in place a series of new initiatives in the area of fighting terrorism. Not new in some instances; in some instances, they were supportive of initiatives which were already in place. But the most important part of this proposal was that we have developed by the Attorney General a comprehensive plan which will be reported back to the

Congress by November 15 and which will outline how we are going to get these different agencies to work together.

I don't know if this proposal is going to go anywhere, because that bill, which subcommittee I happen to chair, is sort of at the end of the trail here as we move down the appropriations path, and it may not even get up until the end of September. As a practical matter, we really shouldn't have to have a law passed to tell the administration to do this. As a practical matter—and I don't say this to be derogatory because I don't intend to be, I hope it is constructive—as a practical matter, the President should meet with the Secretary of State, the Director of the Central Intelligence Agency, the Attorney General, and the Defense Secretary and require them to develop such a plan. And those meetings should continue on a regular basis with the heads of those agencies over a series of weeks and months until that plan is not only developed but being executed.

As a practical matter, we are not going to accomplish the goal of putting in place a systematic response from the Federal Government to the threat of international terrorism until we have the President of the United States driving his Department heads to accomplish just that in an organized way.

Having served as a chief executive at a State level—and it doesn't really work much differently at the Federal level; in fact, it probably is even worse at the Federal level as far as getting coordination going—I know from experience that unless the chief executive physically participates and demands a physical participation of the key department heads, then issues like this then get lost either, one, to inattention, or, more significantly and more often is the case, get undermined by the battles over turf.

An equally important initiative to having the President drive this process with his Department heads is that there must be put in place a system which accomplishes the follow-on followup that is necessary to produce results so that it doesn't depend on individuals in the end, but it is functioning as an element of an organized plan which can be executed by people no matter who is sitting in the key seats around the table. Unfortunately, none of that has occurred to date. I hope that it will occur soon.

In the meetings that have been going on this week on the special task force on terrorism that was set up where Members of the Senate, Members of the House, and the White House were meeting, along with the Justice Department, it was suggested we have a blue ribbon panel. I believe the House today will appoint a blue ribbon panel.

Now, I like blue ribbon panels as well as the next person, and I am sure a blue ribbon panel could be useful here to some degree, but the lead time for such a group is considerable, and we don't have to wait to get things started, to hear back from a commission, as good as it may be and as constructive as it may be.

There is a tremendous amount of coordination and planning that can begin now. It is not occurring now. There is a lot of planning and effort going on right now, I don't want to underestimate that. These Departments individually are doing a superior job in trying to get up to speed in their area of responsibility. But so often, the right hand doesn't know what the left hand is doing, and the left hand doesn't tell the left foot what it is doing, and the left foot doesn't tell the right foot what it is doing, and we all end up in different directions, and we end up in a pretzel-like position. And that is, unfortunately, what is occurring, to some degree, to our response of the overall issue of a comprehensive initiative.

So, yes, let's go forward with a blue ribbon commission, because I think it would be helpful to get outside review from people who are very knowledgeable on terrorism as to how to proceed. And yes, let's keep the energies going in the FBI, and the CIA, and in the State Department and in the Defense Department on various actions in their bailiwicks that can be taken to try to get their responsibilities in terrorism response proceeding effectively.

But at the same time, we need to have this comprehensive approach coming from the top, from the President, through the Secretariats, to the departments so that we have an integrated, cooperative effort and one that is focused. That is the most critical thing we need to do right now to address the international terrorist threat, which is huge and extraordinarily dangerous.

In addition to this comprehensive plan, within the bill that was passed out of the Appropriations Committee, we basically took five other steps, five other philosophical steps—or not philosophical because I think they are very tangible steps—steps to try to beef up the effort in fighting terrorists.

First off, we have given significantly more resources to the FBI to help it monitor terrorist groups in the United States and overseas. Obviously, the best way to stop a terrorist attack on the United States is to know when it is going to come and who is going to pursue it. But to do that, you have to have people. You have to have intelligence-gathering. Unfortunately, the intelligence-gathering capability by human beings, which is the way you really have to do it in this area of terrorism, has been significantly reduced, especially at the CIA.

However, the FBI, which our committee has jurisdiction over, is attempting to reach out to police forces around the world in order to use the resources of the police forces in various countries where terrorist groups may be organizing and to take advantage of their knowledge base, which is extraordinary, and thus multiply by hundreds if not thousands and actually tens of thousands their ability to obtain information.

The FBI is attempting to expand that pool of information-gathering by moving agents into international posts. In this bill we propose to strongly support that initiative so that we can begin to better anticipate who and where the threat is coming from.

It is an interesting thing. I met with President Mubarak yesterday, or Wednesday. There is a man who obviously understands and knows the threat of terrorism. One of his biggest concerns—and I would put it down almost as a gripe, and it is a legitimate one. Maybe I should not use the word ''gripe'' because it is a very legitimate frustration. His biggest frustration is that it is our democratic allies in Europe who have become the prime harborers of some of the most vicious murderers and terrorists.

He points to England and to some of the European Continent countries as being nations which, for whatever reason, have decided to allow to live within their shores people who are known to have an intention of committing terrorist acts and who have a stated policy of doing so relative not only to Egypt and to other modern Arab states, but relative to America.

So we are not talking about access to information in nations which maybe we have trouble dealing with. We are talking about getting access to information in nations who are our allies and maybe working with those allies to be a little more responsible in the manner in which they deal with individuals whom they have allowed into their countries and who may represent threats to our country.

The third issue which we attempted to increase the effort here in our bill is to create a better capacity for response, both at the Federal level and at the State and local level, to a terrorist event. In this area we are very concerned about terrorist events that might involve biological or chemical threats. So that is something we really need to focus in on.

This committee is trying to do that. We have created rapid response teams or increased the funding—they already exist—but increase the funding to allow us to have more capacity to move rapid response teams into positions where there is a local emergency.

In addition, we have significantly increased the effort to break down communication barriers between the Federal Government and the State governments and the local governments. Once again, you have this unfortunate atmosphere which develops amongst bureaucracies, whether they are law enforcement bureaucracies or social services bureaucracies, that is known as turf.

I remember when I was Governor of New Hampshire, one of my great frustrations was that we could not get the State police and the local police to even be on the same radio band so if a State police officer wanted to talk to a

local police officer while they were chasing a car at a high speed, they basically had to call in to headquarters and have the headquarters call out to the other police car. They could not talk to each other. It was a turf issue.

Unfortunately, that gets magnified hundreds and hundreds of times in innumerable circumstances. What we are trying to do is break down those barriers of communication so that we will have better communication between Federal, State, and local law enforcement on a two-way-street effort for information.

Fifth, we have attempted to increase the technological information and capability of the FBI. This is very important. We all know that we are dealing in a technological world and there are in the area of communications, in the area of detection, in the area of crime prevention, huge technological advances being made, and we have to stay current. So we are going to significantly increase that effort.

Sixth, it is our desire to make sure that our key facilities in the law enforcement and international community, international stage, are protected. So we have increased the funding for security at our courthouses, and, very important in my mind, we have increased the funding for security for our personnel who are serving overseas in our State Department.

I cannot and will not tolerate—and I do not think anybody in this body would tolerate—putting American citizens who are working for our Government in a post that has a fair amount of risk to it at an unnecessary risk. There are simple things that need to be done to help these people and protect their security and, equally important, protect their family security.

There is no reason why an American who is working for the State Department who has his or her family with him or her should feel that that family is not getting adequate protection from our Government if there is a threat occurring in that country to Americans. So we needed to increase that security effort. And we have done that.

So this bill, this State-Commerce-Justice bill, is a major step, in my opinion, but not a final step, hardly even a midway step really. It is just a part of the beginning steps, but a major thrust in the beginning steps toward getting together our counterterrorism effort. But as I mentioned earlier, it all depends to a great extent on the capacity of the administration to pull together these various agencies. And that has to start at the top.

Also in this bill were two pieces of language—three actually—that have been passed by the Senate relative to terrorism in order to give our police and law enforcement community more flexibility and more capability, which passed this body by 90 to 0. They were a multipoint wiretapping and another wiretapping right and also a study on taggants relative to tracing explosives and the institution of that. That language is also in this bill.

So it is a bill that has a lot of activity in the area of trying to address the terrorist threat. Specifically, the international terrorist threat is, I mentioned, the true concern, should be our true concern, in the area of trying to get ahead of this wave of potential violence directed at the United States. Now, on that score, the Government cannot do everything. The Government has never been able to do everything, in my opinion. It certainly cannot do everything in this arena. It is the primary player. The agencies which we have responsibility for have been described as the Defense Department in this area of counterterrorism. But there still has to be a responsibility among the communities of our citizenship. There still has to be a responsibility in our corporate community.

On that point, I have written, along with some of my colleagues who wish to join me, a letter to the companies who manage Internet access. As I mentioned yesterday, we all recognize that the Internet is the Wild West of information. I, for one, have absolutely no interest in regulating it. I think it would be a mistake. I think it would undermine the great potential of the new medium of education.

The fact is certain people are abusing the Internet. When you punch in the word ''explosive'' and trace that word on the Internet, you come up with something like 32,000 designations, of which 6,000—6,000—involve directions on how to make an explosive device, directions titled, such as, ''How to make a pipe bomb and leave it at your favorite airport or Federal office building.'' That is wrong.

What I have suggested in writing the leaders of these various entrepreneurial groups who are driving the economy of information, the information economy which is doing so much for our country, what I suggest to them, maybe it is time they gave a little thought here as to what type of access they are affording people relative to the Internet. Maybe they should create some sort of self-policing mechanism which says if something is clearly, clearly, on the Net for the purpose of explaining how to kill people, such as making a pipe bomb and leaving it at your favorite airport or Federal office building, that accessing that information should not be easy. It should not just involve typing in the word ''explosive.''

When they index these items, maybe they decide not to index some items, recognizing that is a type of censorship they may not want to participate in. In this instance, it may be appropriate. In any event, when they index these systems, whether it is Yahoo, Magellan, or Netscape, generally, or America Online or CompuServe or some Microsoft system, they ought to make it more difficult to get that type of information, that you ought to go through more hoops before you can access. Granted, that might not stop the truly committed individual, but it will certainly make it more difficult for the casual pursuer of this information. That is why I am sending this letter.

I am not sure what processes could be put in place. I think there ought to be some thought given. It should not come from the Government—in other words, the Government saying, ''You do this,'' as managers of the Internet, as people who create the access systems for the Internet. That will lead to all sorts of, in my opinion, more significant issues of freedom of speech and officiousness of Government.

This should be a self-policing exercise. These folks should have the common sense and the civic attitude to proceed to try to develop something. These are creative and imaginative people that have come up with these systems. If put in a room, I suspect they could come up with creative and imaginative solutions to this problem.

That is a brief summary—not that brief, actually—but a summary of where we stand in the counterterrorism exercise relative to the FBI, especially, but it is my concern relative to this administration and how it should pursue it and the Internet, and how it should be addressed in that arena.

I yield back the balance of my time.

The PRESIDING OFFICER. The Senator from Pennsylvania.

IMMIGRATION REFORM

Mr. SPECTER. Madam President, I have sought recognition to discuss briefly one of the aspects of the immigration conference report which will come before the Senate either today or shortly after we return from recess. I think that it is very important that we reform our laws to provide increased resources to protect our borders and combat illegal immigration.

Nevertheless, I have been very much concerned about a number of provisions of the immigration bill. The provision which concerns me the most is the so-called Gallegly amendment, which would give the States the option to limit education opportunities to children of illegal immigrants. In my opinion, it is unthinkable in America to deny education to any children, regardless of their status, whether their parents are illegal immigrants.

That is something I feel particularly strongly about because both of my parents were immigrants. My mother came to this country as a child of 5 with her parents from a small town on the Russian-Polish border. My father came from Ukraine Russia, literally walked across Europe with barely a ruble in his pocket, sailed steerage—the bottom of the boat—to come to America to make a better life for himself. He did not know at the time he had a return trip ticket to France, not to Paris but to the Argonne Forest, where he fought in World War I as a buck private, to make the world safe

for democracy, and carried shrapnel in his legs until the day he died.

My parents had legal status as immigrants, but sometimes that is a hard thing to determine. I do not think any child ought to be deprived of educational opportunities because of the status of his parents, even if they are illegal immigrants.

I have been strongly opposed to the Gallegly amendment. I have agreed to sign the conference report, however, because of a significant change which I have insisted upon. That change is that, in addition to some other modifications which have already been made for a child in the first grade to complete the sixth grade and a child in the seventh grade to complete the 12th grade, the modifications I pressed to have included, and I think have been included by agreement, would provide for a comprehensive study to be conducted by GAO, the General Accounting Office, at the end of 2½ years, which would determine what impact the Gallegly amendment had on the children who were excluded from education, what impact it had with respect to juvenile delinquency, the crime rate, what impact it had on their educational status, what impact it had on their family status, and what impact it had on reducing illegal immigration. Following release of the study there will be a mandatory vote on repeal of the Gallegly provision in the Congress, both Houses, within a very short period of time, whatever the results of the GAO report may have been.

If the Gallegly amendment was not repealed on that vote, then there will be a similar study after 5 years, and then another mandated automatic vote on the repeal of the Gallegly provision by the Congress.

It is my judgment, Madam President, that if the Gallegly amendment is subjected to a vote at 2½ or 5 years, it would be repealed by the Congress and signed by whomever might be the President. Whether it is President Clinton or Senator Dole, the then President would sign it. I think if the Gallegly amendment were standing alone now, it would be rejected by the Congress.

I do not think that the entire immigration conference report ought to be rejected because of this single provision, considering the modification that I have presented, which, as I say, I think is being accepted and will be in the conference report. I wanted to make that brief explanation.

I yield the floor.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader is recognized.

THE STALKING BILL

Mr. DASCHLE. Madam President, I know the majority leader will be here shortly. I look forward to the opportunity to discuss the schedule for the remainder of the day with him when he comes.

Let me just say that I apologize for not having the opportunity to have been here this morning. I know there have been a number of discussions underway with regard to the schedule and individual issues.

The distinguished Senator from Texas, the Presiding Officer, made a number of points this morning regarding the stalking bill that she has made in the past. I am told she suggested that her stalking legislation, which passed the Senate last week after an amendment to the bill was worked out, is being held up in the House and that she referred to a commitment I made to her to try to help her get it passed. I am told she suggested that, because the bill has not cleared the House in the last week, that I have not lived up to that commitment.

As several Senators pointed out earlier this morning, sometimes it takes more than a week for the other body to act. At any rate, I understand that the problem is not as dire as earlier suggested—and that the circumstances surrounding this stalking legislation certainly do not warrant objections to action on the Executive Calendar. I wanted to confirm this, but I can now say with authority—I have the references before me —that the entire language of the Senator's stalking bill, word-for-word, is currently in the defense authorization conference report that is in the Senate. This language was apparently accepted by the House and Senate conferees. She was one of those conferees, so I am sure she understood that.

I am confused as to why that was not recognized this morning, yesterday, or at some point, because she made quite a point of saying that we had not worked in good faith. Well, clearly, the conferees were there and could have objected to the inclusion of that language, and they did not. So the language is in the defense authorization conference report, and I hope that she feels that that represents a fairly significant development in terms of getting her policy accomplished. I am very disappointed that the other half of the stalking legislation that passed last week—the amendment of the Senator from New Jersey that she praised so strongly and so appropriately the other night —was not included. The Senator from Texas has given me her word, as has the majority leader, that they would work with us to get that legislation enacted as well. I know that she will live up to that commitment, just as the majority leader and I have attempted to work in good faith to live up to ours.

The reference, I might point out, to the Senator from Texas's stalking language is section 1069 of the defense authorization conference report. The page in the CONGRESSIONAL RECORD, dated July 30, 1996, was page 9055, in the House section.

I ask unanimous consent that that section of the conference report be printed in the RECORD.

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

SEC. 1069. PUNISHMENT OF INTERSTATE STALKING.

(a) IN GENERAL.—Chapter 110A of title 18, United States Code, is amended by inserting after section 2361 the following new section:

"§ 2261A. Interstate stalking

''Whoever travels across a State line or within the special maritime and territorial jurisdiction of the United States with the intent to injure or harass another person, and in the course of, or as a result of, such travel places that person in reasonable fear of the death of, or serious bodily injury (as defined in section 1365(g)(3) of this title) to, that person or a member of that person's immediate family (as defined in section 115 of this title) shall be punished as provided in section 2261 of this title.''.

(b) CONFORMING AMENDMENTS.—Title 18, United States Code, is amended as follows:

(1) Section 2261(b) is amended by inserting ''or section 2261A'' after ''this section''.

(2) Sections 2261(b) and 2262(b) are each amended by striking ''offender's spouse or intimate partner'' each place it appears and inserting ''victim''.

(3) The chapter heading for chapter 110A is amended by inserting ''AND STALKING'' after ''VIOLENCE''.

(4) The item relating to chapter 110A in the table of chapters at the beginning of part I is amended to read as follows:

"110A. Domestic violence and stalking 2261".

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 110A of such title is amended by inserting after the item relating to section 2261 the following new item:

''2261A. Interstate stalking.''.

THE SENATE'S SCHEDULE

Mr. DASCHLE. Madam President, let me just say that while I did not hear all of the discussion this morning, I heard about it. I only say that we are prepared this afternoon to work with the majority leader to pass the conference report on minimum wage, to pass the conference report on health care, with the understanding that the last-minute, nonauthorized addition of a provision dealing with a certain drug patent would be removed from the conference report, and to pass the conference report on safe drinking water. We would be prepared to do that, along with the CFTC nominations, and the item on the Executive Calendar dealing with the nominee for the district judgeship in Minnesota.

So that is a good deal of work this afternoon. I see that the majority leader is here. We had the opportunity to discuss this matter earlier, and I look forward to resolving the matters I have just mentioned with him. We are prepared to enter into a colloquy at this time. I yield the floor for that purpose.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Madam President, I apologize to the minority leader for not being here. I got waylaid by the Secretary of Defense, who is anxious about some nominations, particularly the Chief of Naval Operations. I talked

with him on that and some other matters. As I understand it from our discussion, we would be prepared to move the nomination of the judge, the CFTC nominees—two of those—and then go to the health insurance conference report.

Mr. DASCHLE. If the distinguished majority leader will yield, as I understand it, our staffs have discussed the matter and the way in which it would come up. There would be a correcting resolution that would be offered, and we would consider that, and it is my understanding that we would then hold the bill until the House has passed the correcting resolution. But in that time we could take up the other legislation as well.

Mr. LOTT. I think there may be a problem with that, but I would like to discuss that some more in a moment.

After that—after we work through however we are going to handle the health insurance conference report and get a time agreement, I presume—and some Senators want to be heard on that, like Senator DOMENICI and Senator WELLSTONE, and Senator SPECTER has an interest there, too—then we would go to the safe drinking water conference report, and small business tax relief, which includes the minimum wage conference report.

I think we do need to talk further about how to handle the health insurance conference report with regard to the Con. Res.

I would like to ask specifically about the military nominations. I understand there is a lengthy list of generals, colonels, majors, whatever, but most importantly, the Chief of Naval Operations. I understand there is a real need for that to be filled.

Mr. NUNN. And the space command general, also.

Mr. LOTT. I would be glad to yield to the Senator from Georgia.

Mr. NUNN. I was going to inquire about the nominations. I see the chairman of the Armed Services Committee on the floor. I know we would both want to inquire about whether we would have the chance to pass the defense authorization conference report, passed by the House last evening, which I believe the Senator from South Carolina believes we can pass within an hour, maybe a shorter time than that.

Mr. THURMOND. Madam President, the House passed the defense authorization bill yesterday in one hour. I think we can pass it here in one hour. All I ask is that my colleagues not object to bringing it up. This is a matter of deep concern to the whole Nation, to those in the service, and to the defense of our country.

We need to take this bill up and pass it. It has a lot of things in it that need to be acted upon. We also have some military nominations, uniform people. There is no reason in the world to hold them up. These are nonpartisan matters. They don't affect anybody personally, but they affect the whole Nation. I hope we can get this bill up, pass it briefly, and send it on to the President.

Mr. LOTT. Madam President, does the Senator wish to respond on the possibility of getting these nominations considered this afternoon?

Mr. DASCHLE. Well, Mr. President, I would be happy to respond. We want very much to be able to clear the calendar of all nominations. We would like very much to deal with all of the military nominees and promotions. They are nonpolitical. The majority leader has pledged that for the entire month of July he would like to deal with the nonpolitical nominations on the judiciary as well. I am sure we can work out an arrangement whereby the military and judiciary—all the nonpolitical nominations—can be dealt with. I look forward to working with him and both of you to see that that happens this afternoon.

It is also my hope that we can deal with a number of conference reports. Our desire is to try to accelerate these considerations. An hour would work very fine with us. If we can work out an arrangement where that can be done, I look forward to taking that up today.

Mr. THURMOND. Since defense is a nonpartisan matter, and Senator NUNN, the ranking member of the committee, favors going ahead, and I as chairman favor going ahead, and it is purely nonpartisan—that is the way we handle defense, and that is the way it should be handled—why not take it up and pass it? We can get through with it in an hour.

Mr. DASCHLE. I agree.

Mr. THURMOND. Do you object to bringing it up? Don't put it in the category of other things. Keep defense as a nonpartisan matter. That is what we are trying to assure that ought to be done.

Mr. DASCHLE. That is right. We want to keep it nonpartisan.

Mr. THURMOND. Everything is not nonpartisan. This affects the whole Nation. This affects the defense of this country.

Mr. DASCHLE. I understand, and the chairman knows that better than anyone does. He has worked admirably to get to the point where consideration of the conference report could be taken up this afternoon in a nonpartisan way. Both the ranking member and the chairman have done an excellent job. But I must say we have worked together all month long on a whole range of bills. A lot of what we have done this month he has cooperated on. We have cooperated in a nonpartisan way in getting the defense bill to this point.

Mr. THURMOND. Please do not put defense in the group of these other things. This is nonpartisan. This is for the good of the whole Nation. Everybody feels defense is nonpartisan. Why not bring it up now? We could pass it in 1 hour.

Mr. LOTT. Madam President, if the distinguished chairman of the committee will allow me, we will continue to work on that. I am very much committed to getting the defense authorization conference report considered. It should be done. I want to have it done. I cannot allow it to be tied to political judges.

I cannot help but smile when my distinguished colleague and good friend, the minority leader, refers to judges as nonpolitical. Give me a break. But we have worked together through thick and thin for the last month. We will keep doing that.

So let me try this for now. Perhaps we could go ahead and do the judge, the CFTC, and go ahead and go to the safe drinking water conference report, because everybody is for that. We can get started. And we will talk about these other two during that time.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. LOTT. With that agreement then, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nomination on the Executive Calendar: No. 512, the nomination of Ann Montgomery to be U.S. District Judge for the District of Minnesota.

Further, I ask unanimous consent that the nomination be confirmed, the motion to reconsider be laid upon the table, and the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The nomination was considered and confirmed as follows:

THE JUDICIARY

Ann D. Montgomery, of Minnesota, to be United States District Judge for the District of Minnesota.

Mr. LOTT. I ask unanimous consent that the Senate immediately proceed to consider the following nominations on the Executive Calendar: Calendar Nos. 596 and 597, Brooksley Elizabeth Born to be chairman of the CFTC, and Calendar No. 598, David D. Spears to be a commissioner of the CFTC.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senate proceeded to consider the nominations.

Mr. LOTT. Madam President, I just want to note here on that one that it has been pending for a long, long time. A lot of cooperation was involved in the CFTC. I am glad we finally have been able to work through the problems that we had.

I further ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table, that any statements related to the nominations appear at the appropriate place in the RECORD, that the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

The nominations were considered and confirmed as follows:

COMMODITY FUTURES TRADING COMMISSION

Brooksley Elizabeth Born, of the District of Columbia, to be a Commissioner of the Commodity Futures Trading Commission for the remainder of the term expiring April 13, 1999.

Brooksley Elizabeth Born, of the District of Columbia, to be Chairman of the Commodity Futures Trading Commission.

David D. Spears, of Kansas, to be a Commissioner of the Commodity Futures Trading Commission for the term expiring April 13, 2000.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

SAFE DRINKING WATER ACT AMENDMENTS OF 1996—CONFERENCE REPORT

Mr. LOTT. Madam President, I ask unanimous consent that the Senate now turn to the conference report to accompany S. 1316, the safe drinking water bill, that the conference report be considered as having been read, and it be in order for me to order the yeas and nays on the adoption of the conference report at this time.

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

The report will be stated.

The legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1316) to reauthorize and amend title XIV of the Public Health Service Act (commonly known as the ''Safe Drinking Water Act''), and for other purposes; having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of August 1, 1996.)

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

The PRESIDING OFFICER. Is there a sufficient second?

There is sufficient second.

The yeas and nays were ordered.

Mr. LOTT. I ask unanimous consent that the vote occur on the adoption of the conference report at——

Mr. DASCHLE. If the majority leader will yield, I think we need to check with our colleagues for a brief period of time to determine the length of time that may be required to talk on this bill. I know of little opposition, if any, but I do know of a number of Senators who have expressed a desire to speak for the legislation. And so we would not be prepared to enter into a time agreement, but I do not think it will be that long.

Mr. LOTT. Madam President, let me say then that the time for vote will be announced later on today after consultation between the minority leader and myself, and I ask unanimous consent that whatever time is taken up, that it be equally divided between Senators CHAFEE and BAUCUS or their designees.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LOTT. Madam President, while we are waiting for the managers of this bill to come to the floor, we will work on these other issues.

I am glad to yield to the Senator from Minnesota.

Mr. WELLSTONE. I thank the Senator.

Madam President, I would like to thank the Chair, and I would like to thank the majority leader for discussions and bargaining in good faith. I very much appreciate the action taken. I thank you.

Mr. LOTT. I observe the absence of a quorum, Madam President.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CHAFEE. 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. CHAFEE. Madam President, could I ask what is the pending business?

The PRESIDING OFFICER. The conference report on the Safe Drinking Water Act.

Mr. CHAFEE. Madam President, I am prepared to enter into a time agreement of 1 hour equally divided.

The PRESIDING OFFICER. Is there objection? The Chair hears none. The agreement is 1 hour equally divided.

Mr. CHAFEE. Madam President, I will control the time on our side.

I ask the Chair that I be notified when I have used 8 minutes of my time.

The PRESIDING OFFICER (Mr. COVERDELL). The Chair will notify the Senator when 8 minutes has expired.

Mr. CHAFEE. Mr. President, I am pleased to join with my colleagues in the Environment and Public Works Committee in bringing the conference report of the Safe Drinking Water Act before the Senate. The committee has been working on this since 1993, and our efforts have received broad, bipartisan support at every step. I particularly pay tribute to the ranking member of this committee, who was the chairman of it during the prior 2 years, the senior Senator from Montana, Senator BAUCUS. He has done an excellent job and has been a real stalwart in achieving reforms to the Safe Drinking Water Act. What we have before us is, to a considerable extent, based upon the fine work he did while he was chairman and the committee was under his guidance.

We all agree reform of the Safe Drinking Water Act is necessary. Public health has been strengthened, there is no question, over the standards that have been issued over the past several years. But these new standards and new treatment have put a strain on the water suppliers. This bill includes many provisions to ease that burden.

What is in the bill? There is a drinking water revolving loan fund that the President first recommended. In addition to all that, the States are authorized to reduce monitoring costs by developing their own testing requirements. The States may grant variances to small systems that cannot afford to comply with the national standard. We are not rolling back any health protection that is now provided. No existing standard will be weakened.

In addition to the SRF grants, there are new programs to prevent pollution at the source. This program lets the cities and towns go to the headwaters and see if they cannot clean up the pollution there, rather than permitting the pollution to come down the river and then the city has to invest in a very, very expensive water purification plant. All of that makes sense.

The bill pushes hard for more and better science, including research programs to determine whether some groups, like children or pregnant women or people with particular illnesses, are likely to experience adverse affects from drinking water contaminants.

Before describing the major provisions in detail, I wish to thank our colleagues for the hard work they have done. Particularly, I thank Senator KEMPTHORNE, who was chairman of the subcommittee that dealt with this bill. Senator KEMPTHORNE, over many months with great patience and superb knowledge of this bill, brought forward this legislation which we now have before us, in essence. His efforts in behalf of State and local governments and others is widely recognized. The trust that Senator KEMPTHORNE had built up with local officials was, I believe, essential in achieving the compromise that is always necessary when you sign a bill into law.

Senator REID, the ranking member of that subcommittee, was a partner in that effort and did excellent work. I mentioned the fine work that Senator BAUCUS has done, and Senator WARNER, likewise, and others.

I also want to thank the House leadership that we worked with, Chairman BLILEY and Congressman DINGELL and WAXMAN and others who are, obviously, members of the conference committee.

We had help from the office of water at the EPA, including Bob Perciasepe, who heads the drinking water office.

Mr. President, if somebody were to ask what is the one thing we can do that will most improve the safety of drinking water in the United States, I think the answer would be help the small systems. There are 54,000 small drinking water systems in the United States, in trailer parks, in villages, in small communities. There are thousands of these systems that are operated by very small towns. Many of these very small systems do not have,

obviously, the technical or financial resources to consistently provide safe drinking water. They cannot keep up with the testing and monitoring and determining which contaminants are and which are not so dangerous over a short period of time. The operators have little or no training.

These small systems have been overwhelmed by the regulations imposed by the existing Safe Drinking Water Act, so the conference report that we are bringing before us now, and passing, hopefully, in a short time, addresses the problems of these small systems. How? First, as I mentioned, a grant program, a State revolving loan fund starting off at $725 million, that is for 1 year, provides Federal assistance to build treatment plants, if that is what is required in these communities. This system was proposed in 1993 by President Clinton. As I say, we authorize it for $1 billion, hopefully with an appropriation this year of $725 million.

That is the first big thing. The second is that each State adopts what they call a capacity development strategy, to help these small systems. A State strategy might include what the State decides when they ask, what can we do to help each of these small communities? It is not always necessarily money for investment. Sometimes it is money for training the operators in these small communities, or technical assistance on how do you develop a new safer water supply. It may be the ground water in the present area is contaminated but there may be other sources, deep wells or whatever it might be, that could produce new and safer water. So we are relying on the States to take the lead in designing this capacity enhancement strategy.

What are some of the other things that can be done under this bill? The States are authorized to grant variances to small systems that cannot comply with the stiff requirements you impose on the big cities where they can afford it. A portion of the SRF funds may be set aside for technical assistance, as I mentioned before, the cost of training operators. And the States may reduce the monitoring requirements. There is no point in testing constantly for a substance that never occurs in a certain section of the country. Why make the small systems constantly go through that monitoring for a contaminant that is not found in that section of the nation, as I mentioned before?

When we brought this bill before the Senate it passed 99 to nothing. The House, in many provisions, included our language word for word, for example, in the standard setting. The standard setting is based upon science and technology that I believe makes much more sense than the existing situation. For some contaminants, this approach to standard setting can impose large costs nationwide while producing only small gains. So we believe the science approach that we provided will reduce those large investments that have to be made.

So, I believe we have here an excellent piece of legislation. Again, I congratulate my colleagues.

The PRESIDING OFFICER. The Chair advises the Senator from Rhode Island his 8 minutes have expired.

Mr. CHAFEE. I thank the Chair for notifying me. We will hear from other Members of our side who will have an opportunity to speak.

The PRESIDING OFFICER. The Chair recognizes the Senator from Montana.

PRIVILEGE OF THE FLOOR

Mr. BAUCUS. Mr. President, I ask unanimous consent that Jan Harrington and Mike Burton, both fellows in Senator Bob KERREY's office, be granted the privilege of the floor during the consideration of the conference report on this subject.

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

Mr. BAUCUS. Mr. President, I, like my good friend and chairman of the committee, Senator CHAFEE, strongly support the Safe Drinking Water Act Amendments of 1996.

We all know that the Safe Drinking Water Act needs to be reformed. We have heard all kinds of stories. They are largely true. We have had problems in many of our cities, our large cities. We heard about Milwaukee, Washington, DC, and the cryptosporidium problems, as well as some problems in small communities.

It is basic, it is fundamental: Americans should be able to drink their water and rest assured that the water they drink is safe, that they will not get sick, whether they are in the comfort of their own home or whether they are visiting the Nation's Capital or wherever they might be in our country.

The current version of the Safe Drinking Water Act, is helpful in this direction, but, in many respects, it produces more paperwork than it does progress. It is my belief that this conference report helps change that.

What does it do? First, it reforms the regulatory process. This is very important. It makes it much more streamlined, and reduces redtape. It cuts monitoring costs. This is extremely important. The monitoring costs for some contaminants are extremely high, and Americans would be amazed at how expensive it is.

The bill also creates a new revolving loan fund so communities will have the resources to get the technology they need. It also requires water systems to give the people they serve more information about the quality of the drinking water the system provides. Consumers will have more notice and more information. And the bill addresses operator training. It is important to have operators who know what they are doing.

Overall, it cuts redtape and, at the same time, increases the protection of public health.

Senator CHAFEE has described some measures in detail. I agree with his assessment. I think this bill is a solid compromise. In praising it, I would like to emphasize two points.

First, as has been stated, this bill is especially important to rural States, to small communities. In my State of Montana, we have over 900 separate drinking water systems. Almost all of them serve fewer than 10,000 people.

Some of the systems serve trailer parks and remote clusters of homes. They are operated part-time by folks who are just trying to be good neighbors. They are very small systems.

The current version of the law requires small drinking water systems to install the same treatment technology as large urban water systems that serve hundreds of thousands of people. In some cases, this doesn't make sense. Small systems do not benefit from what economists call ''economies of scale.'' That is, they cannot spread their costs among a large number of ratepayers. The same high cost of technology has to be spread among fewer ratepayers, resulting in a much higher cost to the ratepayers.

If we force smaller systems to use big-city technology, not only can they not afford the cost, but they will go under. What will that mean? That means people in the area have to revert to using unhealthy well water, not water which is treated, but well water which is untreated.

This point was hammered home to me by the head of the Montana Rural Water Association, Dan Keil. I will never forget meeting with Dan about 6 years ago. He told me about legitimate problems with the Safe Drinking Water Act. We were in the Heritage Motel in Great Falls, MT. He made a very deep impression upon me.

I know Dan Keil is very happy today, now that the Senate is finally, 6 or 7 years later, dealing with the problem that needed to be addressed. At that time, he explained to me how impractical some of the present requirements are. I looked into it, and I agreed with him, they are impractical.

We are now dealing, I think, with most of those problems. One of the most important issues is the variance provision in this conference report. Here is how it works.

If a system has 10,000 people or fewer, they may request a variance to install special small-system technology identified by EPA. That is important. That means that a small system that cannot afford to comply with current regulations through conventional treatment can instead comply by installing affordable small-system technology.

The States review the variance to ensure the technology adequately protects the public health. In those cases where the system serves between 3,300 people and 10,000 people, the variance must be approved by the EPA. That is going to help. It is going to help address the twin objectives of protecting public health and using cost-efficient technology.

Second, over the last few years, there has been a lot of talk about reforming

our environmental laws. No doubt about it, although our laws are quite good—they help make the water in our country cleaner and more pure and the air we breathe more healthy—they need some reform. They are a bit outdated.

One noteworthy provision in this bill is transferability. What does that mean? Essentially, the provision allows a State to transfer dollars from the revolving loan fund in the Clean Water Act to the new revolving loan fund in the Safe Drinking Water Act. A State can loan the funds to a community that can use those dollars to pay for technology that it needs to address some of the problems in the drinking water.

A State can do the opposite, too. They can transfer from the Safe Drinking Water Act loan fund to the Clean Water Act loan fund. This provides more flexibility to allow a State to meet its needs, or a community to meet its needs. Washington, DC, is not passing something on to the States that has been described in the past as a one size fits all, view, but rather giving a lot more flexibility to States. This is extremely important.

Another innovative provision is radon. Radon has been a vexing problem because, the proposed radon standard for water is tighter than the amount of radon that occurs in outdoor air.

Radon affects people in their homes. We have basically come up with a multimedia. It allows States to set a lower standard for radon in drinking water only if the State has an alternative indoor air program that achieves just as much public health protection as the drinking water standard would achieve.

In conclusion, Mr. President, no legislation is perfect. This one is not perfect. It contains some flaws. It has a series of special projects, commonly known as pork, which will draw resources away from the new drinking water loan fund. I think those projects should not be in the bill, but we could not get the bill passed, incredibly, without some of them.

But it is a good bill nevertheless. We have made some progress. It is going to help move the ball forward.

In closing, I want to acknowledge the leadership of the chairman of the committee, Senator CHAFEE. I must say that all of us who have worked with the chairman of our committee are very impressed with him. He is basically a down-to-Earth, commonsense fellow. He calls them as he sees them. He is very generous with his time, very generous with his compliments and very generous with the people he is working with. In addition, he keeps his eye on the ball; that is, moving the environmental ball forward in a commonsense way.

It has been kind of tough the last couple of years. We have not passed environmental legislation that is solid, commonsense and balanced. Senator CHAFEE has done a good job to help advance this legislation.

I also want to acknowledge the excellent work of the staff, particularly Jimmie Powell. I don't know anybody who knows this issue better than Jimmie, with the possible exception of my two staff, Jo-Ellen Darcy and Mike Evans, who know it just as well. They have been just terrific.

I am particularly appreciative of Jo-Ellen. When they were trying to wrap this bill up 2 or 3 days ago and they wanted to quit, Jo-Ellen said they were not going to leave until they wrapped it up that night. They didn't leave, and they wrapped it up. That is a testament to Jo-Ellen's hard work.

I pay particular thanks to Senator KEMPTHORNE, chairman of the subcommittee. Senator KEMPTHORNE, like Senator CHAFEE, is a commonsense fellow. Maybe that is because he is from a Western State like Montana. Also, Senator REID from Nevada. He is not out there to try to harm anybody, does not have a political ax to grind. He is trying to get the job done in a very balanced way.

I see Senator BOXER on the floor. There is nobody more tenacious and hard working and a greater champion for environmental causes. And in the case, she was particularly strong on the right-to-know provision, which was her brainchild. I know that Senator BOXER is very pleased we included that provision in the conference report.

People worked hard on this. I am very grateful for the time and effort they put into it. I yield the floor.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I want to thank the distinguished Senator from Montana for his very generous comments about the work I have done and others and our staff. And I want to join him in his salute to Jo-Ellen Darcy and Mike Evans and the others on his staff who really were tremendous.

I now yield 10 minutes to the distinguished chairman of the subcommittee, the person who took this on, mastered it, pushed it forward. And the bill we have before us is really, to a great extent, the bill that Senator KEMPTHORNE brought from his committee that passed in this Senate 99 to 0. So if kudos are deserved around here, they are deserved by Senator KEMPTHORNE.

The PRESIDING OFFICER. The Chair recognizes the Senator from Idaho.

Mr. KEMPTHORNE. Thank you very much.

May I say how much I appreciate those remarks by the chairman of the Environment and Public Works Committee, Senator CHAFEE.

To paraphrase Samuel Taylor Coleridge: Water, water, everywhere, and with the passage of this Safe Drinking Water Act conference report, we'll be able to drink every drop.

Just over 9 months ago, in a unanimous, bipartisan vote of 99 to 0, we passed the bill that I introduced along with Senators CHAFEE, BAUCUS, and REID to reauthorize the Safe Drinking Water Act.

I will say right here that without that sort of partnership with those Senators, we would not be here today. Our bill improved public health, gave States and local governments the flexibility that they need to target their scarce resources on on high priority health risks, and laid the foundation for a safe and affordable drinking water supply into the 21st century.

Following the efforts of the Senate, the House of Representatives last month passed their safe drinking water bill, passed largely on the work that was accomplished here in the U.S. Senate.

Today we have the opportunity to complete the process and approve the conference report on the Safe Drinking Water Act Amendments of 1996. Our job today is a significant one because, surely, there is nothing more important than the health of our families and friends, and in large measure, that is exactly what is riding on this legislation. When you think about it, drinking water is really the only product or service that communities provide that directly affects the health and well-being of every person every day. Unfortunately, the current law often makes it unnecessarily difficult and costly for many communities to provide safe and affordable drinking water.

During the negotiations on the Unfunded Mandates Act, I met with executive committee members of the National Governors' Association to discuss our strategy for passage of that bill. Those Governors told me that after passage of the unfunded mandates legislation, their priority would then turn to fixing the current Safe Drinking Water Act. And so we moved and made that our No. 1 priority after passage of the Unfunded Mandates Act.

I began the process determining that we should have three goals. We needed to write a law that first and foremost would protect and improve public health, and second, we wanted to write a law that would work, one that would put substance and content over bureaucracy for bureaucracy's sake, and, finally, we needed to write a law that would reduce Federal unfunded mandates.

The bill that we are voting on today achieves those three goals. It was written with the advice of many public health experts, State and local government officials, and water providers. And I listened to what they had to say. So this bill reflects their concerns and their recommendations as to how to improve the way the drinking water is regulated.

When I began working on this legislation, I determined that there were key factors that must be incorporated. First, we must protect public health.

And we did. We eliminated the arbitrary requirement that the Administrator of EPA regulate 25 new contaminants every 3 years. Instead, the administrator is given the authority and flexibility to target her regulatory resources on those contaminants that are actually present in drinking water and that, based on the best available, peer reviewed science, are found to pose a real health risk to humans.

For the first time, we provided tens of millions of dollars for important health effects research, including research on the health effects on cryptosporidium, arsenic, and disinfectants, and their potential effect on other sensitive subpopulations, like children, pregnant women, and the elderly.

I said we would give States and local governments greater flexibility to tailor Federal requirements to maximize their resources and meet their specific needs. And we did.

The bill also gives States the sole authority to design and implement capacity development strategies to ensure that drinking water systems have the financial, technical and managerial resources they need to comply with this law. Under the old regulatory approach, we would have required States to adopt a strategy and submit it to EPA for review and approval. But we do not do that here. Once a State adopts a capacity development strategy, EPA has no authority under this law to second-guess it or penalize the State by withholding Federal funds.

The bill also recognizes that in many cases it is easier and more cost-effective to prevent contaminants from getting into source water for a drinking water system, rather than to try to remove them by regulation after they are in the system. This bill encourages States to develop source water protection partnerships between community water systems and upstream stakeholders to anticipate and solve source water problems before they occur. These are voluntary, incentive-based partnerships.

Our experience in my home State of Idaho has repeatedly demonstrated these kinds of programs work, and work well. Locally driven solutions that stakeholders themselves develop in a nonregulatory, nonadversarial setting usually achieve a far greater level of protection than could otherwise be gained through mandatory restrictions on land use or other Federal regulations. I fully expect that these voluntary source water partnership programs will quickly become a valuable tool for States and local government to improve public health, target local risks, and maximize resources.

I said that we would make this law work for small and rural systems. And we did.

We allow States to modify expensive monitoring requirements for small systems so that they do not have to spend their very limited resources testing for contaminants that are not detected in their drinking water. In many communities in Idaho, this new flexibility alone could save systems hundreds of thousands of dollars every year.

I said that we would reduce unfunded mandates. And we did.

First of all, our bill reduces the number of mandates that are imposed on States and local governments under the current law. Then, significantly, we commit substantial Federal resources to assure that the Nation's drinking water supply is safe.

The Congressional Budget Office has reviewed our bill as is now required under the Unfunded Mandates Act, and just yesterday confirmed that this legislation does not impose unfunded mandates. It stated, ''the bill would change the Federal drinking water program in ways that would lower the costs to public water systems of complying with existing and future requirements. On balance, CBO estimates that the bill would likely result in significant net savings to State and local governments.''

Mr. President, in summary, I just say, for the first time ever, we are providing the funds to the States and communities so that they can deal effectively with their water systems. For the first time ever, we are providing for source water protection. For the first time ever, we are prioritizing those areas that truly are contaminants, and going after those.

But I particularly want to thank my colleagues, Senator CHAFEE, who is the chairman of the Environment and Public Works Committee, for his leadership and efforts on this bill, combined with those of Senator MAX BAUCUS of Montana, who was the chairman in the previous Congress, and Senator HARRY REID, who is the ranking member on the Senate subcommittee we serve on. Again, without that sort of partnership, bipartisan partnership, we would not be here. I also want to acknowledge Senator BOB KERREY who is one of first ones that really came forward and said, let us make this work. And it did work.

I also want to thank majority leader TRENT LOTT for the help and encouragement he provided during the conference to help get this bill completed.

I would like to thank my staff for their hard work and dedication to the cause. To Buzz Fawcett and to Ann Klee. They are truly dedicated and extremely talented individuals. I want to thank Jimmie Powell from Senator CHAFEE's staff. Jimmie's dedication to the Safe Drinking Water Act and his knowledge of the law and the facts made him invaluable to the process. Every State, city, and rural water district in America can say thank you.

I would like to thank Jo-Ellen Darcy and Mike Evans and Ann Loomis and Scott Slesinger, Mike Smith, Gregory Daines, and Stephanie Daigle, Steve Shimberg, and Tom Sliter.

The Senate conferees remained united throughout the conference. And it was due to the uncommon abilities and the good humor of all the people that I have just named that it was successful.

Finally, I would like to thank, on a personal note, my wife Patricia and my children Heather and Jeff who know about the sacrifice that goes into these sorts of efforts: The long hours that keep you from being home, as you try to make something positive happen. It is the families that I think really offer the sacrifice. But in this case I believe it is worth it, because for all the kids of this country, it is safer drinking water. We have done our job. We stepped up to the challenge and we accomplished it.

Again, I thank the chairman and the ranking member. I thank all Members of this Senate—99 to 0—for the tremendous bipartisan support. This Congress is on record. We have positive environmental legislation that is good public health and good for this blessed environment.

Mr. CHAFEE. Mr. President, I yield now several minutes to the Senator from Virginia who is the second ranking member on the committee. He has worked very hard on this bill, and he is unable to be here long, so I ask that he might proceed.

Mr. WARNER. I compliment the managers of this bill and the chairman of the subcommittee. Through their effective leadership in guiding this conference, we are able to return to the Senate an exemplary bill. I was happy to be a part of the conference.

I am particularly pleased that this bill favorably addresses the needs of small systems and establishes a new pollution prevention approach under the source water partnership program.

Mr. President, this conference report clearly demonstrates that we can produce legislation that strengthens our protection of public health, provides relief from excessive Federal regulations and offers more streamlined requirements for local drinking water systems to comply with the law.

Our foremost priority has always been to give consumers confidence that the water that comes from the tap is safe to drink. This bill fulfills that priority.

The cornerstone of this bill is the establishment of the State Revolving Loan program. Funds will be provided to States to make either loans or grants to assist communities with the construction of treatment facilities necessary to meet the Federal standards. These funds are critically needed by our small systems who often don't have a large rate base to support the construction of new treatment plants.

Also during our conference discussions, much attention was focused on the need to require local drinking water systems to provide all of their customers with Consumer Confidence Reports. These reports are to inform customers of the content of their drinking water. It needs to be made clear that the Senate bill mandated that water systems immediately notify, within 24 hours, their customers whenever a contaminant exceeds a Federal health based standard. This is a

significant improvement from current law.

I did have concerns about proposals during the Senate debate to expand this requirement on our drinking water systems. I did not want this reporting to unduly alarm our citizens about the presence of contaminants in drinking water. The conference report includes a provision on Consumer Confidence Reports, which I strongly support because it addresses my previous concerns in several ways. Most importantly, it requires the reports to include a plainly worded explanation of the contaminants that are found and of the health risks that may result from violating the Federal standard.

It is important to make the distinction that detecting a chemical in drinking water, many which occur naturally at very low levels, is much different than violating a Federal standard. Federal standards are set at exposure levels which EPA determines are safe and will not adversely affect public health. The modification in the conference report ensures that the public will be fully informed about the meaning of data and sampling collected by a local water system.

The conference report also ensures that the local water systems have the trained personnel necessary to effectively run a treatment plant. Virginia already requires an effective operator certification program and the report requires all States to implement a training program for water system operators. I support fully this provision because with relief from the current monitoring requirements, we must be sure that treatment plants are operated in a sound an efficient manner and that personnel have the expertise to respond to unforeseen problems.

Throughout the committee's deliberations on revising the Safe Drinking Water Act, over the past 4 years, we have learned that small systems are especially burdened by the current regulatory program. Small systems, those serving less than 10,000 persons, represent over 80 percent of the public water systems in this country. Monitoring requirements, often the most expensive activity undertaken by water systems, installation of treatment technologies, and funding constraints have all overburdened our small systems and their capacity to meet the stringent requirements of the current law.

The Congress has responded to these calls for help and this bill holds great promise for assisting small systems. The revolving loan fund, alternative technologies that are affordable, monitoring relief and ensuring that operators are qualified to run treatment plans will greatly enable our small water systems to deliver drinking water that is safe for our citizens.

Mr. President, the Source Water Protection Partnership Program is a new step in pollution prevention. Having worked on this approach for several years, I am pleased that the conference contains the Senate provision. With a modest investment of funds, source water partnerships will prevent problems before they occur. The positive result will be that water quality is improved and communities are relieved from building expensive treatment systems.

A great deal of work went into the development of this approach and I must commend the agricultural community for their cooperative working relationship over the years. Our citizens involved in agriculture today are responsible stewards of our land and water. They want to be involved in a voluntary, solution based approach to these problems. I know from the great progress we have made under the Chesapeake Bay program that this approach can be extremely effective on a national level.

Another issue of great concern to me has been the water quality problems of the Washington Aqueduct and the District of Columbia's water distribution system.

Since the Environmental Protection Agency's boil-water order in December 1993, I have been working to resolve the long-term financial constraints of the system. Owned by the Federal Government, the Washington Aqueduct provides essentially a local service—municipal water supply—to the District of Columbia and the Virginia jurisdictions of Arlington and Falls Church.

Currently, the system's capital improvements are financed on a pay-as-you-go basis where the customers must pay up front the full cost of any construction project.

While user fees are collected for the District of Columbia's Water and Sewer Enterprise Fund, these resources finance the system's annual operating costs and cannot begin to meet the obligations of the system's extensive capital improvement needs.

The Conference Report provides for a reasonable approach to this problem by providing authority for the Corps to borrow funds from the Treasury for the next three years. These funds will be used to continue the improvements of the system as required by the Environmental Protection Agency. Within this 3 year period, the Corps and the customers are to work together to determine a final resolution of the ownership of the Aqueduct. The Corps is authorized to transfer the Aqueduct to a new or existing entity with the approval of a majority of the customers. I would have preferred that all the customers agree to the transfer, but that was not the view of my House colleagues. It is my very strong hope that the Corps and the customers will make every effort to reach consensus on this matter before the borrowing period expires.

It is critical that we resolve this matter because if no solution is reached at the end of 3 years then we return to the status quo. That is continued Corps ownership with no ability to provide long-term financing of the necessary improvements. This would be tragic for our rate payers who would suffer from extreme rate spikes to finance the remaining work on the Aqueduct.

Mr. President, I know that my colleagues expect this matter to be resolved within the next few years and I pledge to remain actively involved in this effort to see that there is a successful conclusion.

In closing, no legislation of this magnitude and in this short time frame can be completed without talented and dedicated professionals. I want to recognize and thank the staff of the Environment and Public Works Committee, Jimmie Powell, Jo-Ellen Darcy, and Mike Evans, and the staff for Senator KEMPTHORNE, Ann Klee and W.H. Fawcett.

Mr. CHAFEE. Madam President, I take this moment to pay particular tribute to the Senator from Virginia for the work he did in connection with providing funding for the city of Washington aqueduct. It supplies, obviously, all the residents of Washington plus some residents of northern Virginia. But for the attention and diligence of the Senator from Virginia in connection with this matter, we would not have dealt with it in the fashion we did.

I believe, as a result of the efforts of Senator WARNER, the problems of the Washington water supply system will be solved in the not too distant future. I pay tribute to what the Senator has done.

Mr. WARNER. I thank the distinguished chairman for his kind remarks and also his strong cooperation, together with the ranking member, in making possible the inclusion of this provision in this important piece of legislation.

The PRESIDING OFFICER. The Chair recognizes the Senator from Montana.

Mr. BAUCUS. I yield 9 minutes to the Senator from New Jersey.

I know no one who fights harder for the environment, who is more tenacious with a greater bulldog tenacity than the Senator from New Jersey.

That is meant as very high praise from me.

Mr. LAUTENBERG. Being a bulldog is not necessarily the kind of pet you want around the house, but it is not bad when it comes to a battle.

Mr. President, I rise to express my satisfaction with the conference report and hope that our colleagues will support it. The final bill will enhance both the quality of our drinking water and America's confidence in its safety.

Americans are concerned about the quality of their drinking water. The sale of bottled water and water filters is skyrocketing. Fewer people believe that the water out of their taps is clean and safe. Their fears are not illusionary. Look at Milwaukee or Philadelphia. Washington, the Nation's Capital has repeatedly had to tell residents to boil their water.

Something had to be done. I believe the bill we crafted will enhance both quality and confidence.

This was not an easy conference, as I am sure my colleagues will agree. Both bills resulted, from a set of delicate compromises, the House bill and the Senate bill. Any changes could raise significant opposition. I am happy the conferees were able to hammer out a draft which I believe is superior to either of the individual versions of the Senate or the House.

I will elaborate on a few of the provisions. Unlike the Senate bill, the House version would have weakened the rights of citizens to sue for violations of the water standard, even when the suits were needed to ensure public safety. The House bill also failed to give States the flexibility to transfer money from the sewage treatment loan revolving fund to the drinking water fund and vice versa. This could delay high priority projects and would prove to be wasteful. I am glad the Senate version prevailed on that issue, protecting the rights of the citizens and giving flexibility to the States.

At the same time, there is much in the House bill that is, in my view, superior to the Senate version. For example, I fully support the Boxer right-to-know amendment. As the author of a similar law that provides information about toxic releases, I think this kind of legislation is critical. Unfortunately, the amendment was not approved by the Senate, but the conference agreement includes provisions for a right-to-know law.

Mr. President, letting people know what is in their water supply is not just common sense, it is common decency. The right-to-know provision provides consumers with information on contaminants that have been detected in their water, even if the levels do not violate EPA or State standards. Since all water includes some contaminants, the conference language also provides for information on the specific impact of those contaminants.

I am disappointed, however, that these provisions fail to provide similar requirements for bottled water. Many consumers buy bottled water because they think it is cleaner than tap water. They have a right to know if that is true, and which pollutants, if any, remain in the bottles.

Several years ago, Mr. President, the FDA published regulations to require the bottled water industry to regularly monitor its products for contaminants. The industry fought these provisions and the FDA relented. That concerned me. A study by the State of Kansas showed 15 percent of the bottled water tested had cancer-causing contaminants at higher levels than allowed by EPA.

I am disappointed the conference report was watered down in this area. At least it does provide for a Federal Food and Drug Administration study on the feasibility of such a requirement. I expect the FDA will find it feasible to require the bottled water industry to provide the same information which we are requiring of suppliers of tap water to communities of 500 or above. After all, if that provision is not too burdensome for public water providers, it cannot be too burdensome for the bottled water industry.

However, if the FDA does not appreciate the importance of providing this information to the public, I will not hesitate to bring up legislation to bring bottled water under the authority of the Safe Drinking Water Act.

I also urge consumer groups to conduct tests on some bottled water sold in their areas and to prepare consumer confidence reports for the general public. This, at least, will educate consumers until proper provisions and safeguards are in place.

In addition to water quality, the controversial part of the legislation dealt with radon. I am pleased the conference came out with a provision that will help lower the risk from radon exposure to a greater degree than either the House or the Senate bill would have. Mr. President, radon is a naturally occurring radioactive contaminant that causes lung cancer by inhalation.

In New Jersey, radon exposure is believed to cause more lung cancer, more than any other environmental cause. That is why I sponsored the Indoor Radon Abatement Act in 1988. The conference report builds on that act by allowing States to implement programs that will decrease radon in the air, as an alternative to meeting the standard for radon in drinking water. A State can choose this option only if the proposed indoor air program provides greater public health benefits in complying with the drinking water standard. Since radon is dangerous only when inhaled, this measure would significantly enhance efforts to reduce this deadly contaminant.

Last, Mr. President, I want to express my appreciation to the chairman of the Environment and Public Works Committee, Senator CHAFEE, the chairman of the Drinking Water, Fisheries and Wildlife Subcommittee, Senator KEMPTHORNE, the ranking Democrat, Senator BAUCUS, in the committee and Senator REID in the subcommittee. I also want to express my thanks to the staff for their hard work, Jimmy Powell, Jo-Ellen Darcy, Michael Evans from the Committee on Environment and Public Works, and W.H. Fawcett, representing Senator KEMPTHORNE.

In particular, I congratulate my staff person, Scott Slesinger, for his hard and diligent work. He made it possible for me to stay totally informed as to what was going on and to make sure that our views were included in any of the comments that we finally sought. Without his time and effort, this would have been a much more difficult assignment for me. I am happy we have the bill we have.

Mr. CHAFEE. I yield the distinguished Senator from Wyoming 4 minutes. I want to say the Senator comes from a State with lots of small communities with small waterworks and he has been particularly vigilant in seeing that those small communities were protected not only in safety but also in the training of their operators who paid a lot of the attention to the requirements of small communities. Senator THOMAS.

Mr. THOMAS. I rise in strong support of the Safe Drinking Water Act Amendments of 1996. We all travel through our States extensively, and the topic of unnecessary regulation in the environmental areas comes up as often as any other topic when I hold meetings in Wyoming. Wyoming folks are tired of the top-down approach mandating expensive regulations for questionable benefits.

This bill says we can do a better job of protecting public health, and at the same time, inject common sense into the process. This bill helps State and local communities meet Federal standards by creating a Federal grant program to capitalize State revolving loan funds for drinking water treatment.

The mandate that 25 new contaminants are regulated every 3 years, whether at risk of human health or not is repealed. Finally, EPA will be able to prioritize efforts and cost benefits are inserted into the process. The State role is increased. Systems will be able to focus their monitoring efforts on those contaminants that actually occur in the systems.

Most importantly for my State, small communities will finally be given special consideration and assistance under the bill. States can grant variances for systems that serve people under 3,300. That is 90 percent of the water systems in Wyoming. With EPA approval that number goes up to 10,000. Small systems qualify for monitoring relief.

There are a few groups that will, once again, find an excuse to oppose this legislation, just as they did when it passed the Senate 99 to 0. I agree with them, this bill is not perfect. For instance, I am skeptical of the so-called consumer confidence report. These reports will not build confidence, in my judgment. They will simply create confusion. They will simply create confusion. I call them consumer confusion reports, at a cost of about $20 million per year. CBO says that, on balance, this bill will save local water systems in State and local governments millions of dollars. That is good news to the taxpayers.

This bill includes several provisions to ensure that Wyoming, the only nonprimacy State, can take full advantage of the benefits of this bill. It makes sense, it furthers the protection of human health and enjoys widespread bipartisan support. S. 1316 is a bill the President can support, he should support it without reservation, and we should get it on his desk quickly.

Mr. President, this is truly historic legislation and I was pleased to have

the opportunity to play a part in its development as a member of the Senate Committee on Environment and Public Works as well as the conference committee that crafted the compromise legislation before us today.

This legislation is historic for both what it does, and what it does not do. What this bill does is trust folks in the states and local communities to protect their citizens, increases flexibility to meet standards, injects common sense into the regulatory process, allows the Environmental Protection Agency to set priorities and focus limited resources on the biggest health threats, and finally recognizes that small communities in Wyoming face unique challenges and need different strategies to meet standards than New York City does. What this bill does not do is impose expensive unfunded mandates on localities, rely on the Washington knows best command and control method of regulation or blindly force regulation for regulation sake without addressing the costs and benefits. This is a massive shift in the way we approach environmental regulation that allows us to increase environmental protection while reducing unnecessary costs to the regulated community, and I hope it becomes a model for other statutes that desperately need reform.

I am particularly pleased with the approach this bill takes in helping small public water systems comply with the standards set by the Safe Drinking Water Act. As you know, Mr. President, small communities face unique challenges not found in large cities. These small systems, by their very nature, don't have the economies of scale found in large cities. Unfortunately, the Environmental Protection Agency has always set standards and determined affordable technologies based on water systems of 100,000 or more. What may be affordable for a system of this size is obviously prohibitive in Pinedale, WY. There are several provisions in this conference report that will help small systems affordably comply with the standards of the Safe Drinking Water Act and continue to protect the health of their citizens.

The vast majority of public water systems serve small cities. In my home State of Wyoming, 90 percent of our public water systems serve fewer than 3,300 people. This bill gives States the authority to grant variances from Federal standards for systems serving up to 3,300 people, and for systems serving up to 10,000 people with the approval of the Environmental Protection Agency. Small systems are given flexibility to meet the new consumer confidence reporting requirements contained in this bill. Under this bill, small systems can receive relief from monitoring requirements that today require them to monitor for contaminants that don't even occur in their water. This bill authorizes $15 million per year to provide technical assistance to small public water systems and up to $30 million per year to pay the cost of mandated operator training for small systems. Finally, this bill creates a grant program for at least five university programs to support research, training and technical assistance with respect to problems experienced by small systems. These small public water systems technology assistance centers will provide significant assistance to State and local governments in the development of programs to address special concerns relating to the water systems of rural communities and native Americans. These centers will be particularly important to states, like Wyoming, with relatively low population density that cover very large geographic areas. Coordination of research, training, technical assistance and outreach efforts through these centers will play an important information role for State and local governments. It should be noted, Mr. President, that the Water Resource Research Institutes located at the land grant university in each of the 50 States, the District of Columbia, the Virgin Islands, Puerto Rico, and Guam, can provide similar information on rural water system treatment technologies, development of alternate supplies, and training to enable compliance with State and Federal regulations. I hope the Environmental Protection Agency will better utilize these institutes as part of its drinking water programs.

In addition to the very important accommodations made for small systems in this bill, important changes were made throughout the drinking water program. I am extremely pleased about the increased flexibility that the legislation brings to the standard setting process under the act. This legislation, with its emphasis on using the best available scientific methodology for standard setting, facilitates efforts to bring more rationality to the process. The EPA has already started down this road with its risk characterization policy and its carcinogen risk assessment guidelines and I think our approach in this legislation will build on that effort, hopefully leading to the reevaluation of the standards for a number of substances. I am also pleased that States retain ultimate discretion in this bill over the content of programs that implement a capacity development strategy, and that existing State operator training programs will be allowed to continue unchanged under this legislation.

Mr. President, as with any compromise, this bill is not perfect. This bill truly is a compromise, reflecting hours of negotiations between Republicans and Democrats here in the Senate, then days of hard work and negotiations between the House and Senate. In order to move forward with this bill, and the significant benefits that go with it, it became necessary to include some provisions that I oppose. For instance, I strongly believe the provision in this bill that requires so-called consumer confidence reports is misguided, will cost local water systems from $15 to $20 million per year and will not result in consumer confidence, but instead will confuse consumers and destroy their confidence in their local water supply. Fortunately, the Senate was able to make clear that these reports should contain language that will tell consumers that the presence of trace elements of contaminants are in all drinking water, including bottled water, and this does not create a health hazard. We were also able to increase flexibility for small systems to meet this mandate.

Despite some reservations, I strongly support this bill. We create a State revolving loan fund for drinking water infrastructure under this bill, to help local communities pay for needed improvements to their water supply. We increase flexibility and reduce costs to local communities. The Congressional Budget Office says this bill will:

> * * * change the federal drinking water program in ways that would lower the costs to public water systems of complying with existing and future requirements. On balance, CBO estimates that the bill would likely result in significant net savings to state and local governments. Finally, the bill would extend the authorization of certain existing appropriations and would authorize the appropriation of additional federal funds to help state and local governments meet compliance costs.

Finally, this bill recognizes the unique situation of the State of Wyoming. Mr. President, Wyoming is the only State which does not have primacy over the Safe Drinking Water Act. Chairman CHAFEE, Senator KEMPTHORNE, and Senator BAUCUS worked with me to ensure that the citizens of Wyoming would be able to take full advantage of the benefits of this legislation, despite the fact we don't have primacy. The State of Wyoming will receive a minimum allocation from the new loan fund and will be able to apply for monitoring relief and variances. Most importantly to me, the State of Wyoming will be able to continue their current operator training and certification program. We are very proud of that program, Mr. President, and it is fitting that States continue to be allowed to structure their own programs and not be forced to follow an EPA-directed structure, as the House bill would have required.

Mr. President, many people deserve credit for passage of this legislation. I want to thank Senators CHAFEE, KEMPTHORNE, BAUCUS, and REID for their leadership. This bill would not have been possible without their hard work, and that of their staffs. Senator KEMPTHORNE in particular took some unfair hits over the last few weeks. Well financed Washington-based environmental extremists attacked Senator KEMPTHORNE's integrity and questioned his resolve to get this bill done. Mr. President, these attacks were outrageous, designed to prevent us from passing this important legislation and to build the coffers of the environmental extremists. There is no excuse

for this behavior and I want to make it clear that this bill will be signed into law thanks to Senator KEMPTHORNE and despite the irresponsible behavior of a few groups who would rather scare the American people with distortions than see positive reform to environmental laws. That's unfortunate, but we overcame their objections to the Senate bill and approved it 99 to 0, and we should do the same today.

Mr. BAUCUS. Mr. President, I yield 7 minutes to the distinguished Senator from California.

The PRESIDING OFFICER. The Senator recognizes the Senator from California.

Mrs. BOXER. Thank you, Mr. President. I add my voice in support of this bill. I want to thank, particularly, the chairman of the committee, Senator CHAFEE, the ranking member, Senator BAUCUS, and Senators KEMPTHORNE, REID, and the other members of the committee, who worked so hard. And I can say, on behalf of myself and my wonderful staff, Linda Delgado, that working with the staffs of the chairman and the ranking member has just been a joy to us.

Of course, I have some very special feelings about passage of this bill today, because an amendment that I worked very hard to get through this U.S. Senate, the consumer right to know amendment, has been adopted by the conference. The Senator from Wyoming didn't think it was a particularly good amendment, but I have to say that when one looks at what we are facing—I pick up this glass of water to drink what may be Washington, DC, water—and I think it is important that those of us who drink this water, or tap water from anywhere in this country, know what contaminants are in our drinking water.

I am very proud of this particular bill because, first of all, we won on the issue of consumer confidence reports. I disagree with my friend from Wyoming, because he thinks they will confuse people. I think people are smarter than that. I have always believed in giving people information. The way this information is portrayed will be clear and simple, and I think it will be easy to understand. If it is not, it can be revised so that it is even easier.

So I am extremely proud that we will require getting consumer confidence reports out to people, so they will know what is in the water they ingest, the water that is their lifeline. It seems to me a very important thing.

I have to say that the conference and the House deserve a lot of credit, but we built on the 40 votes we got here in the U.S. Senate. I want to say to all my colleagues who supported the Boxer amendment, my deepest thanks, because had we only gotten a few votes, we may not have gotten the agreement of our chair and our ranking member. Our chair and our ranking member knew there was support for the concept. I think the difficulty arose in the details of the amendment.

The other part of this bill that gives me great pride deals with the section on sensitive subpopulations. We attached it to the safe drinking water bill in the last Congress and in this Congress. The language in this bill requires that EPA drinking water standards be set at levels that take into account the special vulnerability of our children, our infants, our pregnant women, our elderly, the chronically ill, and other groups that are at substantially higher risk than the average healthy adult. The truth of the matter is that vulnerable populations are much weaker than a 165-pound man. The way we have set the standard throughout history has been for that very healthy, strong man. A little child, or someone who is ill, or an elderly person may be negatively affected by water that would not hurt a healthy person.

Mr. President, this is an important milestone, in my opinion, because it seems to me that we ought to do this on every bill that impacts the health of our people. We should remember the children, the pregnant women, the frail elderly, the ill. They cannot afford to hire lobbyists to come into the Halls of Congress to knock on my door or your door, Mr. President, and fight for their health and safety. They simply cannot do it. Little babies cannot do it. They count on us to protect them. In this bill, we are doing that. We are taking into account their special needs.

So, today, I am very happy. In closing, I want to mention two other issues that relate to this bill, one of which is particularly important because the South Tahoe Public Utility District needs urgent help in replacing its wastewater export pipeline system, which protects and preserves the water quality in that most magnificent of all lakes, Lake Tahoe. We were able, thanks to the chairman and the ranking member, to list this as a project that should be considered by the Administrator of EPA, should there be sufficient funds. I hope, Mr. President, that the EPA Administrator will recognize the beauty and the vulnerability and the national gift that Lake Tahoe is, and that we will be able to help them fix their problem.

On the disappointment side, I don't have many. The chairman and the ranking member were very helpful in getting authorization in this bill for the Southwest Center for Environmental Research and Policy, which is a consortium of universities in Mexico, California, Arizona, New Mexico, and other States, which is going to look into the serious pollution problems we have at our border region with Mexico. We had the authorization, but the Science Committee in the House asserted its jurisdiction and, unfortunately, removed this provision. I look forward to working with my colleagues in the House from the San Diego area to resolve this problem.

To my chairman and my ranking member, let me say that a Senator could not be more blessed than to be able to work with Senators like you and staffs like the staffs that you have. I hope we can work together for many more years.

As a member of the Environment and Public Works Committee I want to commend Senator CHAFEE, Senator BAUCUS, Senator KEMPTHORNE, and Senator REID for their extraordinary effort on this bill.

The safe drinking water bill we are passing today, is a significant step forward in helping to ensure that one of the most fundamental needs of any society—safe drinking water—is available to all Americans.

This bill will lead to the crafting of a regulatory program to meet this goal at the lowest possible cost and with the most flexibility feasible for the thousands of local water supply systems.

This bill makes very significant progress in the protection of public health. It effectively addresses legitimate concerns about overly burdensome regulation and lack of funding. And it establishes the critically important State revolving loan fund to help States and municipalities comply with Federal law.

Mr. President I want to highlight two specific items included in this bill which I worked very hard to achieve.

As a member of the Environment and Public Works Committee, I have for years worked to protect children and other sensitive subpopulations from contaminants in drinking water. I am therefore very pleased that this bill includes language that reflects the amendment I successfully attached to the safe drinking water bill in the last Congress, and worked to incorporate into the bill this Congress. The language in this bill requires that EPA drinking water standards be set at levels that take into account the special vulnerability of our children, our infants, pregnant women, our elderly, the chronically ill, and other groups that are at substantially higher risk than the average healthy adult. This is a very important step forward.

I am also pleased that this bill incorporates a strong version of the consumer confidence reports amendment that Senator DASCHLE and I offered during Senate consideration of the bill. This is especially important in light of continued reports that many Americans are worried about getting sick from tap water contaminants.

The new consumer confidence reports requirement means that consumers will once a year get a report from the water company serving their neighborhood, about the source, the quality, and the safety of their drinking water.

The information provided in the report will be simple and straightforward.

Consumers have a right to be informed at least once a year about the levels of contaminants found in their drinking water. These consumer confidence reports will empower consumers to take precautionary measures to

protect themselves and the most vulnerable members of their family, such as a grandparent or a young child, for example, by boiling water or installing special filters.

It is a pleasure Mr. President, to see this conference report pass today.

In closing I would like to briefly mention two other issues:

I am pleased that the South Tahoe Public Utility District waste water export system project was included on the list of special projects to be considered by the Administrator of EPA if there are sufficient funds.

The South Tahoe Public Utility District needs urgent help in replacing its export pipeline system which protects and preserves the water quality in Lake Tahoe. The export pipeline transports reclaimed water from the wastewater treatment plant in South Tahoe out of the Lake Tahoe basin to a nearby reservoir where the reclaimed water is stored and later used for irrigation and other purposes.

The existing pipeline is reaching the end of its useful life and must be replaced quickly if we are to avoid the possibility of a catastrophic spill resulting in serious environmental harm to Lake Tahoe. Several serious leaks have already occurred over the last 2 years, and the risk of a rupture increases the longer if takes to complete the replacement project.

The local community has raised $10 million towards replacement of the pipeline, but a total of $30 million will be needed. The local community is already paying sewer rates substantially higher than the average in California. If the pipeline is to be replaced in a timely manner, $10 million in Federal assistance is needed. While the local community might be able to pay for the pipeline replacement over the long term by enduring high utility rates, it will not get the job done as quickly as it could be done with Federal assistance. Such Federal assistance would enable the South Tahoe Public Utility District to complete the project in a more expeditious manner, reducing the chances of a large leak with serious environmental consequences for the lake.

Last, I would like to mention my disappointment that authorization for the Southwest Center for Environmental Research and Policy [SCERP], which was included in the Senate-passed bill, was not included in the final conferenced bill.

SCERP is a consortium of American and Mexican universities that works to address environmental problems along the United States-Mexican border including but not limited to air quality, water quality, and hazardous materials. SCERP's members include San Diego State university, New Mexico State University, University of Utah, University of Texas-El Paso, and Arizona State University. SCERP had its origins in the Clean Air Act Amendments of 1990, which authorized the establishment of an entity to research air and water quality and other environmental problems in the border region. Although SCERP is not specifically authorized, it has been funded through congressional appropriations for the last 5 years in fulfillment of the Clean Air Act mandate.

Mr. President, I yield the floor.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. I thank the distinguished Senator from California for her very kind remarks. We express our appreciation to her.

Mr. President, I will yield soon 3 minutes to the Senator from New Hampshire, Senator SMITH. But before doing so, I want to say that Senator SMITH has been deeply involved with this Safe Drinking Water Act from the beginning. He worked very closely with the authors of it and particularly was concerned about the small communities. There are two things he sought for these small communities. One is that they have safe drinking water and, two, that they have it at an affordable price. I pay tribute to the work Senator SMITH did in reflecting the views of his constituents in New Hampshire. I give him sincere praise for his assistance.

I yield to Senator SMITH.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. SMITH. Mr. President, I thank the chairman, Senator CHAFEE, for his very kind remarks. It has been a pleasure to work with Chairman CHAFEE on not only this issue, but Superfund and other environmental issues throughout the last 2 years—actually, longer, but 2 years under his chairmanship.

I also thank Senator BAUCUS for his good work on this. I compliment Senator KEMPTHORNE, who has done an outstanding job in shepherding this legislation to this point.

Everyone wants clean, safe water for drinking and bathing. But the ability to provide this necessary commodity at an affordable price has been a real challenge in recent years. I think we have gotten to this point because of the numerous problems encountered with the 1986 act. Many local governments and drinking water systems around the country, some of which are in New Hampshire as well as other States, have been struggling to comply with this long list of regulations while maintaining reasonable water rates. The legislation before us will help to address this problem.

The folks who live in these communities do not want to drink dirty water, but they want to be able to do what they have to do and have the reasonable opportunity to do it.

So when we talk about the issue of unfunded Federal mandates, the Safe Drinking Water Act is regarded by State and local governments as the king of those unfunded mandates. So to address it, the bill now authorizes $1 billion a year in a Federal grant to establish State revolving loan funds. This is the first time for this. These funds will be allocated to the States on an annual basis, which can then be loaned or granted to municipalities for drinking water projects. There are two provisions of this program that I believe deserve special recognition:

First, the States can use up to 30 percent of the SRF to provide direct grants to the most advantaged communities.

And, second, States can transfer funds between this new drinking water SRF and the existing wastewater treatment SRF.

So these two provisions go a long way in providing our States flexibility and the communities the flexibility they need to maximize their resources with the environmental concerns that are of the most immediate nature.

Also, the issue of radon is one that I have long been involved in, and there is still considerable debate about the amount of risk posed by low-level exposure to radon. But according to the American Water Works Association, capital costs alone could reach $12 billion nationwide. And from a relative risk standpoint, we should consider the fact that radon in drinking water contributes less than 5 percent to the total amount of radon exposure.

So given these statistics, I believe we chose a responsible course in addressing the radon issue. The bill directs EPA to set a new standard based on risk assessment conducted by the National Academy of Sciences and also would allow for an alternative, less stringent standard equivalent to outdoor air levels. Certainly no one would want to have all the wells, or 90 percent of the wells, in particular States ruled undrinkable because of standards like that. It would just cause chaos. This is a reasonable solution that will both protect public health and save money.

Finally, I thank the managers for also including the provision to establish five small-system technology centers across the country to develop and test new technologies for the smallest of systems. One of these centers, I hope, may be established at the University of New Hampshire, which has an extensive background in this area and will be a huge asset to the New England region.

So I am pleased today that we are at the point that this bill will become law, that the President of the United States has indicated he will sign it, and that it has broad-based support, bipartisan support, and support among hundreds of communities throughout the United States.

Also, I thank my staff assistant Christine Russell for her hard work and help on this issue throughout the year.

With that I yield back any time I have, Mr. President.

Mr. GORTON. Mr. President, today the Senate will pass legislation to amend the Safe Drinking Water Act to give State and local communities the flexibility to ensure that consumers

have safe drinking water, and send it to the President for his signature. For the past several years, I have worked closely with communities in my State to support legislation that throws out the one-size-fits-all approach and the costly mandates of the current law, and to replace it with greater flexibility and a commonsense approach. Today all the hard work of these communities paid off.

Several years ago, I began working with communities across my State that were frustrated with the one-size-fits-all approach of current law. The current law tied the hands of the State to work with local communities by mandating prohibitively expensive treatment technologies on the smallest of water systems—the cost of which would have bankrupt some of our State's smaller communities. In 1994, I held a safe drinking water forum in Moses Lake, WA to hear first hand from local leaders how to fix the current law. Over 100 people turned out for that hearing, and their message was clear—the current law was broken and in need of repair. Together with local government leaders I supported legislation in the 103d Congress that overwhelmingly passed the Senate. Unfortunately, that legislation did not make it to the President's desk for his signature.

This year, however, was different. This year, the Senate overwhelmingly passed S. 1316. Included in that legislation, and in the conference report that the Senate will pass today are important reforms to the law that this Senator believes will ultimately facilitate greater compliance with the law—without the bureaucracy and redtape. The conference report addresses some of the most critical concerns raised by local governments in Washington State. The conference report establishes a Safe Drinking Water Act State revolving loan fund to assist communities in financing system improvements to comply with the act, similar to the Clean Water Act State revolving loan fund; throws out the mandate that EPA regulate 25 additional contaminants based upon a benefit-cost analysis; the legislation also gives States the ability to grant variances to small systems in order to facilitate greater compliance with the act.

SECTION 106 OF THE CONFERENCE REPORT

Mr. President, I would like to thank the chairman and ranking member of the Senate Environment and Public Works Committee, and their staff, for including my amendment in the conference report that recognizes that future treatment technologies will have the capacity to provide safer water than that provided by traditional filtration. Section 106 of the conference report establishes a limited alternative to filtration, if the system can utilize another form of treatment that will provide greater removal of pathogens, than that of filtration. The need for this amendment was brought to my attention by the city of Seattle. The city has two water supply sources, the Cedar River Watershed, and the Tolt River supply. Because of turbidity problems in the Tolt supply, the city is in the process of implementing filtration technology on the Tolt. Conversely, the Cedar River supply does not have turbidity problems—it consistently tests below average for turbidity—and the city is seeking an alternative to filtration for the Cedar River supply.

Currently the Cedar is an unfiltered system, and therefore must comply with the surface water treatment rule. The rule sets forward 11 specific criteria, and calls for extensive monitoring of the system, to ensure that the system continues to provide clean water to its customers. During 1992, the Cedar violated 1 of the 11 criteria, and, consequently, was required to initiate filtration plans. Shortly thereafter the city entered into an agreement with the State and EPA region 10 to achieve compliance with the rule without filtration.

Seattle has been working closely with EPA region 10 and the Washington State health department for the past several years to find a way to treat the Cedar supply, without filtration. Filtration would cost the city roughly $200 million, but the city believes that the process of ozonation would better meet the city's drinking water needs. The Ozonation process would only cost $68 million. Ozonation is a process that is considerably less expensive than filtration and is believed to be the next up and coming technology for ensuring clean drinking water.

The ozonation process is proven to be more effective than filtration in getting rid of harmful pathogens in a water supply, like cryptosporidium and giardia. Filtration technology would inactivate 99.9 percent of cryptosporidium, but ozonation would inactivate 99.999 percent of the cryptosporidium. The increase of .099 is considered a greater increase in the level of human health protection.

Mr. President, I want to thank all of the people in Washington State who took the time to call or write me about the need to reform the Safe Drinking Water Act—their message came through loud and clear. By giving State and local communities the flexibility to address unique drinking water problems, the conference report completely and totally rejects the ''Washington, D.C. knows best'' way of thinking. When this legislation is signed into law communities across Washington State will have safe and affordable drinking water. This legislation is a victory for consumers across our State, and for the local governments that worked hard for its passage. I am proud to support the conference report to reform the Safe Drinking Water Act, and urge my colleagues to do the same.

Ms. MIKULSKI. Mr. President, I will vote in favor of the Safe Drinking Water Act conference report. Government's most important responsibility is to protect public health and safety. Safe drinking water is the lifeblood of our society and the basic foundation of good health. This bill incorporates sound scientific principles and protects public health and safety. The Safe Drinking Water Act keeps our promise to the American people.

This bill provides flexibility to State and local governments, enabling them to better assist water utilities in complying with Federal health and safety standards. This is a win-win situation because it provides utilities with the resources to meet safety standards without putting them out of business.

This legislation not only protects the safety of our drinking water, it will create jobs in construction. Modernizing our infrastructure is one of the best investments we can make. This bill helps burst the myth that environmental protection comes at the expense of economic development. The reality is that good environmental policy is good business.

Staying on the cutting edge of environmental technology presents the American economy with a large and growing market here and around the world. While the United States is already a leader in this burgeoning market, we should seize the initiative to expand our leadership even further.

Marylanders have told me they want adequate resources devoted to making drinking water safe and clean. I believe this bill is the best way to move forward toward the safest, cleanest drinking water for Maryland and America.

Mr. MOYNIHAN. I am pleased to join with my colleagues in support of the Safe Drinking Water Act Amendments of 1996. This conference report represents a thoughtful, bipartisan effort which weds protection of public health with the flexibility necessary for cost-effective implementation. It emphasizes using more and better science in identifying contaminants, and training water system operators to meet the established guidelines. It will improve protection of vulnerable populations, including pregnant women, the sick, and the elderly. It creates a new Federal grant program to help water systems struggling to comply with Federal requirements.

The conference report contains a provision that is of particular interest to New York State. Three upstate watersheds provide New York City with its drinking water, which has been of such high quality historically that the City has had no need to filtrate its water. In recent years, however, it has become evident that a comprehensive watershed protection program is necessary to preserve the purity of the region's water. As such, New York City and State have launched a collaborative effort to safeguard the fragile upstate ecosystem, an effort which I feel will be instructive to other cities and regions of the country. The bill will provide financial support for monitoring the success of this pilot program, which will likely prove effective for other municipalities.

I also wish to praise the provisions of this conference report which will allow the Environmental Protection Agency [EPA] to consider relative costs, health benefits, and competing health risks when formulating new standards for drinking water. This is a rational approach which will help us allocate resources more effectively and efficiently.

Environmental legislation places too much emphasis on risk assessment, resulting in an ineffective use of science. This perverse situation stems from directing EPA, explicitly or implicitly, to regulate environmental pollutants to safe levels of exposure. In so doing, EPA must scientifically determine what is safe.

The problem is simple: the premise is false. Science cannot define safety. Decisions about what is safe—what is an acceptable risk—are based very much on personal or societal values—informed by science, yes, but based on values. Therefore, when legislation forces agencies to use science to determine safe levels of exposure, the effect is to set EPA and other agencies up for failure. Risk managers have no incentive to take any action other than to err on the side of safety.

This bill enables EPA to avoid imposing costly regulations resulting in little or no benefit. It prudently allows EPA to incorporate economic, scientific, and social considerations in achieving its safe drinking water goals efficiently and effectively. It arms EPA with the best tools to address existing and potential problems with the Nation's drinking water supply, in reasoned and measured steps, and it establishes new requirements for keeping the public apprised of the quality of their water.

I thank my colleagues on both sides of the aisle for their hard work and willingness to compromise on the Safe Drinking Water Act Amendments, and I strongly urge its passage.

Mr. LOTT. The Senate is about to take up and, I trust, pass the conference report on the Safe Drinking Water Act Amendments of 1996. This is a strong, but balanced, environmental bill. It was written with the advice of many public health officials across the country, including those who are responsible for providing the very water that their families and friends drink every day. Their advice helped make this a common sense bill that will solve real life problems, without creating new ones. This is legislation that will truly make drinking water safer for all Americans.

Not surprisingly, this bill has strong bipartisan support in both the House and Senate, and the support of virtually every organization representing State and local governments and water agencies responsible for providing safe and affordable drinking water. This bill, first introduced by Republican Senator DIRK KEMPTHORNE, will improve public health and reduce unnecessary costs and Federal regulation.

The legislation fundamentally changes the way drinking water is regulated. It will improve public health protection, gives States and local governments greater flexibility to target their scarce resources on priority health risks, and reduce Federal unfunded mandates.

The legislation requires that a meaningful cost-benefit analysis be done whenever EPA issues a drinking water standard. The legislation requires EPA to use peer-reviewed science to identify and regulate contaminants that pose the greatest risks to public health. This is critical if we are going to protect public health without bankrupting States and local governments that have to implement Federal standards.

The bill strengthens the partnership between States and the Federal Government. For the first time, States will have the authority to tailor Federal requirements to meet their needs.

The legislation helps small systems. Most small systems don't have the financial resources or technical expertise to meet treatment requirements that were really designed for very large systems. Under this legislation systems serving fewer than 10,000 people can get regulatory relief to use alternative treatment technologies that may be less expensive but still protect public health. Small systems also may receive special financial assistance.

The legislation encourages voluntary measures to prevent contamination of source water. The bill provides financial incentives for States, communities and stakeholders to work together in a nonregulatory context to develop programs to prevent contaminants from getting into source water. This provision is endorsed by the national agricultural community.

The legislation gives States financial assistance to get the job done. The legislation authorizes $6 billion in grants to the States over the next 6 years to improve drinking water, and does so in the context of the Republican plan to balance the budget by the year 2002. The States use this grant money to capitalize a loan fund for local communities to construct and upgrade their drinking water systems.

The legislation reduces unnecessary unfunded mandates that increase the costs of drinking water without improving drinking water. The CBO says the Senate bill, on which this final bill was based would likely result in significant net savings over current law. For example, EPA now arbitrarily regulates 25 additional contaminants over 3 years regardless of whether they are found in water or whether they present a health risk. This mandate was expensive, didn't improve public health and diverted resources away from stopping killer waterborne diseases. In its place, this legislation gives EPA flexibility to regulate contaminants that actually occur in drinking water and pose real health risks.

The legislation includes a modified right to know or consumer confidence provision. This provision was part of the House bill. Senate negotiators improved the House language by providing greater flexibility for small systems and adding language to make the reports more meaningful to consumers.

This bill is important for the reforms it contains. It is also important for what the bill represents. This bill is bipartisan, and it shows that issues of public health and environment needs not be partisan. There are many Senators who deserve credit for passage of this conference report. This bill was first introduced by Senator DIRK KEMPTHORNE of Idaho whose 10 months of careful and bipartisan negotiations led to the Senate approving his bill 99–0 last November. He worked tirelessly to get this bill enacted into law. Last Sunday, for example, he spent more than 6 hours negotiating with the House in writing this bill. This is Senator KEMPTHORNE's second major bill to become law this Congress, and it is a remarkable accomplishment for a Senator in just his 4th year in the Senate. Last year, Senator KEMPTHORNE led the congressional effort to pass the Unfunded Mandates Reform Act. And it is significant that the Congressional Budget Office says this Safe Drinking Water Act comply with the Unfunded Mandates Reform Act. In fact, as I have already noted, CBO says this bill will "likely result in significant net savings over current law."

I also want to commend other Senators who worked long and hard to see that this bill passed. Senator JOHN CHAFEE, the chairman of the Environmental and Public Works Committee was getting this bill through his committee, the Senate floor and through conference. I also commend the bipartisan group of Senate conferees—Senators WARNER, THOMAS, SMITH, BAUCUS, REID, and LAUTENBERG who helped develop the original bill and the final bill with the House of Representatives.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, how much time is remaining on this side?

The PRESIDING OFFICER. There are 6 minutes remaining on your side.

Mr. BAUCUS. Mr. President, I yield all of our remaining time to the very distinguished Senator from Nebraska, who, I might say, Mr. President, although he is not a member of the committee, has been so deeply active in this issue to make sure that we get to the Safe Drinking Water Act that I at times thought he was a member of the committee. He is one of the main reasons why we are here today. I very much tip my hat to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, let me first pay my compliments to Senator CHAFEE, Senator BAUCUS, Senator KEMPTHORNE, and Senator REID.

This is a very difficult piece of legislation. If you had asked me a week ago

if I thought we would be able to get to conference and final passage before the August recess, I would not be very optimistic about it. In fact, I was prepared to take up the measure on radon in the VA–HUD appropriations bill for the fourth year in a row. I do not know how we managed to get it done. I am very grateful for its completion. For all of the rural communities of Nebraska—90 percent of our public water supply is in communities under 2,500 population—they all thank you. This bill probably saved our State millions of dollars over the next 10 years.

All the consumers of drinking water will have safer drinking water as a consequence of this change, and we are very grateful to Senator CHAFEE, Senator BAUCUS, Senator KEMPTHORNE, and Senator REID.

This is a very important piece of legislation. It is likely to have, I think, a unanimous vote here in the Senate at an age when people wonder whether or not Republicans and Democrats can work together. It is a significant improvement in our law. I am very grateful that we are enacting it.

Chairman CHAFEE and Senator BAUCUS deserve our thanks and appreciation for their leadership on this issue. I also want to thank Senator KEMPTHORNE for his personal commitment to resolving the tough issues involved in providing the public with safe drinking water and for his determination and willingness to take the time necessary to work out a compromise, and Senator REID who, like me, comes from a rural State that has a lot to gain by the passage of this conference report. I know they have put their best into this legislation and I appreciate their efforts.

One of the aspects of this bill that I have supported since the beginning of the debate 3 years ago, is that it gives States and communities more flexibility to meet safe drinking water standards. For example, the bill establishes a State revolving fund [SRF] to help finance drinking water systems. It authorizes the fund at $1 billion per year through 2003. The flexibility built into the bill allows States to transfer up to one third of the funds between the newly established safe drinking water SRF and the already existing Clean Water Act Revolving Fund. Furthermore, the bill allows for 30 percent of the State's revolving fund to be used as grants for disadvantaged communities. States deserve a chance to put their resources where they are most needed.

Nowhere is this more clear than in dealing with the public health threat of radon. For the last 3 years, through the appropriations process, I have kept EPA from publishing a drinking water standard for radon. The reason I did this is because regulating radon in water does not make sense when the known health threat for radon is through inhalation, not ingestion. Ninety-five percent of the risk is from radon in soil, not water. This bill allows States to use a multimedia approach, that focuses on getting rid of radon in homes and schools that enters these facilities through the soil, instead of putting their limited resources into getting radon out of water.

I have long believed that the way to solve this issue is through a multimedia approach. Under this bill, EPA will use a risk assessment completed by the National Academy of Science to promulgate a radon regulation. Once the maximum contaminant level [MCL] is established, if it reduces radon in water to a lower level than that in the air outside, EPA will promulgate an alternative maximum contaminant level which is equal to the amount of radon in air outside or approximately 3,000 picocuries per liter. States will be able to use that alternative MCL if they have a multimedia program which is approved by EPA.

It is a win-win solution, allowing taxpayers to get the must public health protection for their money and ensuring the water is safe.

This is a good approach and I'm glad that I can now stop going to the Appropriations Committee to ask for their assistance on the radon issue.

One of the largest costs of compliance with the Safe Drinking Water Act is monitoring.

States have to monitor contaminants in drinking water whether they exist in their water systems or not.

All Nebraska communities have asked that the current system be revised to let them test for contaminants that exist in Nebraska. Current law allows for a waiver process. However, the process is expensive and time consuming, and the benefits accrue to the local systems while the costs are incurred by the States. I fought hard to see that these provisions be changed.

This bill calls on EPA to revise current monitoring rules and it gives States the authority to give monitoring relief to small systems for a 3-year period if the systems don't have the contaminant. Additionally, States can adopt alternative monitoring requirements if they have a source water assessment program.

Aside from radon and monitoring, standard setting posed a major problem. As we all know, in the 1986 amendments we decided to regulate 25 new contaminants every 3 years whether they were needed or not. This strict method of establishing standards caused some contaminants to be regulated without a sound scientific basis.

I pushed for a change in that process. I believe that EPA needs to spend more time working with other public health agencies prior to considering a regulation. That is why, through the new contaminant selection process, EPA must consult with the Department of Health and Human Services, more specifically the Centers for Disease Control to determine which contaminants should be researched to see if they should be regulated.

Once contaminants are thoroughly research—and this bill provides money to do just that—EPA must conduct a benefit-cost analysis prior to the promulgation of a regulation. That's the way decisions ought to be made. I've fought hard to see this provision implemented and I am confident that it will allow EPA to make the best choices for the protection of public health. Decisions that will allow a State or community's resources to be directed toward the greatest public health threat.

I fully support this bill. I have worked hard to ensure that it provides the best public health protection possible, flexibility for States, and affordability for small systems. I applaud the work of the committee and I thank them for their willingness to allow me into the debate and negotiations.

I want to stop here so this bill can be passed and sent on to the President for signature.

I close again by applauding the heroic efforts of the chairman, the distinguished Senator CHAFEE from Rhode Island, Senator BAUCUS from Montana, Senator KEMPTHORNE from Idaho, and Senator REID from Nevada. I would also like to thank their staff, in particular Jimmie Powell, Steve Shimberg, Jo-Ellen Darcy, Mike Evans, Tom Sliter, Ann Klee and Greg Daines. It simply would not have been possible without their belief that water systems in our Nation need to be safe and that we need to change the way we regulate in order to accomplish that objective.

I am very, very grateful. But, more importantly, the people of Nebraska are very grateful for your hard work, your diligence, and eventually your success.

Mr. CHAFEE. Mr. President, I thank the distinguished Senator from Nebraska, Senator KERREY, for the very generous remarks he made. He was hip deep in this when we started some 4 years ago, and although he is not on the Environment Committee, he has followed it extremely closely and has been extremely helpful and constructive to us. So I thank him personally.

In conclusion, I thank the staff: Ann Klee and Buzz Fawcett with Senator KEMPTHORNE; Jo-Ellen Darcy, Mike Evans, and Tom Sliter with Senator BAUCUS; Ann Loomis with Senator WARNER; Mike Smith with Senator THOMAS; Scott Slesinger with Senator LAUTENBERG; Gregg Daines with Senator REID; Chris Russell with Senator SMITH; Diane Hill with Senator KERREY, and, of course, from the majority staff of the Environment and Public Works Committee, Steve Shimberg, Jimmie Powell, who was the lead on this, who was absolutely phenomenal, and Stephanie Daigle. All of them deserve a lot of praise and thanks.

The PRESIDING OFFICER. All time has expired.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The chair recognizes the Senator from Montana.

Mr. BAUCUS. Mr. President, I ask unanimous consent to speak for 30 seconds.

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

Mr. BAUCUS. Mr. President, I know the distinguished chairman of the committee will join with me in also thanking Administrator Browner; Bob Perciasepe, Assistant Administrator; and Cynthia Dougherty, and a former administration official who worked very hard on this legislation, Jim Elden.

This administration has shown leadership on this issue by making it an environmental priority back in 1993. Today, we have made that priority a reality. We have a divided Government, as we all know. It takes cooperation to get things done. They were an integral part of the solution. We are all very thankful.

Mr. CHAFEE. Mr. President, I certainly join in those thanks.

Now we are ready to go to a vote.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. LOTT. Before we begin the vote, I believe we are prepared to get a consent agreement on the next two bills, and I would liked to get that done. I would like to make sure that the minority leader is here and has a chance to read it over.

Why not outline what we have here and when he comes, we will actually put it in the form of unanimous consent.

This unanimous consent agreement would be that immediately following the disposition of the safe drinking water conference report vote, the Chair lay before the Senate the health insurance reform conference report, and it be considered as having been read and it be in order for Senator WELLSTONE to make a point of order that the conference exceeded the scope with respect to section 281 of title II, subtitle H, and following the ruling of the Chair, Senator WELLSTONE be recognized to appeal the ruling of the Chair; that the appeal be limited to 10 minutes to be equally divided in the usual form; following the vote on the appeal, if overturned, the point of order be null and void, and that the Senate immediately agree to the Senate Concurrent Resolution now at the desk correcting enrollment of the conference report.

So that would be the first part of how we would deal with the health insurance reform package. And then we would ask that after adopting the correcting resolution, there be 2 hours for debate on the conference report to be equally divided between Senators KASSEBAUM and KENNEDY, with 30 minutes of the Kassebaum time under the control of Senator DOMENICI, and following the conclusion or yielding back of time, the conference report be laid aside; it would be made the pending business at the direction of the majority leader after notification of the Democratic leader, and that the Senate then proceed to an immediate vote on the adoption of the conference report without further action or debate.

So there would be two parts to that consent with regard to the health insurance reform package, first the one with regard to the point of order on section 281, and then we would have 2 hours of debate on the conference report itself, with 30 minutes specifically earmarked for Senator DOMENICI.

Then we would further ask consent, after that is agreed to, that the conference report to accompany the Small Business Tax Relief Act, H.R. 3448, be limited to—we will have to get the exact time, I think 60 minutes there—for debate, to be equally divided between Senators ROTH and MOYNIHAN, and the conference report be considered as having been read, and following the conclusion or yielding back of time, the Senate proceed to vote on adoption of the conference report without any further action or debate.

Does the Senator, the distinguished Democratic leader, have a comment or question about this?

Mr. DASCHLE. Mr. President, as I understand it, our staffs are just now combing through the language, and I think within a few moments we will be prepared to enter into the agreement. I did not hear all of the explanation from the distinguished majority leader.

Mr. LOTT. When the Senator is ready. I think I will read it. I will just read it again so everybody can hear it, but I wondered if the Senator had any questions he wanted to raise.

I might note if I could, if we could get that agreed to, we would have this vote and then we would have a total under that of 3 more hours of debate on the two bills, plus the time that would be taken, which should not be very much, on the section 281 correction, and then we would couple that with votes. That would all be completed by around 8 or 8:30. And then whatever wrap-up we would have at that point, if we could get an agreement on the defense authorization bill, any other unanimous-consent requests, of course, we would do those then. But I just want the Members to know it would involve a vote now, another vote in 2 hours, and then another vote 1½ hours or so after that.

Mr. President, I will yield for a question of the Senator from Rhode Island.

Mr. CHAFEE. I do not think the majority leader would find a rebellion if that 2 hours of debate were reduced.

Mr. LOTT. I would be more than willing to see it reduced.

Mr. CHAFEE. We completed a whole conference report here in 1 hour equally divided.

Mr. LOTT. There are some Senators who would like to be heard on this health insurance issue, including, I know, Senator DOMENICI and Senator KENNEDY and Senator WELLSTONE and others. They can always yield back time. I know it is not something we like to do in the Senate very much. If anybody would like to yield back time, I do not think Senator DASCHLE would object and I know I would not object, and we could finish earlier.

Mr. DASCHLE. If the majority leader will yield——

Mr. LOTT. Yes, I yield to the Democratic leader.

Mr. DASCHLE. To one other possibility, one other possibility would be to have the votes and people who care to talk about these things talk after the votes.

Mr. LOTT. I would like to deem all the votes having occurred now and have the rest of the night for debate.

Mr. DASCHLE. We ought to be able to work something out maybe during the course of this vote.

Mr. LOTT. All right.

Mr. DASCHLE. Perhaps we could get a unanimous-consent agreement right after that vote.

Mr. LOTT. Why not do that.

Mr. CHAFEE. Mr. President, I note the distinguished Senator from Massachusetts is here. I spoke with him earlier in the day, and he seemed to have a case of laryngitis, I thought, and perhaps he will not have the steam for 2 hours or an hour. I say that hopefully.

Mr. LOTT. Mr. President, I think I still have the time.

The PRESIDING OFFICER. The majority leader still has the floor.

Mr. LOTT. Mr. President, since the Senator is having laryngitis, I will not insist that he respond at this time. Let us have the vote. We will work on the final time agreement during the vote, and hopefully we can shorten that time and we can get our work done. So I yield the floor.

Have the yeas and nays been ordered?

Mr. CHAFEE. No, they have not been ordered.

The PRESIDING OFFICER (Mr. COATS). The yeas and nays have been ordered.

The question is on agreeing to the conference report. The clerk will call the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] and the Senator from Washington [Mrs. MURRAY] are necessarily absent.

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

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 263 Leg.]

YEAS—98

Abraham	Cochran	Gorton
Akaka	Cohen	Graham
Ashcroft	Conrad	Gramm
Baucus	Coverdell	Grams
Bennett	Craig	Grassley
Biden	D'Amato	Gregg
Bingaman	Daschle	Harkin
Bond	DeWine	Hatch
Boxer	Dodd	Hatfield
Bradley	Domenici	Heflin
Breaux	Dorgan	Helms
Brown	Exon	Hollings
Bryan	Faircloth	Hutchison
Bumpers	Feingold	Inhofe
Burns	Feinstein	Inouye
Byrd	Ford	Jeffords
Campbell	Frahm	Johnston
Chafee	Frist	Kassebaum
Coats	Glenn	Kempthorne

Kennedy	Mikulski	Shelby
Kerrey	Moseley-Braun	Simon
Kerry	Moynihan	Simpson
Kohl	Murkowski	Smith
Kyl	Nickles	Snowe
Lautenberg	Nunn	Specter
Leahy	Pell	Stevens
Levin	Pressler	Thomas
Lieberman	Reid	Thompson
Lott	Robb	Thurmond
Lugar	Rockefeller	Warner
Mack	Roth	Wellstone
McCain	Santorum	Wyden
McConnell	Sarbanes	

NOT VOTING—2

Murray	Pryor

The conference report was agreed to.

Mr. CHAFEE. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

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

The motion to lay on the table was agreed to.

Mr. LOTT. 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. Mr. President, I believe Members will be very interested in this unanimous consent request. This will give them the idea of what will be happening over the next hour and a half, and some feel, maybe, of what might be in store for the balance of the night. We still have some things we are trying to work through. But this is a very important agreement. I am pleased we have it worked out. I think it is fair to all concerned.

UNANIMOUS-CONSENT AGREEMENTS

Mr. LOTT. Mr. President, I ask unanimous consent that immediately following the disposition of the safe drinking water conference report—which we have just done—the Chair lay before the Senate the health insurance reform conference report, and it be considered as having been read, and it be in order for Senator WELLSTONE to make a point of order that the conference exceeded the scope with respect to section 281 of title II, subtitle H, and following the ruling of the Chair, Senator WELLSTONE be recognized to appeal the ruling of the Chair, and that appeal be limited to 10 minutes to be equally divided in the usual form, and following the vote on the appeal, if overturned, the point of order be null and void, and the Senate immediately deem agreed to a Senate Concurrent Resolution now at the desk correcting the enrollment of the conference report.

To put that in everyday language, there will be a point of order made, and the Chair will rule after 10 minutes of debate equally divided. Then action would be taken, and then that would go as a Senate Concurrent Resolution over to the House for disposition. We believe we have everything agreed to, both here and over there. And this is the way to deal with this issue as it now stands.

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

Mr. LOTT. Mr. President, I further ask unanimous consent that following the adoption of the correcting resolution, there be 85 minutes—85 minutes—for debate under the control of Senator KENNEDY, 70 minutes under the control of Senator KASSEBAUM, with 30 minutes of the Kassebaum time under the control of Senator DOMENICI, and following the conclusion or yielding back of time, the conference report be laid aside to be made the pending business at the direction of the majority leader, after notification of the Democratic leader.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Reserving the right to object, and I shall not. Fellow Senators, I have been heard to say I would do anything I could to kill this bill because of what happened with reference to the mentally ill. But I have conferred with our distinguished leader. And, frankly, I am very proud of what he is doing around here. He is making the Senate work, and we are getting some things done. And to be honest, the only thing I could do is make you all stay around here tonight and tomorrow, if a couple of us could stand on our feet all night. And I do not choose to do that because I think, in the end, this bill is so good for the American people, and that will be expressed by the votes of this body.

But I would like those who have resisted a very modest amendment which we agreed to, which was a compromise, to know—and I told our leader this—that this issue is not going away. In fact, I will introduce a freestanding bill today with many cosponsors. And it will just be on the very simple proposition that we attempted to resolve this on, not the full amendment that came about here on the floor.

I would like everyone to know, including our distinguished leader, during the month of September there will be opportunities to vote again. And I do not intend to let this issue go by. So all of you can be looking at it because you are going to be voting again, except the next vote is a very simple one, just so, so small in dimension that hardly anybody can really object on the grounds of costs. So everybody should know that. And with that, I agree to the unanimous consent request.

I understand, I say to Senator KASSEBAUM, of your 70 minutes, in the event you have a few of them left over, you would yield those to me, also in the event those on my side need more than the 30 minutes. Is that correct?

Mrs. KASSEBAUM. Yes.

Mr. DOMENICI. Thank you for what you are doing.

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

Mr. LOTT. Mr. President, I want to thank the distinguished Senator from New Mexico, the chairman of the Budget Committee, for his comments. And Senator DASCHLE, both he and Senator WELLSTONE, I thank for their cooperation. We know how strongly you feel about it. The Senator has been very fair. We appreciate it very much.

I further ask unanimous consent that the time on the conference report to accompany the small business tax relief bill, H.R. 3448, be limited to 60 minutes under the control of Senator MOYNIHAN, 30 minutes under the control of Senator KENNEDY, and 60 minutes under the control of Senator ROTH, and the conference report be considered as having been read, and following the conclusion or yielding back of the time, the Senate proceed to vote on adoption of the conference report without further action or debate.

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

Mr. LOTT. I further ask unanimous consent that at 6 o'clock this evening, if the House has adopted the correcting resolution with respect to the House insurance reform conference report, and consent can be granted to postpone the above-listed debate time, then the Senate proceed to two back-to-back votes, the first on the adoption of the health care conference report, to be followed by a vote on adoption of the small business tax relief conference report, and any remaining debate time not previously consumed be in order following the vote with respect to the small business tax conference report.

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

Mr. LOTT. I further ask if the Senate receives an identical concurrent resolution correcting the enrollment, it be deemed agreed to and the motion to reconsider be laid upon the table, all without further action or debate.

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

Mr. LOTT. Would the distinguished Democratic leader have any comment at this time?

Mr. DASCHLE. I thank the distinguished majority leader. This unanimous consent agreement is designed to try to accommodate all Senators. There are a number of Senators, as the distinguished Senator from New Mexico has indicated, who wish to be heard on both of these conference reports, but there are a lot of other Senators who would like to be able to plan their travel for early this evening.

What this could do is provide us the opportunity, if we can do it, to have two stacked votes at 6 o'clock, one on the conference report on the minimum wage-small business package, the other on the health bill.

I hope we can get cooperation on both sides to accommodate those two votes no later than 6 o'clock. I believe we can, and I applaud the majority

leader for his effort in getting us to this point.

Mr. LOTT. I thank Senator DASCHLE for his comments and his frankly suggesting we could do the two votes at 6 o'clock, as well as his cooperation.

I know a lot of Senators have a lot of other issues they are interested in. We are still working some other issues and some, I believe, for instance, the Emerson food donation bill, a food bank bill, which I think we can get that cleared. We will be talking about other issues, so I hope rather than ask about all these bills, maybe we can go ahead and get started on the debate. I see Senator NUNN, and I know he is very much interested in some nominations.

Mr. NUNN. If I could just take 2 seconds here, I am glad progress is being made.

I join the chairman of the committee, Senator THURMOND, in his plea that we pass the defense authorization bill. It will take a total of about 20 minutes, based on what I know now.

Even more urgently, I urge that we clear the nominations, the military nominations. We have posts all over the world that depend on these nominations. It is extremely important that we do the nominations this evening. Whatever else is still in dispute when we go home tonight, I hope the nominations on the military side are cleared.

I can assure my colleagues that if Senator THURMOND and I are given 20 minutes, equally divided—we will probably cut that down, if necessary—we can finish debate on the defense authorization bill and conference report, which passed the House last night, have the stacked votes at 6 o'clock, and have that vote right after that.

I hope we would be able to get agreement on both sides.

Mr. LOTT. I yield the floor.

The PRESIDING OFFICER. Is there objection to the request of the majority leader?

Mr. LEVIN. Reserving the right to object, would the majority leader yield for a question?

Mr. LOTT. Mr. President, I thought all the unanimous-consents had been agreed to.

The PRESIDING OFFICER. The last consent was not agreed to. The Senator from Michigan has reserved the right to object.

Mr. LOTT. I am happy to yield.

Mr. LEVIN. Earlier in the week, the majority leader indicated there would be an effort made to offer up the nominations of the circuit judges as well as the district court judges. Is that effort going to continue?

Mr. LOTT. I will continue to work on those nominations. We have shown an abundance of good faith. We have confirmed 17 judges. We are not going to be able to get more of them cleared tonight, but we will continue to work on these as we go on into the fall.

Mr. LEVIN. As the majority leader knows, one of the judges I am familiar with, Eric Clay, has the support of both the Republican and the Democratic Senators from Michigan, and he is from Michigan. Is there any possibility now that would be offered this evening?

Mr. LOTT. We will continue to work with the Senator on that. Senator ABRAHAM has talked to me about that. We will continue to work on that.

I yield the floor.

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

Mr. WARNER. Mr. President, I join the distinguished chairman of the committee, Mr. THURMOND, and Mr. NUNN in their petition to the leadership of the Senate that we do address the authorization bill. I spoke earlier on that, and that particular military measure, coupled with the nominations pending before the Senate, are absolutely essential pieces that have to be passed before we depart.

I yield the floor.

Mr. THURMOND. Mr. President, I wish to thank the able Senator from Georgia, Senator NUNN, for his remarks on these defense matters, and also Senator WARNER of Virginia.

Defense, I say again, is nonpartisan; military matters and nominations are nonpartisan. Why there is an objection here to the taking up of nominations of the President of the United States for military nominations is beyond me. Why there is objection here to the taking up a defense bill agreed to on both sides, that we can finish in 20 minutes, an objection to taking it up is beyond me. After all, defense is for the whole country. These military nominations are for the whole country.

I hope that the leadership on the Democratic side that is objecting to taking up these matters would relent and let us go ahead and pass these matters. The House yesterday passed this defense conference report in 1 hour. I think we can pass it in 20 minutes.

Again, I ask the leadership on the Democratic side to reconsider this matter and take up these defense matters which are for the benefit of the whole country.

HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996—CONFERENCE REPORT

Mr. WELLSTONE. Mr. President, what is the regular order?

The PRESIDING OFFICER. The clerk will report the conference report.

The bill clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3103) to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term care services and coverage, to simplify the administration of health insurance, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The Senate proceeded to consider the conference report.

(The conference report is printed in the House proceedings of the RECORD of July 31, 1991.)

POINT OF ORDER

Mr. WELLSTONE. Mr. President, I raise a point of order against the conference report under rule XXVIII, paragraph 2, because provisions contained in section 281 of the report were inserted by the conferees, and such provisions constitute ''matter not committed to them by either House.''

They have, therefore, exceeded their authority, in violation of rule XXVIII, paragraph 2.

The PRESIDING OFFICER. The Chair will examine the language of the conference report and needs to do that before it can issue a ruling. The Chair will withhold so that examination can be made.

The Chair announces that the point of order is not sustained.

Mr. WELLSTONE. Mr. President, I appeal the ruling of the Chair.

The PRESIDING OFFICER. Under the previous order, 10 minutes are to be equally divided.

The Senator from Minnesota is recognized.

Mr. WELLSTONE. Mr. President, let me explain my challenge. I have to thank Senator PRYOR from Arkansas, who has been so diligent on these issues, and also Senator KENNEDY from Massachusetts.

Mr. President, in the dark of night, in this conference committee for this bill, the insurance reform bill, there was a provision that was put in, which was a 2-year patent extension for a prescription drug called Lodine. I think the effect of this would be that for 5 years it would be impossible for consumers to purchase a generic drug. My understanding is that the manufacturer is paying the Federal Government $10 million each year, or $20 million, because this would be additional costs, since the Medicaid assistance would go up more than it would if in fact consumers had access to the generic drug. In addition, the company will be providing reimbursements to some of the States because of the additional Medicaid costs.

The problem, Mr. President, is that this is a gigantic ripoff for the rest of the consumers because the generic drug would give consumers access to affordable treatment, those who are suffering from arthritis. So that, I think, is egregious. Clearly, I think it is the wrong thing for us to do.

The point of this challenge, however, has to do with the process. There was an attempt to stick this provision into the Senate Appropriations Subcommittee, and there was a very strong letter from Senator PRYOR and Senator CHAFEE saying, don't do that. But this was stuck into the committee late at night, not known to very many Members. It had never really passed out of

any committee. It hadn't passed out of any committee in either House, certainly not the two committees with jurisdiction over this legislation. Therefore, it was not within the scope of this conference committee to stick this provision in.

So, Mr. President, my point and the reason that I raise this point of order is that I think what was done really was a violation of the way the process is supposed to operate. On a very legal, technical point, it was a violation. This had not been dealt with by committee in either House.

Mr. President, I have to say, I was a college professor and used to teach political science courses, and I knew conference committees were called the third House of the Congress, but I had no idea that this kind of action could be taken, really, in the dark of night, not an open process, not accountable to the citizens of the country. It was the wrong thing to do, and it is for this reason that I raise this point of order and that I appeal the ruling of the Chair.

Mr. SANTORUM. Will the Senator yield for a question?

Mr. WELLSTONE. I reserve the remainder of my time, and I will yield on your time.

Mr. SANTORUM. In that case, I will yield to the senior Senator from Pennsylvania.

Mr. SPECTER. Mr. President, contrary to the statement by the Senator from Minnesota, this matter has been considered in the Judiciary Committee as part of the markup on the drug patent bill. It was on the floor as a part of the Hatch amendment, which was a part of the defense authorization bill.

This measure was also considered by the House, which passed a 2-year patent extension for this drug on separate occasions; in 1992 and again in 1996. It has been so considered as a matter of basic fairness. The FDA delayed action on this matter for some 97 months, contrasted with 27 months on the average.

This matter has been considered extensively. I raised it in open session in the Agriculture Subcommittee of the Appropriations Committee earlier this week. It had been in the House Agriculture appropriations bill and was dropped in conference. I do not vouch for the provision where it was added to the health care bill after conference. I do not know about that and was not a party to that.

But we have a very basic problem in America about research expenditures for drugs that benefit sick people. These drugs benefit everybody including the elderly, the young, and those not in either category. If we are going to expend a very substantial sum of money on research, there is going to have to be a reasonable return. We have a patent period, and the patent period was not honored in this case. The manufacturer here, Wyeth-Ayerst, is a major Pennsylvania constituent of Senator SANTORUM's and mine, employing thousands of people in the Philadelphia suburbs. If they are to be able to continue, they are going to have to have a reasonable return.

Those who added it to this bill did so because this is a health bill. One way or another, these sorts of matters must be considered. I am very sympathetic to generic manufacturers, and I have a very strong voting record for senior citizens on issues like this. But if we are to have the kind of research, productivity and the great miraculous advances, we are simply going to have to have a reasonable rate of return on the patent period that is realistic. That is why on the merits and as a matter of fairness, I have advocated this position publicly and do so today, because I think it is an appropriate and sound position.

I yield to my colleague from Pennsylvania.

Mr. SANTORUM. I think the Senator has articulated the arguments on the merits very well. This is an appropriate remedy. I just ask the Senator from Minnesota if he has ever heard of the drug Daypro. It is a competing drug that had the same problems going through the FDA as Lodine, the same problems, the same delay. But in the 1996 omnibus appropriations bill, Daypro got an extension. I don't recall the Senator from Minnesota objecting to that extension, asking for that to be removed. But they got one, too.

So what we have now is a competitive disadvantage. We have one company with a similar drug, a similar prescription, getting an extension and another drug with the same FDA problem not getting an extension. This is a health care bill. The Chair has ruled that it is within the scope of this bill. So I think what is going on here is, frankly, not a special interest, but simply a matter of fairness that we are trying to address. I think what has gone on here is really a lot of actions that—as the Senator said, this bill passed here in the Senate, passed in the House. It is not a new provision. It has had committee discussion. This thing is not anything new to any Member of this floor. We should have left it alone and created the fairness that this Senate acted on and the House acted on in the past.

Again, I agree with the Senator from Minnesota, and I don't agree with sticking things in conference that weren't originally there. I understand that objection. But this is not a red herring proposal. This is a sound proposal. This is a fair approach, and I think we are going to see either this or, frankly, the repeal of the Daypro. One or the other is going to happen again sometime in the next couple of months.

Mr. WELLSTONE. Mr. President, I appreciate working with both of my colleagues. For all I know that other provision was stuck in conference committee in the dark of night. I did not catch it. I really appreciate what you have said. I think we would probably disagree maybe on the substance because I think by postponing the time that this can be generic. We really provide more cost to the consumers. But it seems like what you have said—and hopefully we can all agree on this—this should not have been stuck in the conference committee the way it was. It was not appropriate, and that is why I challenged the ruling of the Chair.

I think from the point of view of the way our process operates it is a huge mistake to legislate this way. That is why I hope that I will receive strong support on this challenge. And my understanding is that, if we prevail on the voice vote, this will become a successful concurrent resolution which will be a technical correction resolution that I introduced on behalf of myself, and also Senator KENNEDY from Massachusetts.

Again, I thank especially Senator DAVID PRYOR for really bringing this to my attention.

Mr. SPECTER. Mr. President, I would take strong exception to any language if it refers to anything which my distinguished colleague, I, or others in the advocacy of this position have done. We have spoken of it directly. I did so earlier this week in the conference, and we do so on the floor today.

We need medical research. We need these wonder drugs to be produced. It is a matter of fairness as to how we are going to compensate those who produce them. If we are to have them for the consumers, we will have to be able to pay for them. And I think ultimately we will have to take this matter up on the merits, and I think at that time we will see that it is an appropriate position which Senator SANTORUM, I, and others have advocated.

Mr. WELLSTONE. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. The Senator has 36 seconds.

Mr. WELLSTONE. I say to my both my colleagues from Pennsylvania that they clearly are two Senators who are always more than willing to be strong and determined and honest in their positions in public.

This amendment is not at all aimed at the Senator from Pennsylvania. It is aimed at something that I think is wrong with this process.

I yield the floor.

The PRESIDING OFFICER. The question is, Should the decision of the Chair stand as the judgment of the Senate?

The ruling of the Chair was not sustained.

CORRECTING THE ENROLLMENT OF H.R. 3103

The PRESIDING OFFICER. The clerk will now report the concurrent resolution.

The bill clerk read as follows:

A concurrent resolution (S. Con. Res. 68) to correct the enrollment of H.R. 3103.

The PRESIDING OFFICER. Under the previous order, the concurrent resolution is agreed to.

The concurrent resolution (S. Con. Res. 68) was agreed to as follows:

S. CON. RES. 68

Resovled by the Senate (the House of Representatives concurring), that in the enrollment of the bill (H.R. 3103 entitled ''an Act to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance converge in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings account, to improve access to long-term care services and coverage, to simplify the administration of health insurance, and for other purposes'', the Clerk of the House of Representatives shall make the following correction:

Strike subtitle H of title II.

Mr. KENNEDY. Mr. President, I wish to make a brief comment on the addition of the special-interest provision that was added in the legislation without knowledge of the Democratic conferees and, to my knowledge, Republican conferees.

I am pleased that a provision to benefit a particular pharmaceutical company will now be dropped from the very important health care legislation.

The provision was surreptitiously included in the conference report without the knowledge of the conferees. Clearly, it did not belong in this legislation.

I simply point out that the provision was rejected when previous efforts to put it into other bills were attempted. An initial attempt to include the special deal was rejected in the defense authorization bill. A second attempt was made to include it in the agriculture conference report, and that was rejected also. Now it has been rejected in the health reform conference, and we were right to reject it.

Let me just conclude by saying, strike three, this provision is out and good riddance.

I will highlight the points in the GAO report that was issued. It said that Lodine is a ''me, too'' drug which provides no significant health benefit or therapeutic breakthrough which would justify expedited review, such as AIDS or cancer.

FDA found that the Lodine submission was ''piecemeal, voluminous, disorganized, and based on flawed clinical studies.''

The Lodine submission to FDA did not contain ''enough data to prove efficacy, until September 1989.''

It has already received special consideration under the Waxman-Hatch amendments. We passed that to try to take into consideration companies that felt they had not been treated fairly before the FDA. We have included in the RECORD the excellent statement that has been made by both Senator CHAFEE and Senator PRYOR. First of all, we note that no hearings or deliberations of any kind have been held in either the House or Senate as to whether any public purpose would be served by granting this extension. Then, finally, the CBO says the patent extension will cost the Federal Government and taxpayers $10 million. These resources would be far better applied and are urgently needed under the submissions jurisdiction.

The other point I will mention, the Lodine patent extension includes language barring importation of active ingredients. This would prevent generic competitors from conducting the essential preclinical tests and clinical studies to prepare for marketing, as they are permitted and required under the 1984 act. This specific clause further extends the patent extension by as much as 5 years and market exclusivity by as much as 7 years.

HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

The PRESIDING OFFICER. The Senate is now operating under control of debate time.

Who yields time?

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, as I understand by the previous agreements, we have divided up the time for the next few hours between the Kassebaum-Kennedy bill and also on the minimum wage legislation, but that there has been agreement to vote on these measures at 6 o'clock. So there is an expectation that it would be at 6 o'clock.

So I expect that during the course of the next period of time that we have between now and 6 that perhaps that time could be divided, if it is agreeable with Senator KASSEBAUM; that we might just divide the time between she and I until 6 o'clock.

Mrs. KASSEBAUM. I anticipate, of course, if there is more time allocated to us, that will take us past 6 o'clock. As you know, Senator DOMENICI and Senator WELLSTONE want a large share of that time to be equally divided. We will try to do so. But we will have to make sure that time is allocated to them.

Mr. DOMENICI. Mr. President, I think the Senators will be fair. But it seems to me that the spirit of the understanding would provide a portion of that time to the Senator from New Mexico. I think the spirit of it was that a portion of that time would go directly to the Senator from New Mexico.

Mr. KENNEDY. If we have 55 minutes, I suggest that we divide it between Senator KASSEBAUM and myself. And then we will allocate it to our Members between now and 6 o'clock, if that is agreeable.

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

Mrs. KASSEBAUM. Mr. President, I allocate to myself 5 minutes.

The PRESIDING OFFICER. The Senator from Kansas is recognized for up to 5 minutes.

Mrs. KASSEBAUM. Mr. President, today, we stand on the threshold of passing long-overdue reforms to our Nation's health insurance system.

According to the General Accounting Office, the bipartisan conference agreement before us today will help at least 25 million Americans each year who now face discrimination and live in fear that their health insurance coverage will be canceled if they change jobs, lose their job, or become sick.

It was exactly 1 year ago today that the Senate Labor Committee passed the core provisions of this legislation by a unanimous vote. For many months prior to that time, Senator KENNEDY and I worked together with insurance companies, consumers, Governors, State regulators, large employers, small employees, and other to forge a bipartisan consensus which would bring us to this day.

Mr. President, it has been a long, and sometimes bumpy, road. But the spirit of cooperation and bipartisanship that began this process 1 years ago has allowed us to overcome very difficult obstacles that threatened—but never derailed—our drive to pass common-sense health reforms that would provide real health security.

Whilte there has been a great deal of debate and polemics over the last few months about extraneous provisions, Senator KENNEDY and I have never lost sight of our primary goal. The heart and soul of the Kassebaum-Kennedy bill that passed the full Senate unanimously are firmly embedded in the conference agreement before us.

Mr. President, beginning July 1, 1997, every American who has played by the rules will be able to keep their health insurance coverage even if they change jobs, lose their job, or have a preexisting illness.

Last night, the House of Representatives passed the Health Insurance Portability and Accountability Act by an overwhelming vote of 421 to 2. Today, we will have the opportunity to do the same and to send this bill to President Clinton for his signature.

This is a dramatic victory for the American people—not only because the bill will help millions of Americans with preexisting illnesses, but also because—I believe—the process of compromise, negotiation, and bipartisanship that was the hallmark of this bill will go a long way toward restoring Americans' faith that their Government can work to address their most pressing concern.

Depending on who was speaking yesterday, one would think that health reform was entirely the province of one party. But as Senator KENNEDY and I both know, this effort has been bipartisan from the start.

Senator KENNEDY and Representative ARCHER worked together to develop a compromise on medical savings accounts that broke a months-long impasse on the bill.

The majority and minority leaders, as well as Senator Dole, deserve much credit for breaking the gridlock over this bill.

In fact, Mr. President, I would just like to say a special word of appreciation to the majority leader. I think that Senator LOTT has devoted a great deal of time and energy to making sure that we could reach this point this evening before we go out on our recess.

And there also has been significant bipartisan support in the House from Representatives THOMAS, BLILEY, BILIRAKIS, WAXMAN, HYDE, DINGELL, and others. I especially want to recognize Representative HASTERT of Illinois for his leadership in bringing together members of both parties to reach agreement on this very important bill.

I regret that we could not do more to help small employers. In an effort to avoid controversy that could have derailed the legislation, both the House and Senate small business pooling provisions were dropped from the conference agreement. Representative FAWELL from Illinois is perhaps the greatest advocate of this reform, and Senator JEFFORDS, from Vermont, also has worked very diligently to help small employers enjoy the same economies of scale as large employers. My hope is that those Members and others will continue to show leadership in the future to find constructive bipartisan solutions in this area.

I also regret that this legislation does not include malpractice reforms that could significantly lower costs for consumers.

Finally, Mr. President, I know many of my colleagues are disappointed that the bill does not do more to help end discrimination against those with mental illnesses. I know that Senator DOMENICI and others will speak to that issue later. But I would just like to express my appreciation to Senator DOMENICI who has devoted his time and heartfelt efforts to achieving legislation to address parity in insurance coverage for those with mental illness.

We did not do enough in this bill, and I certainly can understand those who wish we could have done more. However, the bill does represent significant progress for those with mental illness and other chronic conditions. The bill expressly prohibits employers and insurers from denying coverage to individuals because of preexisting mental illnesses as well as physical illnesses, and people who suffer with mental illnesses will be able to change jobs without the fear of losing their health coverage.

I also have received letters in recent days from nearly 30 groups, including the American Association of Retired Persons, the American Medical Association, the American Hospital Association, the American Cancer Society, the Healthcare Leadership Council, the American Lung Association, the American Heart Association, the March of Dimes, and others.

Let me read from one of these letters:

> The American Cancer Society estimates that more than one million people will be diagnosed with cancer this year. Ten million Americans alive today have a history of cancer. Under current insurance practices, many of these people will be denied coverage if they change jobs or lose their job, or they will be squeezed out of their existing plan because of their health status. The health insurance reform bill addresses these critical issues by limiting preexisting condition restrictions and ensuring greater portability of coverage. * * * The modest reforms contained in [this bill] will go a long way toward protecting people with chronic illness and their families. * * *

So, Mr. President, let us move forward. Let us cap this bipartisan effort with another strong vote today and send this historic legislation to the President's desk for his immediate signature.

There is no controversy about the central elements of the bill. There is no question that the President will sign the legislation. There is no question that—despite its long delay—the President, and members of both parties, in both the House and the Senate, can take credit for passing these sensible reforms.

And there is no question that the American people will be the real winners today. This bill will guarantee that those who need coverage the most are not shut out of the system. It is a small step forward, but it is a historic step. And it will mean the world to millions of Americans who will no longer live in fear that they will lose their health coverage when they change jobs or lose their job.

I urge my colleagues to support the conference agreement, and to send this important measure to the President today.

Mr. President, I think many will be helped by this bill. While it is not a great leap, it is an important, historic step forward in addressing many of the American people's most pressing concerns about health care.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, in the final moments before we are going to have legislative completion of this Kassebaum-Kennedy bill, I once again commend the chairman of our committee, Senator KASSEBAUM, for her leadership and work in fashioning this legislation, which reflects the strong bipartisan support of her committee. As she has rightfully pointed out, it was a year ago today that the committee reported it unanimously. It did take us a period of time, some 8½ months, before the Senate finally considered the legislation, and then passed it unanimously. So this does really reflect an extraordinary legislative achievement and accomplishment.

As we come into the final days and hours of this part of the Congress, I think all Americans are very much in the debt of Senator KASSEBAUM for all she has done on this legislation and on many other pieces of legislation, and it is important for the record to note it. I think the Members of the Senate respect and understand that.

Secondly, Mr. President, this legislation is right and necessary not just because, as the leaders of all of the great religions have pointed out, it is morally imperative for those who have some preexisting condition or some illness, or disability. It is not only right because we have virtual unanimous support from the business, consumer, and labor communities, but most powerfully it should pass because it has the support of the working families in this country.

There will be many who will try to claim credit for the legislation. But ultimately this legislation was passed for the parents, those parents who today are worried about a child who may have some disability and wonder what in the world is going to happen to their child when they reach maturity and they are no longer included in that parent's policy. Those parents know that today it is virtually impossible for that child to be able to get some kind of health insurance.

Victory can be expressed by workers, who currently can see a new opportunity for themselves and for their families by moving up in terms of the employment opportunities but hesitate to do so. They hesitate to attempt to fulfill the great American dream because they wonder whether that job which is out there and offered to them in which they feel they can do a superior job may not provide that degree of coverage for a member of their family, for their wife or for one of their children. As a result, they turn down that opportunity. The American dream becomes somewhat more remote and distant to them.

It is a victory for those older workers, in my State of Massachusetts and around the country who, as a result of downsizing, changes in defense procurement, and changes in our commercial markets, become down-sized and put out, effectively to pasture, and wonder whether they are going to be able to acquire any kind of health insurance because maybe they are not as physically able as they were at an earlier period of time. These older workers—who have worked hard, paid their dues over the long period of time and who may be a little ill—now have this anxiety—just when they are looking at their golden years in retirement.

It is the entrepreneur, the individual who wants to start up their own business but knows that because a member of their family has some illness, they are virtually prohibited from acquiring any kind of health insurance. Today, their hopes and dreams are further diminished.

When the final vote on the Kassebaum-Kennedy is taken later today, it will pass overwhelmingly. It will pass because it is bipartisan legislation. It will pass because it is supported by over 200 groups in a broad-based coalition representing consumers, business,

labor, and responsible insurance companies. It will pass because the conference committee agreed to limit the controversial medical savings account proposal to a genuine test—not a full-blown program—and to accept meaningful portability reforms. Most of all, it will pass because the American public deserves and demands action.

I want to give special praise to the chair of our committee and the leading sponsor of this bill, Senator KASSEBAUM. It was her leadership that resulted in a unanimous vote from our committee. It was her vision and commitment that made it possible for this bill to pass the Senate without crippling amendments. She was tireless in her efforts to reach a constructive compromise to get a bill that all of us can support. As she nears retirement from the Senate, this bill is her gift to the American people. The American people owe her a great debt of gratitude, and I'm proud to have served with her on the Labor Committee for all these productive years.

This bill will end many of the most serious health insurance abuses and provide greater protection to millions of families. It is an opportunity we can't afford to miss.

The abusive practices addressed by this bill create extensive and unnecessary suffering. Ending them will bring greater opportunity and peace of mind to millions of Americans. Twenty-five million Americans a year will be helped by the provisions of this bill. Everyone knows a family member or friend who has been hurt because of the abuses this bill will end.

Millions of Americans are forced to pass up opportunities to accept new jobs that would improve their standard of living or offer them greater opportunities because they are afraid they will lose their health insurance. Many others have to abandon the goal of starting their own business because health insurance would be unavailable to them or members of their families.

Parents who have a child with a health problem worry that their son or daughter will be uninsurable when they are too old to be covered by the family policy. Early retirees find themselves uninsured just when they are entering the years of the highest health risks. Other Americans lose their health insurance because they become sick, lose their job, or change their job—even when they have faithfully paid their insurance premiums for many years.

With each passing year, the flaws in the private health insurance market become more serious. More than half of all insurance policies impose exclusions for preexisting conditions. As a result, insurance is often denied for the very illnesses most likely to require medical care.

The purpose of such exclusions is reasonable: to prevent people from ''gaming'' the system by purchasing coverage only when they get sick. But current practices are indefensible. No matter how faithfully people pay their premiums, they often have to start over again with a new exclusion period if they change jobs or lose their coverage.

Eighty-one million Americans have conditions that could subject them to such exclusions if they lose their current coverage. Sometimes these conditions make them completely uninsurable.

Insurers impose exclusions for preexisting conditions on people who don't deserve to be excluded from the coverage they need. Sometimes, insurers deny coverage to entire firms if one employee of the firm is in poor health. Even if people are fortunate enough to obtain coverage and have no preexisting condition, their policy can be canceled if they have the misfortune to become sick—even after paying premiums for years.

One of the most serious consequences of the current system is ''job lock.'' Workers who want to change jobs must often give up the opportunity because it would mean losing their health insurance. A quarter of all workers say they are forced to stay in a job they otherwise would have left—because they are afraid of losing their health insurance.

When we originally debated this legislation on the Senate floor, I spoke of just a few of the millions of Americans who have been victimized by the abuses in the current system.

Robert Frasher from Mansfield, OH works for an employer who offers health coverage to employees. But the insurance company won't cover him because he has Crohn's disease.

Jean Meredith of Harriman, TN and her husband Tom owned Fruitland USA, a small convenience store. They had insurance through their small business for 8 years. But Tom was diagnosed with non-Hodgkin's lymphoma, and their insurance company dropped them because they were no longer profitable insurance risks. Without health insurance, Tom Meredith had to wait a year to get the surgery he needed. After spending $60,000 dollars of his own funds, his cancer recurred and he died a year ago. Tom Meredith might still be alive today, if he hadn't been forced to wait that year.

Diane Bratten from Grove Heights, MN and her family have insurance through her employer. Because of a history of breast cancer now in remission, Diane and her family would not be able to get coverage if she decided to change jobs or was laid off.

Nancy Cummins of Louisville, KY lost her health insurance when her husband's employer went bankrupt. When their COBRA coverage expired, they were uninsured for 3 years until they qualified for Medicare. During this period, she suffered three heart attacks, which left their family with $80,000 in debts.

Jennifer Waldrup of my home state of Massachusetts was covered by her husband's health insurance until his employer went out of business. When she applied for coverage under her own policy, she was turned down because she had multiple sclerosis. Her employer tried to help, but could not find an insurer who would insure here. Her husband had to cash in his life insurance to pay her medical bills.

Tom Hall of Oklahoma City testified before our Committee. He faithfully paid for premiums for 30 years under the group policy of the construction business he co-owned. When the company dissolved and he became self-employed, the same insurance firm refused to give him coverage because he had a heart condition. He lives in fear that his life savings will be wiped out.

This legislation is a health insurance bill of rights for Robert Frasher, for Jean Meredith, for Diane Bratten, for Nancy Cummins, for Jennifer Waldrup, for Tom Hall—and for millions of other Americans as well.

Those who have insurance deserve the security of knowing that their coverage cannot be canceled, especially when they need it the most. They deserve the security of knowing that if they pay their insurance premiums, they cannot suddenly be denied coverage or be subjected to a new exclusion for a preexisting condition when they change jobs and join another group policy, or when they need to purchase coverage in the individual market.

This health insurance reform bill corrects these fundamental flaws in the private insurance system. It limits the ability of insurance companies to impose exclusions for preexisting conditions. Under the legislation, no such exclusion can last for more than 12 months. Once someone has been covered for 12 months, no new exclusion can be imposed as long there is no gap in coverage—even if people change jobs, lose their job, or change insurance companies.

The bill requires insurers to sell and renew group health policies for all employers who want coverage for their employees. It guarantees renewability of individual policies. It prohibits insurers from denying insurance to those moving from group coverage to individual coverage. It prohibits group health plans from excluding any employee based on health status.

These rules are important for helping people with a wide range of health conditions. They also address the relatively new but serious and growing concern that genetic screening information will be used to deny coverage to people who aren't sick yet—a concern that prevents many from getting the medical tests that could help protect them against future illness.

Also, because of this bill, victims of domestic violence will know that they can seek help without jeopardizing their insurance coverage.

The bottom line is that this legislation guarantees that no one who faithfully pays their premiums can have their insurance taken away or preexisting conditions imposed, even if they change jobs or lose their job.

There has been a sudden rush in recent day to claim credit for this bill as it reaches final action. This is not a partisan bill. It was developed by a Republican Senator and a Democratic Senator. Members on both sides of the aisle have made important contributions. But the American people should be clear as to who fought to pass this bill—and who fought to derail it.

The Kassebaum-Kennedy bill was approved by the Labor and Human Resources Committee on August 2, 1995—exactly 1 year ago today. It was approved by a unanimous vote of 17–0. And then it languished for months on the Senate calendar because Bob Dole and the Republican Senate leadership tried to kill it by a system of rolling, anonymous holds. In fact, it would still be on the Senate calendar today, if it had not been for the courageous leadership and timely intervention of President Clinton.

Let there be no mistake about the facts. This bipartisan bill was passed because President Clinton led an all-out effort. And it almost died because Bob Dole and the Republican leadership tried to kill it. They blocked it for months because they were more concerned about the profits of insurance companies than the health care of America's families. The party that tried to slash Medicare was at it again.

President Clinton's eloquent call for action on the bill in the State of the Union Address on January 23d this year was the trumpet that blew down the wall of Republican obstruction. The President focused the attention of both the press and the public on the legislation—and on the secret maneuvers that were stabbing it in the back. The obstruction failed. President Clinton's State of the Union Address lit a fire that Bob Dole couldn't extinguish.

Two months later, on February 6, Bob Dole agreed in principle to let the bill come before the Senate. At that time, hardly by coincidence, he was in the middle of a difficult campaign in the New Hampshire primary.

And even after he agreed in principle to bring up the bill, he still managed to postpone action for more than 3 months—until April 18—so that insurance companies who profit from the abusive practices of the current system would have more time to organize their opposition and prepare their poison pills.

One of the poison pills was medical savings accounts [MSAs]. The House and Senate Republicans tried to force Congress to swallow that pill, even though it would clearly jeopardize passage of the entire reform. This radical and untried concept was fueled by lavish campaign donations from the Golden Rule Insurance Company—one of the worst abusers of the current health insurance system. Authoritative, independent analyses of the concept warned that widespread use of medical savings accounts could easily drive up premiums for other citizens by 60 percent or more. In the words of the Congressional Budget Office, medical savings accounts ''could threaten the existence of standard health insurance.''

The Republican plan lacked even the most basic consumer protections for people who selected MSAs. Deductibles could be as high at $5,000 per individual and $7,500 per family. There was no limit on how high their total out-of-pocket costs could rise.

The Kassebaum-Kennedy health insurance reform bill is supposed to make the insurance system better for the American people, not undermine it through untested programs or expose people to excessive health care costs. But that is exactly what Senator Dole and the House Republicans tried to do. When medical savings accounts were proposed on the Senate floor, Senator Dole led the effort—and was soundly defeated.

House Republicans also demanded other protections for the insurance industry that would have made a mockery of the entire bill. Under their proposal, the promise of portability became a hollow one. Insurance companies could offer only one policy to sick people at a prohibitive cost. A family plan would have cost $18,000 a year under the Republican plan.

This scheme would have been a setup for the insurance industry and a setback for health reform, if Democrats had not stood firm. The intransigence of the House Republican leadership stalled the bill until July 25—4 months after it passed the Senate. Until the last day of the conference, they continued their attempt to undermine the portability provisions. Because President Clinton and Congressional Democrats stood firm, the American people are the winners.

Obviously, this bill is not a cure-all for the health care system. But it is an important first step on the road to further reform.

We all know the problems that continue to exist. Between 1990 and 1994, the number of uninsured Americans rose 18 percent—from 34 million to 40 million citizens. The average person who becomes uninsured today will stay uninsured twice as long as in the 1980s. According to a recent study, the number of uninsured could rise by another two-thirds—to 67 million Americans—over the next 7 years. The percentage of Americans with job-based insurance will fall from 61 percent in 1989 to 45 percent by 2002.

These trends will not change because of the legislation we are enacting today. Too many families will still be just one pink slip away from losing their coverage. Too many families forced into unemployment or retirement by corporate downsizing will not be able to afford the insurance they need—even if they cannot be denied the right to purchase it simply because they are ill.

Tens of millions of other Americans have no coverage today because they work for employers who won't provide it and because they can't afford it themselves. They will get no relief from this bill.

Too many senior citizens will continue to pay more than they can afford for the health care they need. Too many children will still not get the healthy start in life they deserve.

Across the landscape of America there is not a family that has not been affected by some preexisting condition, some illness, some disability. There is not a family that does not know a neighbor or friend that has not been presented with this kind of fear and anxiety.

So, Mr. President, we move this legislation forward, and we are very hopeful that when this measure is actually signed by the President of the United States, we will be helping to lift that sense of anxiety and fear and frustration from among our fellow Americans when they have been turned down by the fiercest and most abusive policies of insurance companies.

We know that this legislation is not going to resolve all the problems, but there will be those families, there will be those parents, there will be the members of the family, there will be the older worker, there will be the entrepreneur who will know they can look to the future with additional hope and anticipation in fulfilling the American dream.

So, although this is not all of what some of us may have wanted, this is a meaningful, important piece of legislation that can make an extremely important and significant difference in the quality of life for our fellow Americans. The passage of the legislation is the beginning of a journey, not an end.

Next year I hope, under President Clinton's leadership, and I would say a Democratic Congress, we will take the next step forward toward assuring every American family the basic right to health care.

Mrs. KASSEBAUM. Mr. President, I agree with the ranking member of the Labor Committee on some things. But the last part of his statement I would, perhaps, have to have some question about.

I yield 5 minutes, now, to the chairman of the Finance Committee, Senator ROTH.

Mr. DOMENICI. Mr. President, I ask if the senior Senator from Kansas will yield to me for 10 seconds?

Mrs. KASSEBAUM. I will so yield.

Mr. DOMENICI. Senator KENNEDY, I know your desire for next year, but I would remind you, you had the Senate and House for 2 years with the President, and you did not get anything done with health care. I yield the floor.

Mr. KENNEDY. Mr. President, I would like to yield to myself. I think I have a right to recognition—

The PRESIDING OFFICER (Mr. SANTORUM). The Senator from Massachusetts should be warned the Senator from Kansas yielded to the Senator from Delaware.

Mr. ROTH. Mr. President, today we fulfill a promise to the American people. We bring greater security to American families. We offer peace of mind to

hard-working, responsible men and women who are providing for themselves and for their families.

There has been no question on either side of the aisle—or throughout America—about the need to make necessary improvements in our health care system.

The improvements in this legislation primarily focus on making health care coverage accessible and affordable. It goes without saying that we have the highest quality of care, the best technology, the finest health care personnel found anywhere in the world.

Our objective, then, is to initiate fundamental reforms in access to health care without doing irreversible harm to quality, research and technology. This legislation is an excellent first step toward accomplishing our objective.

Unlike the health care reform effort made 2 years ago, this legislation does not harm the system in the process of reforming it.

Rather, this legislation meets the most pressing needs associated with reform: Increased portability; limitations on pre-existing conditions exclusions; guaranteed renewability of health care insurance; and, improved means for small businesses and self-employed individuals to provide health care coverage, including long-term care.

I want to particularly thank Senator MCCONNELL for his leadership and active participation in these reforms, especially in the area of long-term care. Likewise, I want to acknowledge the work done by Senator COHEN toward preventing health care fraud and abuse. I want to thank Senator GRASSLEY for the work he has done in the area of coordination and duplication of Medicare-related plans, and Senator BOND who has been instrumental in his work for administrative simplification.

This has certainly been a team effort—a valiant effort by Senators and hard-working staff. I am proud of what we have accomplished. Beyond the critical reforms I have already outlined, this legislation also takes a very important first step toward a program that I have long advocated—that is the medical savings account. Medical savings accounts provide a fundamental way to make health insurance affordable to small business employees and self-employed individuals, and this bill provides for a 4-year demonstration project—a project in which self-employed individuals and companies of 50 or fewer can participate.

Mr. firm belief is that this project will prove the success of medical savings accounts, and we will then be in a strong position to provide MSA's for Americans everywhere.

Beyond these important reforms, this legislation also helps control the cost associated with health care by creating new tools in our fight against health care fraud and abuse. While I would like to see our efforts to control fraud and abuse go much further, the provisions in this bill represent a good starting point.

Along with providing these tools, this legislation improves the Medicare and Medicaid programs and the private health care system through uniform standards that will cut out much of the redtape in health care.

It is important to note, Mr. President, that this bill does not pre-empt State privacy laws. Instead, it provides protection for an individual's health information.

Each of these changes represents a significant improvement over current law. Combined they represent a strong first step toward reforming America's health care delivery system in a way that improves without destroying. And this is critically important to the American people.

Two years ago they rejected the wholesale restructuring of our health care system. They understood that reform, as it was proposed then, was throwing the baby out with the bath water. It was tampering dangerously with one-eighth of our Nation's economy, and a system that had the highest standards of quality in the world. What we do with this legislation is make the reforms they want—the reforms they need—without destroying all that is good and working in the current system.

With this Health Insurance Portability and Accountability Act, we keep our promise. We effectively address the problems facing the Nation's health care system in an incremental fashion.

I am honored to be a part of this momentous effort—I appreciate all the work that's been done by valiant staff members—and I am heartened by the positive, bipartisan way in which we have succeeded.

I yield the floor.

Mr. KENNEDY. Mr. President, I yield myself 1 minute.

I am very, very surprised at my good friend from New Mexico, talking about what has been achieved, that this has only been achieved under a Republican Congress. Where were the Democrats? I will tell you where the Democrats were not. They were not cutting Medicare and cutting Medicaid so we could have tax breaks for the wealthiest individuals in this country. And where the Democrats were not is waiting 8½ months to bring this bill up, which the Republicans are crowing about at this time. That is where the Democrats were.

I yield 5 minutes to the Senator from New York.

The PRESIDING OFFICER (Mr. BURNS). The Senator from New York is recognized.

Mr. MOYNIHAN. I rise in support of the Health Insurance Portability and Accountability Act of 1996. It makes elemental and much-needed improvements in health care coverage for Americans by guaranteeing ''portability'' of health insurance for employees who change jobs, and by eliminating the current practice of denying coverage to persons with preexisting health conditions. These were the areas in which there was by far the greatest consensus when the President's health care legislation was considered in the Finance Committee in 1994, and I am pleased that agreement has been reached to make these changes.

However, I am not pleased with the resolution of another issue in this bill: the provision to prevent persons from renouncing their American citizenship and moving abroad in order to avoid U.S. taxation. That dubious practice has come to be called ''expatriation'' among members of the tax bar, although that is not a very illuminating term. The word expatriate derives from the Late Latin expatriare, to banish. Ex, out of. Patria, native country. Perhaps a term that better reflects the tax consequences of the issue will emerge in time.

The conference report on the health legislation before us today contains as a revenue offset the House expatriation version, rather than the Senate provision. The Senate provision also was included in the small business tax relief legislation marked up by the Finance Committee on June 12, but it was later dropped in the conference on that legislation. I am convinced that the House proposal will leave in place a continuing tax incentive to renounce citizenship in order to evade taxes.

This issue gained notoriety in late 1994, when expatriation by several very wealthy individuals was widely reported. On April 6, 1995, shortly after the issue arose for the first time in Congress, I introduced S. 700, a bill to close the loophole in the Tax Code that permits ''expatriates,'' as they have come to be called, from escaping U.S. taxation.

Although expatriation to avoid taxes occurs infrequently, it is a genuine abuse. The Tax Code currently contains provisions, dating back to 1966, intended to prevent tax-motivated relinquishment of citizenship, but these provisions have proven difficult to enforce, and they are easily circumvented with the assistance of resourceful tax counsel. One international tax expert described avoiding them as ''child's play.'' Under current law, individuals may, by renouncing their U.S. citizenship, avoid taxes on gains that accrued during the period in which they acquired their wealth—and while they were afforded the many benefits and advantages of U.S. citizenship. Even after renunciation, these individuals are permitted to keep residences and reside in the United States for up to 120 days per year without incurring U.S. taxes. Indeed, certain wealthy Americans have ''expatriated'' while still maintaining their families and homes in the United States. They need only take care to avoid being in the United States for more than 120 days each year.

Meanwhile, ordinary Americans who remain citizens continue to pay taxes on their gains when assets are sold, or when estate taxes become due at death.

I regret to say that the expatriation issue has been and, in light of the decision taken by the conferees on the health insurance reform bill, may continue to be the subject of more controversy than it probably deserves. In the interest of making the record complete, I will briefly review the history of the issue's consideration in the Congress.

On February 6, 1995, the President announced a proposal to address expatriation in his fiscal year 1996 budget submission. Three weeks later, on March 15, 1995, during Finance Committee consideration of legislation to restore the health insurance deduction for the self-employed, I offered a modified version of the administration's expatriation tax provision as an amendment to the bill. My amendment would have substituted the expatriation proposal for the repeal of minority broadcast tax preferences as a funding source for the bill. The amendment failed in the face of united opposition by members of the majority on the committee. The vote against the amendment was 11–9.

Later in the markup, Senator BRADLEY offered the expatriation provision as a free-standing amendment, with the revenues it raised to be dedicated to deficit reduction. Senator BRADLEY's amendment was adopted by voice vote.

After the Finance Committee reported the self-employed health deduction bill, but before full Senate action and before our conference with the House, the Finance Committee held a hearing to review further the issues raised by expatriation. At our hearing, we heard criticisms of some technical aspects of the provision, as well as testimony raising the issue of whether the provision comported with Article 12 of the International Covenant on Civil and Political Rights, which the United States ratified in 1992. Section 2 of Article 12 states: ''Everyone shall be free to leave any country, including his own.''

Robert F. Turner, a professor of international law at the U.S. Naval War College, testified that the expatriation provision was problematic under the Covenant because it constituted a legal barrier to the right of citizens to leave the United States. The State Department's legal experts disagreed, as did two other outside experts who provided written opinions to the committee: Professor Paul B. Stephan III, a specialist in both international law and tax law at the University of Virginia School of Law; and Mr. Stephen E. Shay, who served as International Tax Counsel at the Department of the Treasury under the Reagan administration.

Given this division in authority, it seemed clear that the Senate should not act improvidently on the matter. Genuine questions of human rights under international law, and the solemn obligations of the United States under treaties, had been raised. We therefore sought the views of other experts. Opinions concluding that the expatriation provision did not violate international law were received from Professor Detlev Vagts of Harvard Law School and Professor Andreas F. Lowenfeld of New York University School of Law. The State Department issued a lengthier analysis supporting the legality of the provision, and the American Law Division of the Congressional Research Service reached a like conclusion.

However, there were contrary views, most notably the powerful opinion of Professor Hurst Hannum of the Fletcher School of Law and Diplomacy at Tufts University, who first wrote to me on March 24, 1995.

This is where things stood when the House-Senate conference met on March 28, 1995. At that time, the weight of authority appeared to support the validity of the provision under international law, yet very real questions remained unresolved. The underlying bill had to move at great speed. As my colleagues well know, the legislation restoring the health insurance deduction for the self-employed for calendar year 1994 had to be passed and signed into law well in advance of the April 17, 1995 tax filing deadline, so that self-employed persons would have time to prepare and file their 1994 tax returns.

The conference committee had to decide immediately whether to retain the expatriation provision. There was no time for further inquiry into its validity under international law. We accordingly chose not to risk making the wrong decision, which might violate international law and human rights. We elected not to include the provision in the conference report. The conferees instead adopted a provision directing the Joint Committee on Taxation to study the matter and report back.

That decision, which was the only prudent one at the time, was met with some not very pleasant criticism in the Senate. This was surprising, since I believed it was axiomatic, particularly on our side of the aisle, that Government should proceed with great care when dealing with human rights—particularly the rights of persons who are despised. The persons affected by the expatriation proposal—millionaires who renounce their citizenship for money—certainly fell into the category of persons who are easy to despise.

Since that time, a general consensus has developed that the Senate provision does not conflict with the obligations of the United States under international law. Professor Hannum, after receiving additional and more specific information about the expatriation tax, wrote a second letter on March 31, 1995 stating that he was ''convinced that neither its intention nor its effect would violate present U.S. obligations under international law.'' And in the interim, there has been time to consider other approaches to the problem. On June 1, 1995, the Joint Committee on Taxation published its report on the tax treatment of expatriation.

Shortly thereafter, on June 9, 1995, Chairman ARCHER introduced an expatriation bill that adopted a different approach than S. 700, which was the bill introduced by the Senator from New York. A second Finance Committee hearing on expatriation was held on July 11, 1995 to consider the two competing approaches. The Senate thereafter incorporated in its version of the Balanced Budget Act of 1995 a slightly modified version of the bill I introduced. The Senate bill adopted the accrued gains approach rather than the House alternative as the superior response to the problem. However, the House prevailed in conference and a version very similar to the Archer bill was included in the final Balanced Budget Act of 1995, which was later vetoed by President Clinton.

That same House provision has now been incorporated in the conference agreement before us on the health insurance reform bill.

Adoption of the House expatriation proposal rather than the Senate proposal is being justified, in part, based on the fact that the Joint Committee on Taxation has scored it as raising substantially more revenue than the Senate version. These revenue estimates are difficult to believe, because almost any member of the tax bar would concede that the Senate proposal would deter tax-motivated expatriations far more effectively than the House proposal. In contrast to the Joint Tax Committee, the Treasury Department estimates that the Senate proposal would raise substantially more revenue than the House version. This comports with the views of most tax experts.

Here is why I believe the House provision is unsatisfactory. Under the Senate provision, an expatriate with a net worth of over $500,000 (or average annual tax liability in excess of $100,000) generally would be taxed on his asset appreciation existing at the time of expatriation. Alternatively, an expatriate could elect to continue to be taxed as if a U.S. citizen—i.e., to be subject to worldwide tax on his assets until their disposition. The provision also offers alternatives for delayed payment of the tax on accrued gains, with interest.

Rather than impose a tax on accrued gains, the House bill attempts to build on the current law approach of taxing only a portion of the income generated by assets of expatriates during the 10-year period following expatriation. This approach will fail to eliminate the very substantial tax advantages that currently inure to persons willing to give up their citizenship.

Under the House proposal, several categories of taxpayers would continue to owe no tax at all should the IRS be unable to prove a ''tax avoidance motive'' for expatriating. As under current law, patient taxpayers would avoid all tax on accrued gains by simply holding their assets for ten years. Gains recognized after that period

would never be taxed by the United States. A wealthy expatriate needing money during the 10-year period could simply borrow money using his or her assets as security.

Under the House provision, no tax at all would be owed on income or gains from foreign assets following expatriation, as under current law. Given the enormous incentive to own foreign assets, experienced tax practitioners would continue to find ways to convert U.S. assets into foreign assets in order to avoid tax on the income earned during the 10-year period.

The House approach also would risk nonpayment of amounts owed, as it relies on the voluntary payment of taxes for 10 years following expatriation, well after the taxpayer has moved beyond the reach of U.S. courts. In contrast, the Senate version generally would not require looking beyond the facts at the time of expatriation, making it much more likely that taxes owed would be collected. Further, taxpayers would be required to provide security for delayed payment of taxes.

Another flaw in the House bill is that it will unilaterally override existing tax treaties. In its report on expatriation, the Joint Tax Committee staff stated that the House version may ultimately require that as many as 41 of our 45 existing tax treaties be renegotiated and that it might be necessary for the United States to forego benefits to accomplish renegotiation.

As the first Senator to have introduced legislation to end tax avoidance by so-called expatriates, and as one who urged that it be acted upon expeditiously, I am disappointed that the expatriation changes I have sought, and that have been passed by the Senate on three separate occasions, have been set aside in favor of far less effective measures. I believe the honor of the tax-writing committees is at issue here. The action taken today will allow this issue to fester for some time to come because the new rules will not measurably reduce the tax advantages of expatriation.

On another matter, I also wish we could have addressed the issue of mental health parity in this conference report. In April, I voted for the Domenici-Wellstone amendment to the Senate version of the underlying bill. It would simply have required health plans to provide coverage of mental health services equal to that provided for acute medical services. The amendment got 65 votes.

Subsequent scoring of the amendment by the Congressional Budget Office determined that it would be relatively expensive. Senators DOMENICI and WELLSTONE then prepared a scaled-down version of their amendment which would have required health plans to provide equal treatment only of annual and lifetime limits. This alternative would have cost approximately one-tenth of what the original amendment would have cost.

Unfortunately, this modest revised proposal was also unacceptable to the majority members of the conference. Subsequent proposals by Senator DOMENICI to scale back the parity requirement even further were also rejected without the benefit of consideration by Senators appointed to the conference, or even by our staffs. After the initial meeting of the conference in the Ways and Means room on July 26, 1996, the conferees were never assembled to discuss this or any of the elements of the final conference agreement.

For these reasons, I chose not to sign the conference report on this legislation. We could have done better on expatriation, and on mental health parity. Even so, I am prepared to vote for this legislation because its central features—the health insurance reforms—are important and overdue. I congratulate Senators KENNEDY and KASSEBAUM for their hard work and persistence on this legislation, and I urge its adoption.

The Presiding Officer. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I know the Senator from Iowa, [Mr. GRASSLEY] had wished to speak, because the State of Iowa has done some very innovative things regarding the question of health care insurance, but we are running out of time. He is going to address his full statement and make it a part of the RECORD at some point as we find time at the close of this debate. I would like to right now, though, yield 15 minutes to the Senator from New Mexico [Mr. DOMENICI].

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 15 minutes.

Mr. DOMENICI. Mr. President, I say to my friend from Massachusetts, we may not agree on the issues we just spoke of, but we agree on the issue I am going to speak of, and for that I thank him.

Mr. President, I say to my fellow Senators, about 8 months ago, I went to a meeting in Gallup, NM, at an Indian hospital. I noticed sitting in the audience a very, very handsome Indian woman. My guess is that she was probably 55, 58 years of age. And she stood up and said, ''Thank you, Mr. DOMENICI.''

I said, ''What are you thanking me for?'' And she began to cry.

When she finished, she said, ''Thank you for asking the Indian Health Service to give the modern drug called Clozaril to my schizophrenic son. He has been catatonic for 22 years. And thank you for giving him back to me. He is home now, and he is performing on almost a hundred percent in my house.''

Frankly, I did not deserve the accolade, but I was on a TV show just yesterday about the issue of ''should we stop discriminating against people like that young Indian boy who is not on Indian health coverage,'' and a representative of business said to me, ''Well, you just want to provide money for all these ladies that want to go see their shrinks.''

To which I said, ''You have not read my amendment, and most of the mentally ill people that I am seeing and have become friends with over the last 15 years, whose children have manic depression, deep depression, schizophrenia or one of the serious, serious mental diseases which are almost universally accepted as being diseases of the brain—you would not be talking about shrinks when it comes to the kind of treatment and care that psychiatrists, who have already disavowed Freud''—and I might say to my friend from New York, I am not reluctant to tell the psychiatrists in America that I believe Freud is dead and that the treatment of mentally ill people does not require 50 visits to the ''shrink,'' so to speak, but it does require that qualified doctors and health care centers diagnose and treat the severe mental illnesses as diseases.

All we ask for in this bill, of all the things we could have asked them to provide, we asked for two things, and listen carefully, I say to my fellow Senators, because we are going to do this sooner or later. We said, if you provide mental health coverage, you must provide the same lifetime coverage as you do for everybody else covered, the same total lifetime coverage and the same annual coverage. That is all we asked for.

We did not ask, nor did we say, that for those who are worried about the shrink, we did not say that you had to cover that. In fact, it is clear that they could require any kind of copayments they want. They could require a number of visits being exempt from coverage, if that is what worries them. All we said is if you cover them, don't discriminate against them, and then when they are in the fourth year of a serious illness say, ''Oops, there's no more coverage, we only gave you $50,000 worth of lifetime coverage.''

Incidentally, that is ordinary for American insurance today. While they cover the other ones for $1 million if you have cancer or heart trouble or you have a transplant—$1 million—in the same policy, they cover mental illness, however, $50,000 for your life. If that is not discrimination, I have never seen it, and if that is not a denial by our community of a reality and hiding your head, then I cannot believe it.

I honestly believe that the mentally ill should get more protection than these two components of what we offered the conferees by way of resolution, and I might say, none of my remarks are directed to Senator KENNEDY, Senator MOYNIHAN, or Senator KASSEBAUM. I believe we would have received this treatment had they been the ones making the decision.

But I will say to the American business community, you have some lobbyists representing you that it seems to me, at least, when they once get a set of facts in their heads, they forget to use their brains. And so what they say is, what DOMENICI offered with WELLSTONE on the floor cost too much.

And then I say, ''Did you look at what we offered in compromise?''

''What compromise?'' While they have been saying in the newspapers it will bankrupt them.

Frankly, there are many great American businesses toward which these comments are not directed. There already are major ones that cover with full parity, not just parity of annual and lifetime caps, and I do not address these remarks at them. But I submit, you have to face up to reality and get away from the fear that comes with talking about people who have severe mental illness and the trepidation and consternation. Just look around your neighborhood, for the CEO's of American companies, look among the hierarchy of your company, and if you don't find somebody who has a relative with schizophrenia or severe manic depression or severe clinical depression or bipolar illness, then you are a rare, rare exception to the society of the United States, because that is the way it really is.

I have been privileged to meet thousands of relatives of the severely mentally ill of this Nation. We think at any given time there are between 3 and 5 million people with severe illnesses. Frankly, I want to send them a little ray of hope. I don't want them to think we are going to remain as we have been forever.

So, today, with the Senate's permission, I ask unanimous consent that I be permitted to send a bill to the desk and that it be reported to the appropriate committee. I do not ask for any special favors today. But it is very simple.

All it says is if employers and the insurance community cover the mentally ill, they can set whatever standards they want. They can deny coverage for the first 10 visits to a medical doctor psychiatrist if they choose, but they cannot say that your total lifetime coverage is any different than the coverage for the other more well-known and longer defined physical ailments, and the same with the annual payment.

That is the bill I am sending, with my observations. This is for Senator WELLSTONE and about eight other Senators who join me, and Senator MOYNIHAN joins now. I am asking Senator KASSEBAUM and Senator KENNEDY to hold hearings as soon as we come back in September, and I believe they are going to.

That means we are going to bring this little bill out of that committee, hopefully with their support, and we are going to present it again, even in September, when we are trying to get out of here.

So for those in the business community who think they have seen the last of this, just get those fellows ready for September so they will have something to do around here.

Mr. DODD. Will my colleague yield?

Mr. DOMENICI. Yes, I yield.

Mr. DODD. Will you allow the Senator from Connecticut, the insurance capital of this country, to be listed as a cosponsor?

Mr. DOMENICI. You have it.

Mr. KENNEDY. Will you be kind enough to include me as a cosponsor?

Mr. DOMENICI. Senator KENNEDY, Senator GRASSLEY, Senator KASSEBAUM, I am delighted.

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

Mr. DOMENICI. Mr. President, I send the bill to the desk and ask it be referred to the appropriate committee.

The PRESIDING OFFICER. Without objection, the bill will be received and will be referred.

Mr. DOMENICI. I would be remiss if I did not thank a lot of Senators, because many have been asked about this and many are going to support this.

I want to say this is a great bill, the bill we are going to pass today.

I just want to make one reminder again to those who oppose the bill that I sent to the desk. There are some representing the business and insurance who say they do not want any mandates. What is the bill we are passing today? What is the bill we are passing today? Is it not a mandate? Of course it is a mandate.

Let me tell you, nobody is even talking about the cost anymore because it is so right. But it will cost a lot more than what that little bill Domenici sent to the desk will cost. To spread the risk of preexisting conditions is going to cost a lot of money, but we think it is the right thing to do. Somehow they do too, the business community and the insurance community. So let me now yield the floor and say, I am very, very grateful for the chance to present this again, soon. And I thank Senator KASSEBAUM for yielding me time.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I just want to join what I know is the overwhelming number of Members here in saluting the Senator from New Mexico as well as our good friend from Minnesota, Senator WELLSTONE. I think many of us still remember the eloquence with which the Senator made his impassioned plea when the Senate debated his amendment. He has been committed and dedicated to the sensible and responsible health policy that includes mental illness. And he is absolutely correct.

I look forward to working closely with the Chair, Senator KASSEBAUM, to move that legislation out and look forward to standing side by side with him as we hopefully will pass that legislation. I think he has done a great service for the Senate. I join in commending him for his eloquence, as well as Senator WELLSTONE. I see the Senator from West Virginia, Senator ROCKEFELLER. I yield the Senator 3 minutes.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 3 minutes.

Mr. ROCKEFELLER. I thank the Senator from Massachusetts.

I just simply say this. This is not small, this legislation, Mr. President. It is not universal health coverage, but it is going to affect between 25 and 30 million Americans, and about 300,000 West Virginians. And it is extraordinary that it is being done.

Usually, in the past, we have passed a bill or tried to, and then failed. We have backed away from action. This year we did not. Because of Senator KASSEBAUM and Senator KENNEDY, we came forward and we took on a hard job. And they did it. And they deserve enormous praise.

It means that I am going to be able to call Karen McPeak, who I spoke with today. She and her husband have two children, two boys. They have hepatitis and hemophilia. They were making $80,000 a year between them, had two cars, a house, savings, the rest of it.

Because they could not get their two boys insured because they had preexisting conditions, they went through their savings, they then lost their house, they lost both their cars, they then gave up their jobs. They went on Medicaid in order to take care of their two sons, all of this because they are good parents. And that is the only way open to them in the system today.

This bill will change forever what will happen with the McPeak family. The children will be covered. The parents will be able to go back to the life that they knew. This couple is only one of those in West Virginia. And I rejoice along with them.

I close by simply saying this. I can report back to West Virginians now that we have branded a preexisting condition something which insurance companies will insure. The portability of health insurance from one job to another is something which we will vote on and make the law of the land.

I know there have been difficulties. I know there have been disputes. But today I think it is important to celebrate what it is that we in fact have actually done. And then tomorrow let us move on to the broader field of universal health care coverage in one way or another. But let us do that.

I have no way of expressing my respect to the Senator from Massachusetts and the Senator from Kansas, both of them giants on this. And America and West Virginia are better off. And I am very proud to be associated with voting for this bill. I thank the senior Senator from Massachusetts and yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. I yield 3 minutes to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Thank you, Mr. President.

Mr. President, let me begin by quickly commending our colleague from New Mexico, who has now left the floor. But

I just want to associate myself with his remarks and, as he mentioned at the time, to become a cosponsor of his bill. And I deeply appreciate his efforts and the efforts of Senator WELLSTONE on behalf of the mentally ill in this country and their families.

I am sure I speak for many of our colleagues here when we commit to him and others that worked so hard on this that this will be a priority, and as the Senator from New Mexico stated so eloquently, it will happen, and will pass. We regret that it is not happening today.

Second, Mr. President, while we are still a number of weeks away from this Congress adjourning sine die, I want to use the opportunity here today to say to our colleague from Kansas—and I do this with some reluctance because I do not want her career to be placed in jeopardy by having the general chairman of the Democratic National Committee commending her too flowingly and put her in some jeopardy with her constituency—but this is yet one more example of her leadership, this piece of legislation.

It is entirely fitting and proper that, in fact, her name is so closely associated with this bill, as it has been with so many pieces of legislation over her career that have benefited so many millions of people in this country and abroad. I am very proud of the fact that this last day before we adjourn for several weeks that we are completing a piece of legislation that bears her name, and that millions of people, millions and millions of people, will be benefited as a result of this effort.

Second, Mr. President, it is hard to mention the subject of health care at any point over the last three decades and not mention the name of the cosponsor of this bill. For more than 30 years every single major effort, every single major effort that I can think of that involved improving the quality of health care for Americans has borne the name of EDWARD M. KENNEDY.

It is certainly no accident that this piece of legislation bears his name as well. It is not an abstraction, this effort. He knows painfully with his own family and children how difficult these issues can be. I am just proud that this body finally acted after so many months, months that in my view should not have been wasted in dealing with an issue that should have joined every Member of this body, regardless of party and ideology, to support the simple propositions that people with preexisting conditions, that people who lose jobs ought to be able to carry with them the basic kind of health care that would relieve them and their families of the stark fear of being caught in the cracks, of being uncovered, at the time of a medical crisis.

It was 31 years ago, Mr. President, that Medicare became the law of the land. Obviously, that piece of legislation was in many ways far more comprehensive than the Kassebaum-Kennedy legislation. But there is a similarity between these two proposals and bills. By the stroke of a pen, Lyndon Baines Johnson, on that day in 1965, by the stroke of a pen, he literally placed millions and millions of people beyond the fear of a health care crisis. The mere stoke of his pen enfranchised millions of people and protected them from health care crises.

Today when we pass this bill—and within days or hours, I hope, the President of the United States, President Clinton, who has been such a strong supporter of this effort, will sign this legislation into law, and 25 million Americans immediately will be protected, immediately protected. There is no requirement that we go through a lot of agency activity and bureaucracy and regulations. But merely by passing this law and signing his name, we will relieve the fear and burden for 25 million Americans. And for that I say, a deep sense of thank you to Senators KASSEBAUM and KENNEDY for their efforts and their battle. Thank you.

Mrs. KASSEBAUM. Mr. President, I very much appreciate the thoughtful comments of the Senator from Connecticut who has been a very dedicated member of the Labor Committee, who has worked to get this accomplished from the very beginning. I appreciate his valuable support and efforts.

I now yield 3 minutes to the Senator from Wyoming, Senator SIMPSON.

The PRESIDING OFFICER. The Senator from Wyoming is recognized for 3 minutes.

Mr. SIMPSON. Mr. President, I thank my colleague from Kansas who came here when I did. We exit together as we entered together. It has been a great privilege to serve with this remarkable woman and see the legislative history that she leaves; and my friend from Massachusetts, too, who I have enjoyed thoroughly in my time here, even though certainly there are times when he tests every bit of my patience, and on more than many occasions. But I will miss him, too. I commend them both.

I just want to briefly follow up on the comments of the Senator from New Mexico. I had made some comments yesterday about my disappointment with one aspect of this conference report. We have had such a productive week here, and on so many things. But I do feel a sense of real hollowness over the failure to include even some modest version of the mental health parity in this bill.

I am a cosponsor and I spoke on the bill originally when it passed here 68–30, a sweeping definition there, when it was approved. Senators DOMENICI and WELLSTONE worked doggedly trying to assure that at least some limited form of that amendment came through this process. It had been my privilege to assist them in that cause. They have worked very hard.

The events of the last few days show again that the wall of discrimination against the mentally ill is very real. It is still too powerful for any of us to overcome, apparently. That is a very sobering fact.

I know my colleagues will not give up this fight, none of us will, even though this singular battle has been lost. I pledge I will continue to assist them. There is a great deal of work to be done in educating and enlightening the American people on the realities of mental illness.

It is troubling and disturbing to me that there still continues to be this stigma associated with mental illness. The unspoken message here is that people afflicted with mental illness are somehow not as worthy of treatment as those afflicted with cancer or heart disease or other physical ailments. No one in this Chamber would consciously ever say such a thing, but this is the message we are sending through our actions.

That is why it is so important for this Congress to revisit this important issue. We should certainly not let this bill and its silence with respect to mental health be any kind of final word on this issue. We will revisit this one in September.

I commend my colleague from New Mexico, and again thank Senator KASSEBAUM and Senator KENNEDY for this remarkable work product which we all deeply appreciate.

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

The PRESIDING OFFICER. The Senator has 5 minutes and 19 seconds.

Mr. KENNEDY. I yield 3 minutes to the Senator.

Mr. CONRAD. I thank the Chair.

Kennedy-Kassebaum—what a team. What an achievement—25 million people protected because, working together in a bipartisan way, they have broken the gridlock here in Washington.

NANCY KASSEBAUM, who always exhibits grace, civility, and decency, and TED KENNEDY, an absolute lion in this Chamber on whatever issue he decides to weigh in on, thank goodness they weighed in on these issues of portability, so the people, when they change jobs, can take their health insurance policy with them. And preexisting conditions—millions of Americans will no longer be precluded from coverage because of a preexisting condition. This Senate should thank you both. America should thank you both.

I would be remiss if I did not register disappointment, as well, because we did pass on the floor of the U.S. Senate by a vote of 68 to 30, a sweeping change, to say that those who suffer from mental illness will not be discriminated against. A mental illness should be treated the same way as a physical illness.

Mr. President, 68 to 30, this Senate spoke with their votes and said, ''No more discrimination.'' Yet, when we look at what came back from conference, through no fault of the Senator from Massachusetts and through no fault of the Senator from Kansas, what came back from the conference

committee on mental health is the square root of zero—nothing, not even the most modest achievement, not even the most modest advancement.

I am very pleased to join Senator DOMENICI and Senator WELLSTONE in cosponsoring a bill that seeks to address this question when we return in the fall. Let me just say again, Senator KENNEDY and Senator KASSEBAUM, I am confident, will be lions in that effort, as well.

I thank the Chair. I yield the floor.

Ms. MIKULSKI. Mr. President, I rise in strong support of the Health Insurance Reform Act. There are three reasons why I support this bill. It makes health insurance portable—people can take it with them from job to job. It provides health insurance to people with preexisting medical conditions. And it makes health insurance more available to working Americans. I am pleased to vote for this bill.

Health insurance is a priority for Maryland's families. It's a top priority for me. I strongly support this commonsense health insurance reform. It's a safety net for working Americans and their families. This bill ends ''job lock.'' Working Americans won't be afraid to change jobs. They no longer have to fear that they'll lose their health insurance coverage if they do.

I know a mother in Baltimore who supports her family in a manufacturing job. Her husband stays home and cares for their disabled child. She has been offered a higher paying job. But she can't take it. I think that's outrageous. She knows if she changes jobs that her son will lose the health coverage he so desperately needs. This bill is good news for people like her. She could make that job change under this bill.

This bill helps people who have preexisting medical conditions. They won't be penalized any longer by insurance companies. They can now get health insurance if they have a disease like diabetes. I am pleased that the bill has the potential to help millions of women and their families. The legislation will help a woman who starts a new job with an employer who provides health insurance.

Under the Health Insurance Reform Act, a woman or her family can't be denied insurance coverage. She and her family can't be denied coverage for a preexisting condition. A woman who is pregnant will get immediate coverage for pregnancy care even if she is already pregnant. Her newborn or adopted child will also receive health insurance coverage. This just isn't good for families. It makes good business sense.

The bill makes health insurance more available to working Americans. It goes along way to eliminating barriers to coverage. There are more than 40 million Americans without health insurance. More than 1 million working Americans lost their insurance over the last 2 years. Workers who are self-employed will be able to take a greater tax deduction for health expenses. It treats long-term care expenses as medical expenses for the purposes of tax deductibility. This bill helps those who practice self-help.

I was disappointed that we were not able to enact comprehensive health insurance reform. After that debate came to a close, I pledged to continue the fight to reform health care—day after day and month after month. This is an important first step in that direction. I thank my colleagues Senator KASSEBAUM and Senator KENNEDY for their hard work in bringing us this far. But didn't get here without tremendous struggle.

Despite broad bipartisan support, this bill has been held up for weeks and months. But we persevered. I wanted to get this bill passed this year. And now we have done that. We have won the day. And helped many Americans gain accessibility and portability to health insurance coverage.

There is much more that I would like to be able to do to make insurance coverage affordable, accessible, portable and undeniable. I would like to see coverage for long-term care. I would like to see a comprehensive benefit package for women and children. But this is a very important step. We have a tremendous opportunity to improve the lives ofmany Americans. I am pleased to support this bill.

Mr. PELL. Mr. President, I am delighted that the Senate will today approve the conference agreement on S. 1028, the Health Insurance Reform Act. Since the House of Representatives has already acted favorably on this legislation, it will be only days before President Clinton can sign this important legislation into law. This new law will have been a very long time in coming.

We need not review the circuitous path that these health reforms have taken since the Clinton administration took over in 1993. But I believe it is fair to say that even these limited reforms could never have happened without the leadership of the President and First Lady, who brought into virtually every American home their passionate and persuasive pleas to reform our Nation's health care system. And without effective and devoted legislative warriors, led over the decades by Senator KENNEDY and joined in recent years by our distinguished Chairwoman, Senator KASSEBAUM, I believe that we would not be here today passing this bill.

Mr. President, as my 36 years on the Senate Labor and Human Resources Committee draw to an end, I could not be more pleased that we will finally see the fruition of so many years of work on health insurance reform issues. The bill before us will correct many of the flaws of our current system, including enhancing portability of insurance from job to job, and limiting the current practice of permitting exclusions for preexisting medical conditions. But, as I have said many times before, this bill does not accomplish many other things that need to be done. Most notably, the bill does nothing to make insurance more affordable to people who need it, including those with preexisting medical conditions. Just today, I got a phone call from a constituent from Pawtucket, RI, who has a thyroid condition and who wants to know whether under this legislation, her insurer will be able to charge her more. I regret very much that I will have to tell her that her insurers can, indeed, charge her more. And I regret very much that I will have to report to the many Rhode Islanders who support the Domenici-Wellstone mental health parity provision that opposing forces prevailed in deleting this provision from the conference agreement.

Health care reform being the lightning rod issue that it is, I recognize—and I hope that the American people recognize—that while this bill represents only incremental change, it is an important step forward. We all know that much, much more needs to be done if every American is to have access to high quality, affordable health care. And I hope that my colleagues who will remain in the Senate and that those who succeed me will take up the challenge as early as possible in the next Congress.

In the meantime, Mr. President, I want to thank all of my colleagues on the Senate Labor and Human Resources Committee, who approved this bill unanimously just 1 year ago. And I would like to take this opportunity to thank the many committee staffers who assisted us so ably in crafting this important legislation. I offer a special tip of the hat to Senator KENNEDY's senior health adviser, David Nexon, who has been of such great assistance to me and to my staff over these many years.

I look forward to voting for this legislation and even more, to its becoming law.

Mr. COHEN. Mr. President, in the spring of 1995, the Medicare trustees, on a bipartisan basis, issued an urgent warning that the Medicare hospital trust fund will go broke by the year 2002, unless major changes are made to protect the system. Since that alarm was sounded, the Congress has been wrestling with ways to bring Medicare spending under control, in order to forestall impending bankruptcy and to strengthen Medicare for both current and future beneficiaries. This year the situation is even more critical. The 1996 trustees' report projects bankruptcy for the trust fund by the year 2001.

I stated at the time of the trustees warning that, at a minimum, we should pass legislation to crack down on the fraud and abuse that drives up the costs of health care for senior citizens and taxpayers. Estimates are that Medicare loses over $18 billion each year to fraud and abuse, and that fraudulent schemes cost the entire health care system and our economy as much as $100 billion each year.

Today, we are reaching a historic milestone by passing one of the most comprehensive and tough anti-fraud

packages ever contemplated by Congress. It has been a long road—over 3 years to be exact—but as the author of the antifraud and abuse provisions I am proud that this Congress, in a bipartisan way, did the right thing.

Specifically, my proposal creates tough new criminal statutes to help prosecutors pursue health care fraud more swiftly and efficiently, increases fines and penalties for billing Medicare and Medicaid for unnecessary services, over billing, and for other frauds against these and all Federal health care programs, and makes it easier to kick fraudulent providers out of the Medicare and Medicaid program, so they do not continue to rip off the system. Most importantly, the bill establishes an antifraud and abuse program to coordinate Federal and State efforts against health care fraud, and substantially increases funding for investigative efforts, auditors, and prosecutors.

In early 1993, I first embarked upon writing an antifraud bill. This was based on the recommendations of a health care fraud task force set up by the Bush administration and on an investigation by the Senate Special Committee on Aging, which I chair. That legislation became the basis for the fraud and abuse section of all the Republican health care reform bills proposed in 1993 and 1994 as well as for the administration's proposal. It was one of the few truly bipartisan issues contemplated during that contentious debate. In late 1993, the criminal provisions of my bill passed the Senate unanimously as part of the crime bill but were deleted during conference. Last year, my proposal passed Congress as part of the budget reconciliation bill and were also used as framework by the administration in its budget reconciliation proposal. As we all know, the President vetoed that bill. Today, it stands as an integral part of the Kassebaum-Kennedy health insurance reform proposal, finally on its way to the President for signature.

Health care fraud is an equal opportunity employer that does not discriminate against any part of the system. All Government health care programs—Medicare, Medicaid, CHAMPUS, and other Federal and State health plans, as well as private sector health plans, are ravaged by fraud and abuse.

Similarly, no one type of health care provider or provider group corners the market on health care fraud. Scams against the system run the gamut from small companies or practitioners who occasionally pad their Medicare billings because they know they'll never get caught, to large criminal organizations that systematically steal millions of dollars from Medicare, Medicaid, and other insurers. According to the FBI, health care fraud is growing much faster than law enforcement ever anticipated, and even cocaine distributors are switching from drug dealing to health care fraud schemes because the chances of being caught are so small—and the profits so big.

The inspector general of the Department of Health and Human Services, for example, has cited problems in home health care, nursing home, and medical supplier industries as significant trends in Medicare and Medicaid fraud and abuse. Padding claims and cost reports, charging the Government and patients outrageous prices for unbundled services, and billing Medicare for costs that have nothing to do with patient care are just a few of the schemes that are occurring in these industries.

It is time that we crack down—and shut down—these schemes that are bilking billions of dollars from Medicare and other health care programs. If we have asked honest health care providers to take cuts in reimbursement and asked Medicare and Medicaid recipients to pay more out-of-pocket costs to bring spending under control, we have an absolute duty to ensure the American public that their health care dollars are not lining the pockets of criminals and greedy providers who are manipulating the system through fraud and abuse.

The proponents of strong anti-fraud proposals responded to a mandate from beneficiaries that we need to control spending and ease the burden on taxpayers. The anti-fraud provisions in the Kassebaum-Kennedy bill did precisely that in a reasonable, measured manner that did not infringe on personal liberties nor penalize innocent mistakes.

The fraud provisions substantially mirror existing fraud statutes and are designed to give enforcement more precise tools to protect consumers against fraud and abuse. The proposal simply provides adequate resources for prosecutors and investigators, long strapped by budget cuts and under staffing, to go after serious patterns and cases of abuse. The bill closes loopholes in current law and provides criminal penalties for a defined set of serious and egregious violations, such as embezzlement and misappropriation of assets. Prosecutors would continue to have an extremely high burden to prove that the violations were committed knowingly and willfully.

Despite such a reasoned approach, we were inundated at the last moment by scare tactics and blatant mischaracterizations. There were full page ads depicting a doctor shackled in stocks claiming that doctors would land in jail for committing honest mistakes. There were editorials that grossly distorted the intent and scope of the provisions in a fashion that minimized the very real threat that fraud poses to our health care system and, indeed, to the solvency of Medicare. I am sympathetic to the concerns of physicians and other health care providers that the practice of medicine has become excessively regulated. I also believe that physicians raise legitimate concerns that too often managed care plans manage costs alone at the expense of quality of care for patients and unduly limit physicians' decisions on how to best treat their patients. To blame all of these trends on the health care fraud provisions, particularly at the last stage in the negotiation process, was misguided and inaccurate. I am proud that my Republican and Democratic colleagues were not intimidated by these falsehoods and proceeded on a straight path to passing strong legislation.

As the author of these provisions, and as someone who has been involved in the negotiations of these provisions over a 3-year span, there are a couple of issues I wish to clarify as we debate final passage of the conference report.

First, the fraud and abuse control program established in the bill contemplates increased collaboration between the Department of Justice and the Office of the Inspector General [OIG] in health care law enforcement. It was not my intention, however, to expand the legal responsibility of the Office of Inspector General to private health plans. The jurisdiction of the OIG remains as it exists today, with only those augmentations of its authority specifically authorized in the bill.

Second, it was my intention that the costs covered by the funds appropriated to the Federal Bureau of Investigation provided for in the mandatory appropriation section include those associated with the hiring of additional agents and support resources as supplemental funding to address the burgeoning health care fraud problem.

Third, the moneys from the control account which are directed to the Office of the Inspector General are primarily intended to increase the ability of that office to investigate health care fraud and ensure that Medicare funds are properly spent. If the Office of the Inspector General is assigned the duty of preparing the advisory opinions, I would expect the Secretary and the Attorney General to consider a specific grant of funds for this purpose from any discretionary moneys in the control account as an addition to the amounts already available to the OIG. We would not want to see a reduction in the effort to investigate fraud, in order to provide staff for the advisory opinion function.

Finally, as the author of the original enhanced guidance to providers section, I would like to make some affirmative and declarative statements on the actual advisory opinion language. Although advisory opinions are an appropriate means of giving guidance to the industry on some issues, it is clearly unwise to have the agencies in the position of opining on the intent of the person requesting the opinion. To have a Government agency make an independent determination of what is in someone's head, based solely upon what that person chooses to tell the agency, is a highly questionable Government function.

That is why I want it clearly stated for the record of debate what has been

stated during conference and indeed what has been stated by advisory opinion proponents for the last 3 years that this issue has been debated. Advisory opinion advocates have stated definitively and consistently in conference and during many lengthy negotiations that the advisory opinion provision does not require a finding of intent. Not only do I adhere to that view, I will do everything possible to ensure while I am still here, and while this provision will be reviewed prior to implementation by the agencies, that such an expectation is followed. I will also ensure that after I am gone those who have oversight authority here in Congress, and those who are in the leadership, make sure that such an expectation is followed.

I know that the Attorney General has spoken to the Speaker of the House, the Senate Majority Leader, the chairmen of the House and Senate Judiciary Committees as well as numerous members of the Ways and Means Committee and Finance Committee about her concerns relating to the issuance of advisory opinions. None of the existing advisory opinion mechanisms available to the Federal Government require an independent determination of intent. To reiterate, statements were made by the conferees that this was the expectation here as well. I, therefore, expect the agencies to design a process for advisory opinions which does not require such a determination. I also expect that this advisory opinion process will sunset 4 years after the date of enactment of this bill as is required by the bill.

Mr. President, in conclusion, I would like to applaud members for this major antifraud victory. According to the Congressional Budget Office, these provisions will yield billions in scorable savings. I am convinced that the long-term savings are much greater, and that billions more will be saved once dishonest providers realize that we are cracking down on fraud, and that they can no longer get away with illegally padding their bills to pad their own pockets. For years, I have been saying that Federal law enforcement often feel like the mouse has outsmarted the mousetrap, because they lack adequate tools and resources to penalize egregious cases of fraud. While I know that this bill does not solve this enormous and complicated problem, I can state today that the mousetrap has sprung.

I would like to thank Senators ROTH and Dole, for all of their steadfast support and assistance over the years; Alec Vachon of the Finance Committee and Harry Damelin of the Permanent Subcommittee on Investigations, for all their hard work and perseverance; Sue Nestor, formerly of the Finance Committee, for all her hard work before she left the Senate; and Helen Albert, Mary Gerwin, and Priscilla Hanley, of my staff, for their dedication to passage of this important legislation.

MENTAL HEALTH PARITY

Mr. INOUYE. Mr. President, when we in the Senate unanimously passed the health insurance reform bill in April, we included an amendment offered by Senators DOMENICI and WELLSTONE that provided for parity coverage for mental health services.

I was proud of our vote. We did the right thing by ensuring that persons who suffer mental illness are treated fairly by insurance companies.

The conferees stripped the Domenici-Wellstone amendment out of the bill. However, by our April vote, this Chamber made a commitment to fairness in insurance coverage for persons with mental illness.

The health insurance reform bill is about fairness. Just as the bill now prevents insurers from dropping people's coverage when they change jobs or for other reasons, the bill should also have prevented insurers from discriminating against persons suffering mental illness. Leaving the Domenici-Wellstone mental health parity amendment out of the bill is wrong.

I know that the business and insurance communities raised some concerns about the cost and impact of the Domenici-Wellstone amendment with the conferees. I also know that Senators DOMENICI and WELLSTONE answered every concern raised.

While I view the CBO estimate for the cost of the original amendment as extremely reasonable, I understand that Senators DOMENICI and WELLSTONE offered a compromise to the conferees that would have provided parity coverage only for annual and lifetime caps.

This compromise slashed the cost of the original amendment by 90 percent. CBO determined that the compromise would increase private insurance premiums by four-tenths of 1 percent, of which employers would pay only sixteen one-hundredths of 1 percent.

My fellow colleagues, these figures are so low, that employers could meet this slight premium increase by raising their deductible by a mere $5 per year.

I understand that insurance and business interests also raised concerns about the loss of workers' insurance due to the compromises' cost. Considering CBO's extremely low cost estimate, no one could possibly contend that passage of the compromise would cause workers to lose their insurance.

The compromise went even further. It permitted businesses to deliver mental health services through ''carveout'' arrangements and to adjust deductibles, copayments, and visit limits for mental health services as they saw fit. Small businesses would have been completely exempt from the parity standard.

I believe that Senators DOMENICI and WELLSTONE should be commended for developing a compromise that the conferees should have accepted.

Now, we have made a promise to persons suffering mental illness in this country. We have promised they will treated fairly, just as this bill promises fairer health care coverage for other Americans.

I will personally join with Senators DOMENICI and WELLSTONE to ensure that we make good on our promise.

Mr. GREGG. Mr. President, to our citizens outside of the beltway, Washington politics seem to be the cause of all that ails us. The disease is easy to diagnose: Washington politics getting in the way of real cures. However, I am pleased to stand up today and say that maybe—just maybe—the games have paused as Congress finally passes this incremental step in health care reform.

Health care reform. Three words that have become part of many's vocabulary over the last 3½ years. Obviously, health care reform efforts have been going on since the delivery of health care became something of an organized system. But Federal health care reform has never seemed so necessary as it has in the past few years, and so viable as it is right now, for two critical reasons.

First—because the American public has been bombarded with rhetoric about all of the things that are wrong with their health care system.

Obviously, the U.S. health care system is not without flaws, but I think it is important that the treatment not be worse than the ailments. The ''shot in the arm'' posed by the Administration during the 103rd Congress in 1993 and 1994 was roundly rejected by the American public. The Health Security Act, drafted by the First Lady and her team of elite health care reform gurus, was 1,342 pages of promises for ''universal coverage'' for American citizens under a federal program of limited mandated benefits, price controls and tax increases. The tome sent up to Capitol Hill prescribed that centralized bureaucracies run this national program, that the Federal Government regulate medical schools, and that Washington decide what pharmaceuticals and medical procedures would be paid for.

This proposal would have resulted in a further disconnect between the patient and the payer. We have seen through other Federal programs that separating those making demands on the system from those paying for the care ends up both driving up costs and limiting the availability of services. This is not what the American public had in mind as it got involved in asking Washington for positive change in federal policies.

Once the glitter and hype was peeled away, Americans realized this proposal meant no choice in benefits or providers, higher taxes to generate revenue that would be shifted to pay for business subsidies and the like, and the inevitable result of government rationing of health care services. After a year of intense debate, the Health Security Act died a painful, but appropriate, death.

Second, having determined during the debate over President Clinton's Health Security Act what the American public does not want, we were given the opportunity to provide the people with what they do need. And what they need is the Health Insurance

Portability and Accountability Act of 1996—the legislation that has become known as the Kassebaum-Kennedy bill.

This legislation grew out of the testimony that was heard in countless Senate hearings on health care reform. It grew out of the recognition that some basic flaws in the regulation of health care caused American families monumental problems: workers are unable to carry their health insurance from one job to the next—portability. Individuals are subject to unfair discrimination in their access to health insurance if they have a medical condition that has required treatment before they joined that health plan.

These are simple, clear concepts. We know how to address them. However, we also know that it took us 3 years of policy development to get to the point where there was a bill that was appropriate in scope, and met the majority of needs our constituents told us they had. A long and arduous process had resulted in legislation that also obtained support from our Democratic colleagues—it looks as though we are close to allowing policy to triumph over politics.

This legislation was further improved with cultivation. During consideration of the bill on the Floor of the Senate, Members decided to act on some other ideas that had been long discussed as part of health care reform on both sides of the aisle. Medical savings accounts are not a new idea. More favorable tax treatment of long term care insurance is not a new idea. Increasing the self-employed tax deduction to 80% to provide equity is not a new idea. But these are all important ideas, that have received support on both sides of the aisle during the last several years of debate.

Why are important aspects of health insurance reform like MSA's suddenly so controversial? Because once again Washington politics got in the way of good policy work. Some Washington politicians have decided it is more important to score a political victory than to pass the type of health care policy that the American public wants: policy based on freedom of choice; policy that ends discrimination and promotes fairness and equity; and policy that forges a stronger relationship between patients, their physicians, and those who are payers for medical services, whether that payer be the individual controlling their own health care dollar, the Government, or an insurer who has offered a plan tailored to best meet the consumers' needs.

Mr. President, I believe that through a great investment of time and a tremendous amount of research we have found a cure for a great deal of what ails the American health care insurance system, and American citizens can begin to benefit from these long sought after changes to the health care system in the United States.

Mr. ROCKEFELLER. Mr. President, today hope is restored as we turn the desire for health care reform into reality. When the Kassebaum-Kennedy bill is signed into law, which will happen very soon, some of the most maddening, often cruel problems with America's health care system will begin to get fixed.

When you look at all the hard work that went into getting this bill hammered out and on the brink of enactment, we could fill Olympic Stadium with the people who deserve some of the credit. But two individuals win the health reform gold medals in achieving this victory for millions and millions of Americans. The senior Senators from Kansas and Massachusetts have been true champions in leading what turned into a legislative marathon for health care reform. On behalf of the people of my State, and from my own heart, I thank both colleagues for their incredible feat.

Over the past few years, Americans had every reason to wonder if Congress would ever be capable of doing anything ever again about the health care problems that cause them so much pain. When the fight for comprehensive health reform failed, it was hard to see how we could ever get out of the ditch of partisan politics, special interests, and fear that did us in.

But while plenty of special interests and politicians wanted health care reform to die, millions of Americans were still waiting desperately for something to be done.

The Senators from Kansas and Massachusetts realized that we had to take a different tack. We had to target just a few of the most serious problems in the health care system, and offer solutions that made obvious sense.

It took persistence, patience, cooperation, and compassion to get this bill to this point today. With this legislation, millions of Americans will be able to get the health insurance they desperately want and need—or I should say that this will happen soon, since one of the compromises was that the insurance reforms won't be effective until July of next year.

When that date is reached, the rules will change. Working Americans will be freed from the trap that locks them into jobs and situations solely because a change will mean losing their health insurance. Preexisting conditions will no longer mean an endless nightmare for the millions of children and adults who have some illness or medical problem that's the very reason they need health care. Small employers won't be shut out from the health insurance marketplace.

When I talk about the Kassebaum-Kennedy bill, I can picture the West Virginians—parents, children, small business owners, health care professionals—who have begged for help.

Now, I can report back to the West Virginian who shared his agony over not being able to get coverage for his cancer, because it was branded a preexisting condition, that the law will soon require an insurance company to sell him that coverage. Now, I can send word to West Virginians who want to switch jobs, move to a different community, or even start their own business that they can hold onto their health insurance while they pursue any of these goals for themselves and their families.

And most importantly, now I can tell all West Virginians, and we can tell all Americans, that health care reform is not dead, it's not code for gridlock, and it's not a pipedream.

The Kassebaum-Kennedy bill also represents the art and necessity of compromise. Some proposals that would have helped numerous families were dropped, because opposition just couldn't be overcome.

And one proposal, to open the door for medical savings accounts, worries me. It is labeled a ''demonstration,'' and I just hope that Congress will be honest and responsible about taking a true look at how people do when they turn from conventional insurance to tax breaks and catastrophic-only coverage. I know that most people don't plan on getting sick or having an accident or developing a serious disease, and I fear that an MSA will go from being a financial benefit into an overwhelming burden for many Americans when the unexpected happens.

But I also know that we won't achieve any positive health reforms without making concessions. And the work will always be difficult. There are too many insurance companies that want to chase after healthy customers, and avoid the sick. There will always be ideology that gets in the way of telling the private sector to do anything differently, no matter how many families are hurting. There will always be fear of the unknown, no matter how many problems exist in the present.

Today, however, let's celebrate what is getting done. And then tomorrow, let's move on to the next round of health care reform. Today, let's thank Senator KASSEBAUM and Senator KENNEDY for their gift to at least 25 million Americans, and many thousands of West Virginians. And then tomorrow, let's be inspired by their leadership to get even more done for millions more who still suffer because they can't get or afford decent health care.

Ms. MOSELEY-BRAUN. Mr. President, 3 years ago, this Senate blocked attempts to act on comprehensive health care reform. While that year's effort to achieve the major reforms that are so needed and so long overdue did not succeed, the problems that led the President to make that proposal have not disappeared. Far from it.

As a nation, we spend 15 percent of our gross domestic product on health care, over $1 trillion. No other industrialized nation spends more than 10 percent of their GDP and the gap is widening. Yet today, there are over 40 million Americans without health insurance, and over 23 million of those Americans are employed. Over 1 million working Americans have lost health care coverage over the past 2

years. And 60 percent or more of all Americans worry about losing their current health insurance coverage. The case for reform, therefore, is perhaps even more compelling now than it was 3 years ago.

I am proud that today the Senate is taking a significant step toward reforming the health care system. The Kassebaum-Kennedy Health Insurance Reform Act is not the panacea for our health problems, but it does represent progress. It is an important step in the right direction.

This bill has many good features. Perhaps the most important is the limits on exclusions for preexisting conditions. This bill says that no one can be denied health insurance coverage for more than 1 year due to a medical condition. If there is any concern which every person has about health insurance, it is the ''trap'' of preexisting conditions. All too often, individuals find themselves excluded from coverage because of a preexisting condition. Some 81 million Americans have preexisting conditions that could affect their insurability. And more than half of all American workers are enrolled in health insurance plans that impose some form of preexisting condition exclusion. When you consider that most Americans will have seven or more jobs in the course of their working life, the preexisting condition problem affects virtually every American family. The General Accounting Office [GAO] estimates that 21 million Americans will be helped by the limits on exclusions for preexisting conditions included in this health care bill.

In my own State of Illinois, almost 8 million people have private health insurance and almost 2 million are uninsured. This bill will make a critical difference in their lives, and in the lives of similarly situated people all across the Nation.

This bill also includes portability provisions which will end ''job lock'' by making health coverage portable between jobs. For Americans who might want to leave their jobs to start their own businesses—or who might have to leave their jobs because of corporate restructuring—but who might have a preexisting condition or a family medical history that would currently make it difficult to impossible for them to purchase an individual health policy, this bill will make a huge difference. It will guarantee their access to health insurance.

Families with a small child suffering serious health problems will no longer face the prospect of being unable to obtain health insurance if the parents change jobs. It is tough enough for families to deal with a serious health problem affecting one of their children without having to face the additional problem of losing access to health insurance if they are laid off, restructured out of their jobs, or want to change jobs for new or better paying jobs.

Similarly, this bill will guarantee that small businesses with only a few employees will not lose their group health coverage because one of their employees develops a serious health problem, as is the case now. Moreover, it will help make health insurance more affordable for those small groups, making it more likely that more small businesses will provide health insurance benefits for their employees. Furthermore, the increase in the deductibility of health insurance expenses from 30 percent to 80 percent for self-employed individuals will make health insurance more affordable for those thousands of people who operate their own businesses.

I am also pleased that members have been able to reach a bipartisan agreement on medical savings accounts [MSA]. Issues surrounding the availability of MSAs have held up movement on this important legislation too long. The compromise provision would provide many small businesses and self-employed individuals access to more affordable health insurance options. The MSA options will provide valuable information as to the impact of broader scale high-deductible health plans on cost control and general insurability.

The Health Insurance Reform Act represents a practical, caring attempt to deal with the real health care problems facing so many Americans, based on their everyday realities. This bill is all about incremental reform—but nonetheless real reform. It will help virtually every working American, as well as millions of Americans who are temporarily out of the work force. And it will work because it is based on what is actually going on in the world of people who need health care.

It's worth thinking a bit about those everyday realities of life. Statistics tell us that the average American works at a job about 4½ years. As I stated earlier, over the course of a working career, an average American working person could hold seven or more jobs. That fact alone makes it all too clear just how important it is for Americans to have portable health care coverage. And that fact alone is a good indication of how necessary it is to end preexisting condition restrictions that result in Americans having to pay enormous sums for new health care policies, losing access to health insurance altogether, or having to avoid—at virtually all costs—changing jobs in order to retain affordable health care.

Access to affordable health care is no less important to the American people than pension planning, not only because Americans can't enjoy their retirement if they are in poor health, but because they face being bankrupted by health care costs if they are not able to retain access to affordable health insurance. Being able to roll over insurance coverage, therefore, is just as important as being able to roll over pension savings. Maintaining health security, therefore, deserves the same level of attention we give retirement security, any measures that protect and enhance that health security deserve the same kind of consensus support.

Facing the loss of health insurance is a debilitating fear for all too many Americans, and without reform, it is all too great a risk for every American. This bill will end that fear, and it does so in a manner that makes sense and will work. It is far from the total answer to our health problems, but I do not think we should underestimate the importance we will be achieving once this bill becomes law.

I want to conclude by congratulating the chairman of the Labor and Human Resources, Senator KASSEBAUM, and the ranking democratic member of that committee, Senator KENNEDY, for their leadership and for all the hard work they have put in to bring the bill to this point. I want to particularly congratulate them for the bipartisanship they displayed in putting this bill together.

Mr. DASCHLE. Mr. President, I am delighted to cast my vote for this bill—it is an important first step in ensuring health security for working Americans.

Health security has always been, and always will be, a Democratic priority. It is at the top of our agenda, and we won't give up until every American has access to meaningful, affordable coverage.

Unfortunately, even this small step was controversial.

Senator Dole promised 2 years ago that health reform would be the first thing Republicans would focus on if they controlled Congress. As it turns out, health reform was nearly the last thing they focused on. And only because we insisted they finally act.

This bill was approved unanimously in the Senate Labor Committee exactly 1 year ago on August 2, 1995. But for 8 months, secret Republican ''holds'' delayed it.

When the bill finally reached the Senate floor on April 18 1996, the Republican leadership tried to attach to the bill poison pills, like MSA's to kill it. Then, 4 more months passed as the Republican leadership tried to stack the conference committee to ensure that MSA's were included in the final bill.

In the meantime, the Republican leadership tried to water down the bill's portability provisions to guarantee that health insurance can be carried from job to job. But they did not succeed.

I am delighted and relieved these ''delay and destroy'' tactics were finally abandoned and that Republicans joined us in fixing the most badly broken parts of health system. Make no mistake—this bill is badly needed.

One Republican Senator told the Washington Post last year that ''Health care is not very bright on anybody's radar screen, if it shows up at all.'' That's not what I hear in South Dakota and across the country. This issue is still very much on the minds of Americans.

When health reform failed in 1994, Americans' problems securing coverage

didn't go away. The problems fueling the health care and insurance crisis still exist today. Forty million people are without insurance, and insurance remains prohibitively expensive for far too many people. The public expects and wants us to tackle this issue.

The bill before us breathed new life into health reform efforts. Still, it does not come close to solving all our health care problems—it is a modest, incremental downpayment on reform.

But this bill does deal with one of the most pressing problems in our system—portability. Indeed, GAO says this legislation could help up to 25 million Americans each year, at no cost to taxpayers. This bill gives workers dismissed from their jobs or looking for better jobs peace of mind.

This bill means that never again will fear of losing their insurance trap people in their jobs.

Still, passage of this bill is the beginning of the debate, not the end of it.

Every single day in this country, 60,000 people lose their health insurance. Unfortunately, only a small fraction of that group will be helped by this legislation. We must do more to provide real health security to every American.

As we celebrate this bill's passage, let us pledge to tackle even more difficult issues. We must ensure that every child has health coverage. We must eliminate barriers to pregnant women getting prenatal care. We must make coverage more affordable for small businesses. We must ensure every child is immunized appropriately. We must end cherry picking by insurance companies. We must ensure rural Americans have the same access to quality care their urban neighbors enjoy.

In sum, we must guarantee every American access to affordable, quality coverage. This will be on the top of the Democrats' agenda in the next Congress.

Despite its limitations, this is an important bill. It's a victory for the President, who put this issue on our collective radar screens. It's a victory for Senators KENNEDY and KASSEBAUM, who worked so hard to make this happen. It's a victory for Democrats, who consider this a priority item.

Most importantly, it's a victory for America's working families.

Mr. KERRY. Mr. President, I am delighted that Americans will finally receive the benefits of the health care reforms contained in the Kennedy-Kassebaum bill—benefits which the General Accounting Offices estimates will help over 21 million people.

But I want to talk today about one particular person who will benefit from this bill, a woman from Florence, MA, who wrote me recently about her daughter. She supports this bill, she said, because her daughter has diabetes and the family had a terrible time finding health insurance that would cover her. In her letter she told me, ''I think it's immoral for health insurance companies to cut off coverage even while the people they cover are paying their premiums. No health insurance company should have the power to do this to their clients.''

Millions of Americans have medical histories or preexisting conditions that make it difficult to get comprehensive insurance coverage. As many as 81 million Americans have preexisting medical conditions that could affect their insurability. Many people are locked in their jobs because they fear they will be unable to obtain comprehensive insurance in new jobs. And many people who work in small businesses often have trouble getting insurance especially if 1 employee has medical problems.

This bill takes very important steps forward to correct these problems. But we must do more so that ultimately we have coverage for all Americans. Currently, 40 million Americans live without health insurance, and 23 million of the 40 million are workers, according to a study by the Tulane University School of Public Health. Furthermore, an average of more than 1 million children a year have been losing private health insurance since 1987. In Massachusetts alone, there are more than 130,000 children—one-tenth of all the children in my State—who are without any health insurance, private or public, for the entire year. And many more children lack health insurance for part of the year. A recent study in the Journal of the American Medical Association reported that almost one-quarter of U.S. 3-year-olds in 1991 lacked health insurance for at least a month during their first 3 years, and almost 60 percent of those lacked insurance for 6 or more months. It is time that we help the American people get the health insurance they rightfully deserve.

Mr. President, this Congress continues to have an unacceptable record when it comes to addressing the real needs of American workers and families. Political divisions and Presidential politics have become an everyday feature of Senate floor action, making it impossible for us to do much of the people's business. Fortunately, this bill is a notable exception.

Finally, I want to applaud the vision, commitment, and political savvy of the distinguished chairman of the Labor and Human Resources Committee, Senator KASSEBAUM, whom I greatly admire, and the distinguished ranking member of that committee, the senior Senator from my State, who has been a leader for his entire career on health care issues. To a very considerable extent we all are in their debt as we send this legislation to the President, because it was their commitment, stamina, and statesmanship that worked past what again and again appeared to be intractable differences of opinion among 535 members of the House and Senate. This is a tremendous victory for the American people, but it is also a richly deserved personal victory for both Senator KASSEBAUM and Senator KENNEDY. I will proudly vote to send this bill to the President's desk for his signature.

Mr. FAIRCLOTH. Mr. President, Yesterday, when the Senate passed welfare legislation we took an important first step toward reforming our failed welfare system. Similarly, the health care reform bill before us today takes another important first step toward addressing some of the serious flaws that exist in our Nation's health care system.

We must ensure that this health care bill becomes a step in the right direction, a step away from excessive government regulation and a step toward a health care system based on free-market principles that benefits and empowers individuals.

I am very pleased that the conference report includes the foundation for the full implementation of Medical Savings Accounts, this is the single most important feature of this legislation.

When we debated medical savings accounts in April, opponents of the provision argued that anyone who want to include MSA's really wanted just to kill the Kassebaum bill. I believe that the conference agreement has proven them wrong.

This real issue behind medical savings accounts is a question of whether health care reform should move toward greater government control of our health care system, as President Clinton advocates, or whether health care reform should place more decision making authority in the hands of individuals. Once individual Americans have the power to control how their own health care dollars are spent, they will never allow the government to take that power back.

I am certain that when the four year trial period for medical savings accounts ends successfully, the Congress will overwhelmingly endorse MSA's as an unlimited nation-wide policy.

Mr. President, while this conference report is a first step, it is not too soon to consider what our next steps should be. We badly need meaningful reform of our medical malpractice and antitrust laws as well as full deductibility of health care expenses for the self-employed.

The health care reform conference report will improve the health care coverage available to individual Americans. But to preserve those gains, we must make sure that future health care legislation seeks free-market solutions, not big-government solutions.

Mr. SIMON. Mr. President, like most bills, the Health Insurance Portability and Accountability Act contains both good and more worrisome provisions. Some of the better provisions, such as portability, are not perfect and others of importance, such as mental health parity, are now completely absent.

One important provision in this bill that has not received much attention is administrative simplification. It sounds innocuous enough. It aims to

cut administrative costs by standardizing the way medical information is electronically stored and transmitted. No one is against cutting health care costs.

This standardization, however, accelerates the creation of large data bases containing personally identifiable information. All this information is transmitted over electronic networks. We need to be very careful about how safe and secure that information is from prying eyes. Some of it may be extremely sensitive and could be used in a malicious or discriminatory manner.

Not only do we need to hold this information securely, we also need to give individuals control over who actually has access to their medical records. We have been working in this Congress this year to try to come up with federal privacy laws for medical records. Senators BENNETT, LEAHY, KASSEBAUM, KENNEDY, DOMENICI, WELLSTONE and MACK have all been concerned with the need to craft meaningful privacy legislation. I commend their efforts in this area. It has been extremely difficult legislation to craft, however.

The States themselves have enacted some medical privacy laws. For instance, several States have passed laws that protect the confidentiality of mental health records or HIV status. We should not preempt such protections. I am glad to see that the preemption of State law in this area has been removed from this bill. I commend the Finance Committee, and particularly Anne Marie Murphy of my own staff, for their work in helping to rectify this problem.

I am still troubled by the possible time lag between the enactment of standardization and the development of privacy regulations by the Secretary of HHS. The way this provision is currently drafted, standards will be developed by standard setting organizations that are mainly business groups, solely on the basis of cost, within 18 months of enactment of this Act. HHS will submit to Congress detailed recommendations on standards with respect to the privacy of individually identifiable health information within 12 months of enactment of this Act. If Congress does not act on these recommendations within 36 months of enactment, the Secretary of HHS will promulgate privacy regulations within 42 months of enactment. There is, therefore, a possible time lag of 36 months between standard setting and privacy regulations.

This puts the cart before the horse. Obviously, privacy should come first. I don t think there is one Senator here who would like to have his or her own medical privacy play second fiddle to business costs.

Furthermore, this order of cost first, privacy later, may in fact be much more disruptive to business. For example, it does not make good privacy sense to use social security numbers as a unique health identifier; it would be far too easy for others to decode these. It might, however, make for easy, cost-effective, standardization. If the standards developed need to be fully revised to take account of privacy concerns, then business will be forced to standardize twice, with probably twice the expense.

It makes much more sense to have the standards developed with both privacy and cost in mind and for the standards to be enacted after and in accordance with the privacy regulations. I would urge my colleagues to alter these dates and modify this section to couple these two very admirable goals of cost reduction and medical records privacy.

In general, although there are weaknesses in this bill and it is far, far less reform than we need, I am pleased that we are finally moving ahead with modest initiatives in the area of access to health insurance. Many Americans will be helped by this legislation. It should be clear, however, to anyone who looks at what is happening to health insurance coverage in this country that this bill is just a first step of many we need to take to meet the health care needs of our Nation. This is especially true in regard to children, where we will fall even farther behind as a result of the Welfare bill we just passed, and in regard to equitable coverage of people with mental illnesses.

Senator DOMENICI and Senator WELLSTONE deserve great credit for fighting for equitable treatment in coverage for the mentally ill. I hope they will win this fight in the near future. I will do everything I can to help in this effort before the end of this Congress.

I hope it will also not be long before the Senate acts to ensure universal access to health care coverage for all children and pregnant women. More than 9.3 million children and half a million expectant mothers in our Nation have no health insurance of any kind. Projections are that by the year 2002 we will have 12.6 million children without coverage and nearly 5 million more may be added to that as a result of proposed changes in Medicaid. When we passed the Kennedy-Kassebaum bill earlier this year, the Senate accepted a sense of the Senate resolution I offered stating that the issue of adequate health care for our mothers and children is important to our nation's future and that the Senate should pass health care legislation ensuring health care coverage for all of our nation's pregnant women and children. The Senate must be held to account on this resolution.

It is unacceptable in our rich country to permit these inequities to continue and to permit so many of the most vulnerable in our society to be denied assurance of even basic health care. While I applaud everyone who worked so hard to bring this agreement to the floor, I hope those who follow us in the next Congress will move on from here to make more fundamental progress toward the fair, just and accessible health care system all of our citizens deserve in this great Nation.

Mr. DODD. Mr. President, the legislation before us today—the conference report on the KASSEBAUM/KENNEDY Health Insurance Reform Act—gives this body a unique and historic opportunity—to pass a sensible, incremental and common-sense health reform measure that will help millions of Americans.

Our actions today will give an estimated 25 million Americans a much needed and deserving helping hand.

This bill would guarantee to American working families—if you change your job you will not lose access to health insurance. This bill will limit pre-existing condition exclusions. It will guarantee renewability of health insurance policies. And it will help self-employed individuals, by increasing the deduction for health insurance expenses.

It's been a long difficult process to reach this point. But, finally these most basic health insurance reforms will become law, exactly 1 year after the Labor and Human Resources Committee unanimously reported the bill.

This bill will not solve every problem in our health care system, but it's an important first step. It is good public policy and it deserves the support of every member of this body.

Frankly, I feared that the majority party would prevent this day from happening.

This legislation passed in the Labor Committee 1 year ago, but objections by members of the majority party prevented this bill from receiving consideration by the Senate until the following April.

President Clinton came to the Congress in January and in his State of the Union address urged us to quickly pass this legislation. But still it took 4 months for the majority party to respond.

Finally, when the Senate was allowed to consider the bill it passed 100–0. These days, not too much in this body is agreed upon in a bipartisan manner. But the unanimous support for the Kassebaum/Kennedy bill is a clear indication that this legislation is an effective, fair, and most important, bipartisan measure.

But again, even after this unanimous vote, the majority tried to load the bill with controversial provisions, rather than move to quickly pass a bill we could all agree upon.

Mr. President, this legislation should have passed last year and if we had done so, the American people would already be reaping the benefits. However, I am pleased that reason prevailed and today we can finally deliver these important protections to the American people.

While this bill is an important step forward, I consider it only a first step in an ongoing process. Many problems remain in our health system. I won't

go into all of them today. But I do want to talk briefly about continuing problems in guaranteeing children access to health care.

Our system simply does not work for millions of America's children. We all lose when the worker of tomorrow is crippled for life by the untreated illness of today. We all lose when completely preventable diseases like measles ripple through the child population.

The General Accounting Office, in a series of reports issued to me this summer have reported on trends in children's health insurance that are cause for genuine alarm.

In 1994, the percentage of children with private insurance coverage reached its lowest point since the census began consistently tracking coverage.

In 1987, almost 74 percent of our Nation's children had private coverage. By 1994, that number had dropped to 65 percent.

While Medicaid has certainly helped millions of children who would otherwise be without coverage, the number of children without any insurance rose to its highest point in 1994. Ten million children under age 18, or 14.2 percent, were uninsured in 1994.

In States such as Alabama, Arizona, California, New Mexico, Oklahoma, and Texas, almost 20 percent or more of children are without health care coverage. That means 1 out of every 5 children in these States are lacking coverage.

Too many of our children do not have access to basic health. So, I hope, Mr. President, that no one thinks that we've made the health care system right, because we still have a long way to go.

Let us not forget that approximately 40 million Americans continue to lack health care coverage. Of those, 12 million are children under the age of 21. We still have a commitment to those people to make this measure the first, not the last, step on the road to meaningful health care reform.

So today, we have a historic opportunity to help millions of America's working families keep their health care coverage. It is a chance that must not slip away, and so I urge all my colleagues to join me in supporting this common sense and sensible reform measure.

Mr. LAUTENBERG. Mr. President, I rise in support of this conference report. This is a good first step in trying to provide affordable health care coverage to all Americans. This bill will ensure that people who move from job to job will be able to keep their health insurance, even if they have a pre-existing condition. It also will give the same protection to people who lose their jobs and must get health insurance on their own.

This bill also provides some tax incentives for families to better afford health care. The legislation increases the health insurance deduction for self-employed individuals from 30 percent to 80 percent, bringing health care coverage within reach of many more Americans.

This bill also expands the tax deduction for nursing home and long term care coverage. This will help families better cope with the staggering costs of nursing home coverage for their loved ones. In some facilities, a year in a nursing home can cost over $30,000.

This bill also includes an experiment in Medical Savings Accounts (MSA's). The Senate originally rejected the concept of MSA's by a bi-partisan vote. But the House Republicans insisted on a full blown implementation MSA's even though we have never even evaluated the efficacy of such health policies. Fortunately, this conference report only includes a limited demonstration of MSA's. This makes sense because this concept is untested. I am concerned that MSA's could drain the young, healthy and wealthy out of the traditional insurance system. This could leave old and sick people to cope with escalating insurance premiums, making it even tougher to afford health insurance. Therefore, I am pleased that this is only a time limited experiment.

Mr. President, unfortunately, this bill does not include the so-called mental health parity amendment authored by the Senators DOMENICI and WELLSTONE. This amendment passed overwhelmingly in the Senate but was completely dropped in conference. I hope that some day this amendment will become law so that we can do away with insurance policies that provide more coverage for physical illnesses than for mental illnesses. Families with members who have mental illnesses deserve this much.

Mr. President, while this bill makes improvements in our health care system, we must remember that this is only a first step. We have much more work to do in the next Congress to move toward providing health care coverage for all Americans. This should continue to be our goal.

Tragically, there are now 41 million Americans who do not have health insurance, up from 37 million in 1993. For the most part, these are working Americans. Eighty-four percent of the uninsured work, but they do not get health insurance at their jobs.

We must do something to rectify this. We must continue to enact legislation so that one day no family is without health security.

I yield the floor.

Mr. GLENN. Mr. President, I support the conference agreement on H.R. 3103, the Health Insurance Reform Bill. I am pleased that the Congress is taking long overdue final action on this legislation which is so important to working Americans and their families. As you know, it was approved by the Senate Labor and Human Resources Committee 1 year ago today, and it passed the Senate in April. Once again, I would like to commend Senator KASSEBAUM and Senator KENNEDY for their untiring efforts to work with our colleagues and all interested parties to forge the bipartisan bill we will pass today and send to the President for his signature.

The bill we are passing today is not comprehensive health care reform, but it is an important step forward in addressing problems in our current health insurance system. People who maintain continuous health insurance coverage will not be denied insurance for preexisting conditions, after one initial 12-month exclusion, even if they change jobs or insurance plans; and individuals who lose their jobs or change jobs will be guaranteed the opportunity to continue their insurance through a group or individual plan.

A compromise was made on medical savings account [MSA] provisions passed by the House of Representatives but rejected by the Senate. The bill provides for a four year pilot program in which up to 750,000 taxpayers with high-deductible health insurance plans can make tax deductible contributions to a medical savings account. At the end of the 4-year period, Congress would have to vote to expand the MSA program.

This legislation also increases the health insurance deduction for self-employed individuals from 30 percent to 80 percent over a 10-year period, provides for a medical expense deduction for long term care insurance, and allows terminally ill individuals to receive tax free benefits from their life insurance.

I regret that the Domenici-Wellstone amendment, which passed the Senate, was not included in this conference report nor was any compromise that the sponsors proposed. This amendment would require private health plans to provide medically necessary mental health services that are equal to the medical services provided. A great deal of progress has been made in diagnosing and treating mental illnesses, and I believe that we should provide health insurance coverage that will make this care affordable to people who need it. I will work with my colleagues during the remainder of this Congress to ensure that in the future people with mental illnesses have equal access to the care they need.

The Health Insurance Reform Act will provide peace of mind to many working Americans who have health insurance but fear losing it, and it is a major improvement in our current health insurance system.

PROVIDING TAX EXEMPTION TO STATE HIGH RISK HEALTH INSURANCE POOLS

Mr. COCHRAN. I am pleased that the conference report for the Health Insurance Reform Act includes a provision which confirms the availability of the Federal tax exemption for State health insurance risk pools which has been pending in Congress for the last several years. The purpose of a health risk pool is to make available health and accident insurance coverage to individuals

who, because of health conditions, would otherwise not be able to secure health insurance coverage. Health risk pools are one option contemplated by the Health Insurance Reform Act that States could implement as part of their health care reform efforts to seek to ensure access to health insurance.

Since 1976, 28 States have enacted legislation establishing a health insurance pool aimed at protecting uninsurable and high-risk individuals. Most of the pools were established in the last 10 years.

For example, the Comprehensive Health Insurance Risk Pool Association Act was enacted by the Mississippi State Legislature during the 1991 legislative session and became effective April 15, 1991. At that time Mississippi became the 25th State to enact such legislation. This act created the Mississippi Comprehensive Health Insurance Risk Pool Association to implement such a health insurance program. Members of the association include insurance companies, nonprofit health care organizations and health maintenance organizations [HMO's] which are authorized to write direct health insurance policies and contracts supplemental to health insurance policies in Mississippi. The association also includes third-party administrators who are paying and processing health insurance claims for Mississippi residents.

Over the past 4 years, the association has issued medical insurance policies to approximately 1,200 Mississippians. The association is funded by premiums paid by policyholders and quarterly assessments against members of the association. The assessments are necessary to supplement the premiums and operate the program on a financially sound basis. There is no public funding—State or Federal—involved.

Currently, over 100,000 individuals nationwide are members of a State health risk pool. Nationally, there are an additional 1 to 3 million people who are uninsured and uninsurable, and who could be eligible for inclusion in a State health risk pool.

As my colleague knows, unfortunately, several State health risk pools, including the Mississippi Comprehensive Health Insurance Risk Pool Association, have applied for and have been denied exemption for Federal taxation under Internal Revenue Code sections 501(c)(4) and/or 501(c)(6). Generally, the Internal Revenue Service's [IRS] rationale for such denial has been that the sole activity of the health risk pools is the provision of health insurance for individual policyholders. The IRS perceives health risk pools as a regular business ordinarily carried on for profit, which primarily provide commercial type insurance. Moreover, the IRS takes the position that health risk pools are primarily serving the private interests of its members and not the common interest of the community as a whole.

Would my colleague agree that the IRS's position is incorrect?

Mrs. KASSEBAUM. I would agree with the Senator.

Mr. COCHRAN. Is it not the case that health risk pools have been created by statute in the several States to serve a public function of relieving the hardship of those who, for health reasons, are unable to obtain health insurance coverage? Additionally, that these pools do not carry on an activity ordinarily carried on by insurance companies and not designed to make a profit? Further, that they are established by State statute and none of the net earnings benefit any private shareholder, member, or individual?

Mrs. KASSEBAUM. I would agree with the Senator.

Mr. COCHRAN. The Federal Government should serve as an impetus for, not an impediment to, State health care reform. We should do all we can to increase the ability of States to help the uninsured. The Health Insurance Reform Act recognizes the value of health risk pools and includes vital roles for health risk pools in their health care reform legislation.

Would my colleague not agree that in order to allow States flexibility in designing effective health care plans, State health risk pools should be exempt from taxation and that it was never the intent of Congress that health risk pools be subject to taxation?

Mrs. KASSEBAUM. I would agree with the Senator.

Mr. COCHRAN. Would my colleague agree that it is the intent of Congress through this legislation to clarify that health risk pools be exempt from taxation?

Mrs. KASSEBAUM. The Senator is correct. This legislation will clarify the intent of Congress that health risk pools should not be subject to taxation.

Mr. COCHRAN. I thank my colleague for her assistance. By passing this legislation, we will promote State-based health care reform by expressly confirming that State health risk pools are exempt from Federal taxation, notwithstanding the IRS' position. By clarifying the intent of Congress, the IRS should recognize this legislation as confirming the interpretation of existing law, and not creating new law, and accordingly grant tax exempt organization status to all health risk pools that have applied for such status.

ORGAN DONATION INSERT CARD

Mr. DORGAN. I am pleased that the conference committee on the Health Insurance Reform Act has included a small, but lifesaving provision that Senator FRIST and I offered as an amendment to the Senate bill. I am referring to the organ donation insert card provision.

This measure, which I first introduced in 1994, would require the Secretary of the Treasury to send out information about organ and tissue donation with each tax refund mailed in 1997. This provision will help give a new chance at life to the more than 46,000 Americans who are desperately waiting right now for an organ or tissue transplant.

Many opportunities for a lifesaving organ donation are missed each year because family members hesitate to authorize organ or tissue donation when their loved one dies. By providing information to 70 million Americans next year, we can raise awareness about the need for donors and, in the process, we will save lives.

I do want to mention a concern I have about one of two technical changes made to the organ donation insert card amendment during conference. At this time, I would like to engage in a colloquy with Senator FRIST, a cosponsor of this Amendment, and Senator ROTH, the chairman of the Finance Committee, to clarify Congress' intent with regard to this provision.

The conference agreement alters my original provision to read that organ donation information will be included with tax refunds mailed in 1997 to quote ''the extent practicable'' unquote. I want to make it clear that I feel strongly that providing this information to millions of Americans is not only a cost effective way to save lives but is also a practical measure that does not pose an unreasonable burden on the Department of the Treasury.

Mr. FRIST. Senator Dorgan, is it true that the Treasury Department regularly includes insert cards with the refunds it mails each year?

Mr. DORGAN. The Senator from Tennessee is absolutely correct. This year, for example, taxpayers who receive a refund also received information about how to purchase Olympic commemorative coins. In 1994, an advertisement for World Cup Soccer commemorative coins was mailed along with refunds.

Mr. FRIST. It is my understanding that the cost to the Treasury Department of printing and inserting this information is negligible. Since the Federal Government already incurs this cost on an annual basis, I do not believe this would create a burden. Is that also your belief?

Mr. DORGAN. Yes, it is. I would like to ask the distinguished gentleman from Delaware [Senator ROTH], to clarify for us what the conference committee intended by making this technical change to the Senate's amendment.

Mr. ROTH. The conference committee's intent regarding this change was to ensure that there be no delay in the mailing of refund checks because of this provision. The language ''to the extent practicable'' originally read ''to the maximum extent practicable'' to address any potential administrative issues that may arise. For example, if the Internal Revenue Service ran out of organ donor cards we would not want to insinuate that the check could only go out if a donor card was enclosed. The Treasury Department specifically asked us to delete ''maximum'' from the language.

It was not the conference committee's belief that this provision should

cause a delay, and we fully expect that the Treasury Department will make every effort to ensure that all of the individual taxpayers who are mailed refunds in 1997 will also receive organ donation information.

Mr. DORGAN. Thank you Senator ROTH and FRIST. I want to again thank Senators KENNEDY, KASSEBAUM, and FRIST, Congressman RICHARD DURBIN, and the many supportive organizations who have worked with me to get this provision enacted.

Mr. President, I rise today in support of final passage of the Health Insurance Reform Act. It has not been an easy road to agreement on this bill, but for the sake of the American people, I am glad we were able to put aside our differences and reach a compromise on those issues where we do agree.

We are fortunate in our country to have one of the finest health care systems in the world. But unfortunately, not all Americans have access to that health care system or can afford the escalating prices of care.

This bill is not the total answer to those issues. In fact, compared to the health care plan proposed by President Clinton several years ago, which I did not support because I thought it was too bureaucratic, this bill is very, very modest.

Having said that, the Health Insurance Reform Act is a significant step forward in helping Americans who are routinely denied health insurance coverage through no fault of their own, and I am pleased to be a cosponsor and supporter.

Earlier this year, I received a heartbreaking letter from a mother in Williston, ND whose infant son was born with a rare disease called myelamacia. He often stops breathing and doctors have no idea how long he will live or what his quality of life will be. Michael is actually lucky because, right now, he is covered under his mother's employer-based health insurance plan.

But Michael's mother is desperately worried about how long his coverage will last. For one thing, Michael currently must live at the Anne Carlsen Center for Children in Jamestown, ND, which is quite a long distance from Williston. Michael's parents would like to move closer to their son so they can spend more time with him, but they are justifiably afraid that if Michael's mom switches jobs, Michael will lose his insurance coverage.

Michael's parents are not alone. A survey has found that one-quarter of Americans who would have otherwise switched jobs did not because they feared losing their health insurance coverage.

This legislation basically says to insurance companies, if someone has been a good customer of yours, paying their premiums regularly for years, you cannot drop their coverage simply because he or she gets sick or switches jobs.

This bill puts limits on the amount of time that insurance companies can deny coverage for individuals with preexisting medical conditions, even for those who change jobs or whose employer switches insurance companies. It also requires insurance companies to renew the health insurance coverage of individuals or groups as long as they pay their premiums. The bill will also help to ensure that those with preexisting conditions will be able to purchase affordable individual insurance policies if they lose their group health coverage.

This bill also contains provisions which will help many of North Dakota's small business owners and sole proprietors. I have been fighting for one of these provisions ever since I came to Congress, so I am particularly pleased that we are acting to level the playing field for sole proprietors.

Under this bill, farmers and other self-employed individuals will be able to deduct a higher percentage of their health insurance premiums. Right now, large corporations can deduct 100 percent of their health insurance expenses, but sole proprietors may only deduct 30 percent of their health insurance premiums. This bill will gradually increase the amount that the self-employed can deduct to 50 percent by 2003 and to 80 percent by 2006. I would prefer that they be allowed to deduct all of their insurance costs, as corporations already can, but this will go a long way toward making health insurance more affordable for farmers and other self-employed individuals.

This bill also will allow some small employers and their employees to experiment with medical savings accounts, or MSA's. This is a highly controversial issue, and I'm glad we were able to reach an agreement that allows us to move forward on this legislation.

I think MSA's are an intriguing idea. Common sense tells you that making health care consumers think more carefully about the type and cost of care they receive will likely have some positive impact on overall costs.

At the same time, however, I do have concerns about the impact that MSA's could have on the traditional insurance pool. The trial approach taken in this bill will minimize any negative effects on the insurance market while allowing us to evaluate the value of MSA's.

Finally, I want to mention one more provision included in this bill. It is a small, easily overlooked provision which I offered, but it is one that will save lives, and I want to thank Senators FRIST, KENNEDY, KASSEBAUM, and the many other Senators, Members of the House of Representatives and supportive organizations who have worked with me to get this provision included. I am referring to the organ donation insert card provision.

This measure, which I first introduced in 1994, would require the Secretary of the Treasury to send out information about organ and tissue donation with each tax refund mailed in 1997. This provision will help give a new chance at life to the more than 46,000 Americans who are desperately waiting right now for an organ or tissue transplant.

Many opportunities for a lifesaving organ donation are missed each year because family members hesitate to authorize organ or tissue donation when their loved one dies. By providing information to 70 million Americans next year, we can raise awareness about the need for donors and, in the process, we will save lives.

In closing, I want to thank Senators KENNEDY and KASSEBAUM and both of the leaders for their tireless work to move this worthwhile legislation to this point. I am pleased to be a cosponsor of the Health Insurance Reform Act and to finally have this opportunity to vote to send it to the President for his signature.

Mr. BURNS. Mr. President, I rise today to speak about this health insurance reform legislation now before us. After months of gridlock on this bill, I am glad that the Senate finally has a chance to once again consider and pass this straightforward legislation. I must confess, however, that I find it puzzling that this bill has been held up for 3 months over the issue of medical savings accounts—particularly in light of what we are trying to accomplish by passing this legislation.

I am a strong supporter of medical savings accounts. I truly believe MSA's empower health care consumers by giving them the freedom to choose how they spend their health care dollar. Medical savings accounts provide the competitive choice which not only enables folks to keep pace with inflation, but counters the increases that will result from the guaranteed-issue component of this legislation. Nonetheless, I am pleased that this bill creates at least a full-blown test for the MSA.

Though it disturbs me to know that we could have sent this meaningful legislation to the President for his signature months ago, the delay on this bill has given me the opportunity to hear the thoughts of literally thousands of Montanans on this issue, folks who have written to me, folks who have called me, and folks I've seen while traveling in the State. Given all the input I have received on this legislation over these last few months, one thing is certain, the folks in Montana are reaffirming what they have been telling me for years—that they want the commonsense measures contained in this bill passed into law.

It is no secret that the health insurance system in this country is in need of some fine tuning. And I know that many of my colleagues on both sides of the aisle and in both Chambers of Congress would agree with that assessment. It is estimated that 43 million Americans went without health insurance in 1995 and roughly 23 million of those are workers. Though we can't guarantee every American health care coverage—nor would I ever support a

plan to do so—we can address the barriers that keep health insurance out of the reach of most of these folks; access and affordability. And this health insurance reform legislation does just that.

There is little doubt in my mind that the Health Insurance and Portability Act will greatly reduce the barriers to obtaining health insurance coverage for millions of Americans by: one, limiting an insurer's ability to withhold coverage for people with pre-existing medical conditions; two, making it easier for workers to get and maintain health coverage; and three, because of its provisions guaranteeing coverage, this legislation will make it easier for workers to change jobs or start their own businesses without fear of losing health care coverage.

This bill also contains many other important provisions. I am especially pleased with the significant improvements in coverage for pregnant women, newborns, and adopted children. This bill will also make health care more affordable by providing the government with the means to crack down on health care fraud and abuse in the health care system, specifically in the Medicare and Medicaid programs. What's more, self-employed people will be able to deduct from their taxes 80 percent of their health insurance premiums by the year 2006, up from the 30 percent which current law allows. In addition, this bill increases tax breaks for small companies. Those provisions are especially important for my State, where 98 percent of our businesses are considered small businesses and have fewer than 50 employees.

What so personally excites me about this bill is a provision that I introduced to this bill that requires reimbursement for telemedicine services under Medicare. As many of my colleagues know, I have been a strong advocate of telemedicine since my election to the Senate. I truly believe that establishing a telecommunications infrastructure is a part of the solution to providing affordable and accessible health care. Telemedicine is being used now in Montana, and across the United States, to bring health care services to those who currently don't have access. Getting health care services can be a challenge, especially when folks in my State and in other rural areas face situations where they are 180 miles away from a specialist. But even if specialists are willing and able to visit their patients via telemedicine, the Health Care Financing Administration will not reimburse them for those services.

Mr. President, HCFA has been reviewing demonstration projects to analyze the cost effectiveness of providing health care services via telecommunications and how to reimburse the health care providers. The HCFA study has no expected deadline, but the provision contained in this bill will require HCFA to complete its study and report back to Congress by March 1, 1997. If we pass this bill today, that gives HCFA almost 8 months, in addition to the time they have already spent studying the issue, to determine the reimbursement of services provided via telemedicine. I don't feel this proposal is unreasonable. In fact, since this study is already ongoing, there is no cost associated with this. I am simply asking that HCFA finish the study and let rural areas and urban residents access the health care services that are currently out of reach geographically.

I realize that there are many Americans, including a number of folks in Montana, who have serious concerns with this legislation. Folks in my State seem to be particularly concerned that this legislation is just a step toward implementing the failed Clinton health care plan and will turn our health care system over to the Government. What's more, I have heard from a number of Montanans who are concerned about health insurance costs going up for all health care consumers. I appreciate and understand these concerns—I don't want to see either of these things take place. In fact, like most Americans, I am completely opposed, and I opposed then, the type of big-government, big-bureaucracy health care agenda that the Clinton administration proposed in 1994. Most people don't want a single-payer, government-controlled health insurance system deciding what is best for them and neither do I. That is why this bill only addresses those aspects of health insurance reform that folks have identified as important and necessary, and want to see passed.

Though I realize that this bill will not solve all the problems with our Nation's health care system—and I have concerns with certain aspects of the act as well—this legislation does take a giant step toward eliminating many of the worst abuses that exist in the private insurance market. Most important, it does all this without substantially raising costs for current health insurance policyholders, without meddling with those parts of the system that work, and without taking away the ability of States or the private sector to initiate their own reforms.

Mr. President, the Republican-led 104th Congress has once again given us an opportunity to change a system that has consistently failed millions of Americans and American families. I want to take a moment to thank the Republican leadership and all of those who have worked so hard, in both parties, to bring this legislation back to the floor. I also want to commend Senators DOMENICI and WELLSTONE for their work on mental health parity. Though this provision has been stripped from the bill, I believe their efforts will help move our country forward in treating the nearly 5 million Americans suffering from severe mental illness. I particularly want to commend the senior Senator from Kansas for leading the way on this issue. I also want to thank Senator KASSEBAUM for the time and dedication she has given over the years to the citizens of our country. I am truly sorry that Senator KASSEBAUM will be leaving us at the end of the 104th Congress. Not only will the U.S. Senate lose a fine legislator but a fine person. On that note, because of Senator KASSEBAUM's efforts, and with the overwhelming bipartisan support this bill received in the House yesterday, it looks as though we are going to see our way clear and bring about these much needed reforms to our health insurance system.

In closing, Mr. President, I believe this health insurance reform legislation is the best hope we have to help America's—particularly Montana's—families and small businesses cope with burdensome health care costs. Not only will this legislation end job lock and the misfortune of pre-existing conditions that prevent thousands of Americans from buying coverage but it will also strengthen our health care system for years to come. In short, because this health insurance reform bill contains so many commonsense measures, I was pleased to support this bill when it first came before this body in April. And because the legislation that is again before us today will immediately and measurably improve the lives and protect the health of millions of American workers and families without putting folks out of business, raising taxes or turning the health care system over to the government, I am going to vote to send this bill to the President. I hope my colleagues in the Senate will do the same. This bill's time has come. Let's not squander the opportunity we have today.

Mr. CHAFEE. Mr. President, I am pleased to support the conference report accompanying the health care reform legislation. Members of Congress have worked for many years to pass health care reform legislation, and it has been a long road. I would like to congratulate the co-sponsors of this legislation, Senators KASSEBAUM and KENNEDY. At a time when most would have doubted that any health care reform bill could pass this year, they persevered. And this legislation is a fitting tribute to the senior Senator from Kansas who retires at the end of this year.

In recent years, we have fought to reduce the number of Americans without access to health insurance and slow the rate of growth in health care costs. Two years ago we had a nationwide debate on health care reform. There were many competing proposals, and ultimately we failed to reach a consensus on comprehensive health reform legislation.

In the wake of that failure, we have put aside our differences and taken a more incremental approach to health care reform. Rather than forcing dramatic change in our health care system, we are making small, yet important changes in the health insurance market which will give working Americans something very important—peace of mind.

Once this legislation is enacted, Americans will know that if they change jobs they will be able to move from one group health insurance plan to another without worrying that preexisting conditions will limit or exclude them from coverage. Once this bill is enacted, families will no longer face being locked into their jobs for fear of losing health insurance coverage. This bill would also assure that if a worker lost his or her job or accepted a job without health insurance coverage, they would have the opportunity to purchase a health insurance policy without limitations or exclusions for preexisting conditions.

This legislation also includes provisions introduced by Senator COHEN, to crack down on individuals who knowingly commit fraud in or health care system. Not only will this help to control health care costs in the private insurance market, but it will also reduce the fraud which plagues the Medicare Program. The bill includes provisions, authored by Senator BOND, to create uniform, standards for the electronic transmission of health care information in an effort to streamline and lower administrative costs.

Finally, the language includes important tax provisions to make health insurance more affordable for the self-employed by allowing them to deduct a greater percentage of their health insurance costs. It also clarifies that the cost of long-term care insurance is deductible—encouraging more Americans to purchase private long-term care insurance. I am hopeful that this provision will lessen the burden of long-term care costs on our Medicaid Program, which many seniors fall back on once they exhaust their life-savings on nursing home care.

I recognize that there are those who are disappointed in the final outcome of some of the provisions in this legislation. Probably the most glaring is the omission of the Domenici-Wellstone provision providing parity for mental illness. During Senate consideration of the health reform proposal, I voted against the mental health parity amendment as well as other key provisions. I did so to assist the managers of the bill in trying to keep the bill free of controversial provisions that could have slowed down the process. I also had concerns that the amendment was too encompassing. I am hopeful that Congress will act in the near future on a narrower version of this important legislation.

In conclusion, no one got exactly what they wanted on every aspect of this bill, myself included. Nonetheless, I think we all should take satisfaction in the passage of this legislation and recognize that great things often come form humble beginning. Thank you Mr. President.

CLARIFYING CERTAIN DEFINITIONS

Mr. HATCH. Mr. President, with respect to the corporate-owned life insurance provision in the conference agreement to the Health Insurance Portability and Accountability Act of 1996, I would like to clarify the definition of a fixed and variable rate of interest as it relates to the deduction of interest on pre-1986 life insurance contracts.

It is my understanding that a life insurance contract with an option to elect a variable rate of interest, which has borne the same rate of interest since its date of issuance, is considered a contract with a fixed rate of interest. If the interest rate under this contract is changed to a variable rate as the result of the exercise of an election under the contract, the contract would then be considered a contract with a variable rate of interest.

Mr. ROTH. Yes, the Senator's understanding is correct.

Mrs. FEINSTEIN. In 1945, President Harry Truman proposed universal health insurance, putting on the public agenda, the goal of universal health insurance, a goal that still eludes us. Too many Americans find that just when they most need health insurance, it is not there. It is terminated. They are denied its purchase, because they are sick. They are determined to be uninsurable.

The bipartisan bill before us today does not provide health insurance to every American. We still face that challenge. But the bill before us today takes an important step toward making health insurance more secure.

This bill provides some health security in several ways:

No Arbitrary Terminations: Insurers will not be able to impose preexisting condition limitations for more than an initial 12-month period. This means that employees can change jobs without fear or facing a new preexisting condition exclusion.

Guaranteed Access: Insurers will be required to offer insurance to all groups, regardless of the health status of any member of the group and employees could not be denied group coverage based on their health status.

Guaranteed Insurance Renewal: Groups and individuals who have insurance will be able to renew their policies as long as they have paid their premiums.

Individual Coverage Guaranteed: People who leave their job where they have had 18 months of prior employer group coverage and who have exhausted their extended [COBRA] coverage would be guaranteed access to an individual policy.

NEED FOR THE BILL

The problems this bill addresses are real:

Twenty-three million Americans lose their insurance every year; 18 million people change insurance policies annually when someone in the family changes jobs.

Over 9 million Americans changed jobs in 1995; millions more wanted to. The General Accounting Office estimates that as many as 4 million employees are locked into their jobs because they fear that the insurer for the next employer will refuse to insure them because of their health condition, something the industry has called a preexisting condition. GAO has said that 21 million Americans could benefit by prohibiting preexisting condition exclusions.

Small employers are often unable to get insurance because a few of the employees are ill; insurers refuse to insure. Small employers lack the leverage of big employers in negotiating good prices and policies. In California, 84 percent of the uninsured are in working families. Fifty-two percent of uninsured employees work in small firms.

And finally, there are 10 to 20 million Americans seeking to buy insurance on their own—individual policies. These individuals, who are not part of a large pool where risk can be spread out, find that insurers refuse to sell to them or price the policies so high they are unaffordable.

GENETIC DISCRIMINATION

I especially appreciate the inclusion of provisions barring genetic discrimination in health insurance, along the lines of S. 1600, a bill I introduced with Senator MACK.

Last fall, as cochairs of the Senate Cancer Coalition, Senator MACK and I held a hearing on the status of genetics research and use of genetic tests. We learned we are all carrying around between 50,000 and 100,000 genes scattered on 23 pairs of chromosomes and that every person has between 5 and 10 defective genes, often not manifested.

Approximately 3 percent of all children are born with a severe condition that is primarily genetic in origin. By age 24, genetic disease strikes 5 percent of Americans. Genetic disorders account for one-fifth of adult hospital occupancy, two-thirds of childhood hospital occupancy, one-third of pregnancy loss and one-third of mental retardation.

About 15 million people are affected by one or more of the over 4,000 currently identified genetic disorders.

We are learning virtually everyday about the explosion of knowledge in genetic science. We know that certain diseases have genetic links, like cancer, Alzheimer's disease, Huntington's disease, cystic fibrosis, neurofibromatosis, and Lou Gehrig's disease.

But understanding genetics brings a new set of problems. Witness after witness at our hearing raised fears of health insurance discrimination. And it is not just fear. It is also reality. We heard about insurers denying coverage, refusing to renew coverage, or denying coverage of a particular condition.

In a 1992 study, the Office of Technology Assessment found that 17 of 29 insurers would not sell insurance to individuals when presymptomatic testing revealed the likelihood of a serious, chronic future disease. Fifteen of thirty-seven commercial insurers that cover groups said they would decline the applicant. Underwriters at 11 of 25 Blue Cross-Blue Shield plans said they would turn down an applicant if

presymptomatic testing revealed the likelihood of disease. The study found that insurers price plans higher—or even out of reach—based on genetic information. Another study conducted by Dr. Paul Billings at the California Pacific Medical Center, reached similar conclusions.

Here are a few examples, real-life cases:

An individual with hereditary hemochromatosis—excessive iron—who runs 10K races regularly, but who had no symptoms of the disease, could not get insurance because of the disease.

A health maintenance organization that had covered a child since birth, denied therapy after the child was diagnoses with mucopolysaccharidoses [MPS].

A Colorado insurer terminated the policy of the family of a 3-year-old with the same disease.

An 8-year-old girl was diagnosed at 14 days of age with PKI [phenylketonuria], a rare inherited disease, which if left untreated, leads to retardation. Most States require testing for this disease at birth. Her growth and development proceeded normally and she was healthy. She was insured on her father's employment-based policy, but when the father changed jobs, the insurer at the new job told him that his daughter was considered to be a high risk patient and uninsurable.

The mother of an elementary school student had her son tested for a learning disability. The tests revealed that the son had Fragile X Syndrome, an inherited form of mental retardation. Her insurer dropped her son's coverage. After searching unsuccessfully for a company that would be willing to insure her son, the mother quit her job so she could impoverish herself and become eligible for Medicaid as insurance for her son.

Another man worked as a financial officer for a large national company. His son had a genetic condition which left him severely disabled. The father was tested an found to be an asymptomatic carrier of the gene which caused his son's illness. His wife and other sons were healthy. His insurer initially disputed claims filed for the son's care, then paid them, but then refused to renew the employer's group coverage. The company then offered two plans. All employees except this father were offered a choice of the two. He was allowed only the managed care plan.

A woman was denied health insurance because her nephew had been diagnosed as having cystic fibrosis and she inquired whether she should be tested to see if she was a carrier. After she was found to carry the gene that causes the disease, the insurer told her that neither she nor any children she might have would be covered unless her husband was determined not to carry the CF gene. She went for several months without health insurance because she sought genetic information about herself.

These denials not only deprive Americans of health insurance, they affect people's health. If people fear retaliation by their insurer, they may be less likely to provide their physician with full information. They may be reluctant to be tested. This reluctance means that physicians might not have all the information they need to make a solid diagnosis or decide on a treatment.

All of us are at risk of illness. We all have defective genes. I hope that the addition of my language can help ease the fears of many Americans and discourage insurers from using genetics as a reason to deny insurance.

AN IMPORTANT STEP

This bill, while it does not address all the problems, does take an important step. As a measure of its importance, yesterday morning when agreement on the bill reached the public, my staff got a call at 9:15 a.m.—6:15 a.m. California time—from a worried constituent, asking, ''Will it help me?''

This bill can help make health insurance available to those Americans who want to buy it. It can bring peace of mind to millions of Americans. It can restore to insurance what insurance is supposed to be.

I hope we will promptly send this bill to the President for his signature and close this loophole in our erratic patchwork of health insurance.

Mr. HELMS. Mr. President, H.R. 3103, the Health Coverage Availability and Affordability Act of 1996, could very well sound the death knell for the past years of liberal efforts to socialize medicine. The truth is, it puts us well on our way to providing a meaningful health care reform for millions of working Americans.

H.R. 3103 guarantees that American workers can keep their health coverage if they change or lose their jobs, which will be greatly reassuring to millions of American workers having pre-existing conditions. Now they will be able to change jobs without fear of losing their health insurance. The portability provision, as it is called, enables employees to be covered immediately upon taking another job—regardless of their health status.

Mr. President, American dissatisfaction with the existing health care system has gained much of its momentum from the spiraling costs of medical care in the United States. In 1993, nearly $940 billion was spent on health care, more than 14 percent of the GDP; this percentage has been rising steadily for years. Tax relief and medical savings accounts provide the best of all solutions by enabling patients to make their own choices with their own money. Workers and their families—not government bureaucrats—should decide how much to spend on health care and which health care benefits best meet their needs.

This bill, H.R. 3103, will partially correct a senseless disparity in the Tax Code concerning the deductibility of health insurance premiums. Whereas under current law businesses are allowed to deduct such premiums, fully, as a business expense, self-employed workers receive only a 30-percent deduction—thereby increasing the cost of doing business. This bill raises to 80 percent the amount of health insurance they can deduct from their Federal income taxes, it allows the deductibility of premiums for long-term care policies.

Medical savings accounts [MSA's] expand consumer choice and ultimately will reduce health care costs by spurring competition and greater cost-consciousness in the use of health care. MSA's confer upon individuals financial incentive to spend their health care dollars wisely by turning part of the savings over to employees, in effect rewarding efficiency.

Mr. President, many private businesses are already using cash incentives to reduce health care costs while, at the same time, achieving great employee satisfaction with the health care afforded them. MSA's provide workers with a great deal of choice and freedom. A study by the Rand Corp. estimates that MSA's could help low-income workers reduce health care spending by up to 13 percent.

In a truly American way, MSA's harness free enterprise to promote sorely-needed efficiencies in the health care economy.

The fight over MSA's is fundamentally about power. MSA's return power to the American worker. Proponents of socialized medicine recognize that once MSA's are passed, they will dramatically become a bulwark against the liberals' hopes for a government-controlled health care system. Although this limited MSA program will not and cannot instantly solve the problem of the affordability and availability of health insurance, it will be a major step in the right direction.

Mr. President, the majority of Americans are calling for health care reform. I believe further progress can be made by further changes in the Tax Code. But this legislation puts us on the right track.

Mr. LEAHY. Mr. President, today over 62,000 Vermonters are included in the 40 million Americans who are without health insurance. Unfortunately, this number is increasing every year. Health insurance has simply become less available and affordable.

The health insurance reform bill before us today is a small step, but a step in the right direction. It puts an end to the practices of denying health insurance to people with chronic illness and denying the renewal of policies of people that become ill. It makes health care more affordable by increasing the health insurance tax deduction for self-employed individuals from the current 30 percent to 80 percent over the next 10 years and makes the cost of long-term care, such as expenses for nursing home and home health care, tax deductible just as other medical expenses are today.

The passage of this bill is a hard-won battle. I do have concerns, however, about the magnitude of the experimental provision to allow 750,000 health care policies to be withdrawn from traditional insurance system to create a medical tax shelter for routine medical bills. I plan to watch this demonstration closely to make sure that it does what it is intended to do—increase the number of insured—and not just increase premiums for people that have traditional health insurance policies.

While, as I said, this bill moves us in the right direction, I have to be clear that its passage is bittersweet. This bill does not address the larger issue of the skyrocketing cost of health care which will continue to be a looming problem that Americans face. And I am disappointed that the final bill does not include a provision to end discrimination against people with mental illness by requiring insurers to treat mental illness coverage the same as coverage for physical conditions.

I am also very concerned that the bill before us today calls for nationwide data networks for health information to be established within 18 months but contemplates delay of the promulgation of any privacy protection for 42 months. That is not the way to proceed. When the American people become aware of what this law requires and allows by way of computer transmission of individually identifiable health information without effective privacy protection, they should demand, as I do, prompt enactment of privacy protection.

Despite these concerns, the steps that this bill takes are long overdue. Two years ago, Congress was engaged in a great battle over how to get health care costs under control and make health care services available to all Americans. That battle heeded few results and left millions of Americans frustrated and disappointed that health care would continue to be out of their reach. The obstacles that prevented Americans from buying health insurance have not gone away and Congress now owes it to Americans to pass this bill to address some of the issues that these individuals face.

Mr. KERREY. Mr. President, I strongly support Senate passage of H.R. 3103, the Health Insurance Portability and Accountability Act of 1996. I am proud to have been an original cosponsor of its predecessor, S. 1028, the Kennedy-Kassebaum proposal that was originally introduced in July of last year. Although I do not believe that this legislation is as strong as the bill that passed the Senate last April, these changes are still long overdue. As many as 25 million Americans will benefit from these modest yet meaningful reforms to the insurance market—as, for example, they move from job to job or lose employer-sponsored coverage as the result of corporate downsizing.

This bill takes an incremental approach to health care reform by fixing the most egregious flaws in our employer-based health insurance system. I believe that we must move far beyond this bill, to comprehensive health care reform, in order to ensure that every American and legal resident knows that they have health insurance coverage. However, we must do what we can, now, to make the first needed changes to the American health care system.

Right now, we can help the many Americans who are currently excluded from meaningful health coverage because they are subject to preexisting condition exclusions or are unable to purchase an individual policy. This bill will address these significant problems.

This bill's great strength is that it will enable American workers to respond to our changing economy. Today, workers risk losing their existing coverage when they seek new skills or new opportunities. If they can find a replacement policy through a new employer or in the individual market, it may leave them under-insured. They can be subject to a preexisting condition exclusion that excludes a part of their body, or a significant health problem, from coverage, even though they have maintained insurance coverage for many years. Because of these constraints, many Americans don't dare switch employers or career-paths. This job-lock phenomenon, which has reportedly affected 25 percent of all Americans, would be eliminated by this bill.

In addition, the portability and renewability protections in this bill will give more Americans the health coverage flexibility they need to survive in our changing economy. This bill takes a responsible approach to ensuring continued access to health care—in the individual market if necessary—for workers who are displaced by corporate downsizing and other lay-offs. Because our economy is fluid and unpredictable, we need to fix these flaws in our employer-based health insurance system.

I believe that this is critically important legislation, but I also believe that this legislation could have been better. It should have included provisions requiring equitable treatment for mental health care—if not the parity provision originally championed by Senators DOMENICI and WELLSTONE, then the compromise proposal on benefit limits that Senator DOMENICI introduced today. I am also concerned that the portability provisions for group to individual coverage were weakened by the conference committee. I think that the original bill's guarantees for individuals who lose group coverage and seek insurance in the individual market took the right approach. Insurers should be required to offer a broad range of insurance policies to these customers. The conference agreement will allow insurance companies to offer only two policies—and even though the bill includes some requirements for these plans, I am concerned that insurers may be able to charge these individuals exorbitant rates.

I also can't pretend that this proposal will fix all of the problems in the American health care system. Many Americans will benefit from this proposal. But many of the 40 million Americans who are currently uninsured will not be among them. I am particularly concerned that so many children continue to be uninsured. In a recent study, the GAO analyzed the recent decline in health insurance among children and concluded that this decline in coverage has been concentrated among low-income children. This report also noted that the proportion of children who are uninsured—14.2 percent, or 10 million children—is at the highest level since 1987. I believe that all children should have health insurance, and that this insurance should cover children's complete developmental needs.

In addition, health insurance premiums will continue to be unaffordable for many, and the significant individual insurance market reforms will not affect people who are already uninsured. Our population will continue to age and Medicare and Medicaid spending will therefore continue to escalate. Overall health expenditures—Federal and State programs, private insurance and out-of-pocket spending which already consume more than 12 percent of GDP—will continue to grow.

We need to recognize that these insurance reforms represent an important step, but only a first step. Until all Americans are guaranteed health coverage, we cannot claim to have fixed the health care crisis. We clearly failed 2 years ago. We need to ensure that every American, regardless of their ability to pay or the generosity of their employer, maintains a meaningful right to health care. We also need to ensure that every American bears their individual responsibility pay for their health care—to the extent possible—and the information they need to make informed decisions about the quality and price of their care.

I applaud Senators KASSEBAUM and KENNEDY for their determination and hard work on this bill. Their efforts, over a number of months, to bring this proposal up before the Senate, and their perseverance since the Senate passed this bill in April, have been remarkable. I believe that the compromises included in the conference report reflect the legislation's original intent to improve access to health insurance for millions of working Americans. We still have worked to do, but this bill is a meaningful first step.

Mr. HATCH. Mr. President, it has been a long journey to this moment in history, as we prepare to approve the conference agreement on H.R. 3103, the Kassebaum/Kennedy Health Insurance Reform Act of 1996, and send it to the President for his signature. What we thought would be a sprint because the ideas made so much sense turned out to be a marathon.

As one of the original cosponsors of this important legislation, I am

pleased the impasse which prevented this bill from moving forward has been resolved.

After months of delay, the American people will soon realize the benefits of the time and energy that have been devoted in making this legislation a reality.

The Republican leadership in the House and Senate are to be commended for their steadfast commitment to reach an agreement with the White House on such contentious issues as medical savings accounts, insurance portability, mental health parity, and advisory opinions.

Overall, this legislation embraces many key elements of health care reform that have been pending in Congress for over five years, even before the 1994 health care overhaul proposal by President and Mrs. Clinton.

In my opinion, H.R. 3103 is a good bill. It represents meaningful, workable, and targeted health care reform that will provide a significant measure of assistance to millions of Americans.

The underlying insurance reforms included in the bill have now been enhanced by additional provisions that strengthen and improve the scope of the legislation.

Although much of the controversy over the past several months centered on issues unrelated to the insurance provisions, it is important that we not lose sight on the importance of the insurance reforms.

This bill will provide greater assurance to an estimated 25 million Americans that they can carry their health insurance coverage from job to job, without losing that protection, as well as obtain health insurance irregardless of preexisting health problems.

These protections are clearly the hallmark of the Kassebaum/Kennedy bill.

These protections are important because access to health insurance remains one of the fundamental problems facing Americans in today's health insurance market. The unfortunate fact of today's insurance market is that there is too little protection for individuals and families with significant health problems.

This legislation is clearly aimed at correcting that problem.

By restricting the use of preexisting limitations or exclusions on individuals, H.R. 3103 will increase access to health coverage as well as provide portability of insurance coverage for those wishing to change jobs.

Although these changes have been described as incremental by some, they are significant improvements in the manner in which Americans obtain health insurance. Through the enactment of this bill, Congress is sending a message that the status quo is unacceptable.

This bill will help a significant number of people and for that reason alone it is worthy of passage.

Aside from the insurance reforms, there are a number of other provisions added in the House and on the Senate floor to the underlying insurance bill.

For example, the bill creates a newly coordinated Federal, State and local health care antifraud and abuse program that will dramatically increase the enforcement authority of the Departments of Health and Human Services and Justice.

As Chairman of the Senate Judiciary Committee, I have been particularly interested in the development of the antifraud provisions. It is clear from the hearings conducted in the Judiciary Committee as well as other committees in Congress that more effective law enforcement tools are needed to fight health care fraud.

The problems have been well-documented by the distinguished Senator from Maine, Senator COHEN, who developed the underlying legislation from which many of the fraud provisions of H.R. 3103 were developed.

I strongly support tough and effective measures to address fraud and abuse. But in our efforts to deter, detect and prosecute fraudulent behavior, we need to ensure that these efforts do not penalize innocent behavior or unintentionally bog down the delivery of health care.

The practice and delivery of health care is overwhelmingly conducted by honest and well meaning individuals who should not be suspected of wrongdoing merely because they are physicians, hospital administrators or other health care providers.

Creating a cloud of suspension over the entire health care community will not solve the fraud problem when only a few are guilty of wrongdoing.

We need to ensure that new antifraud and abuse provisions provide clear and unambiguous guidance on what constitutes fraudulent behavior.

Equally important is that antifraud provisions avoid penalizing innocent individuals for inadvertent or clearly innocent behavior.

I would remind my colleagues that antifraud proposals over the past several years have essentially proposed to expand the scope of existing antifraud and abuse laws applicable to health care providers. A clear case is the application of the antikickback laws which are, at best, complex and confusing and are not easily conveyed in the context of managed care.

Overly broad applications of these laws are particularly worrisome.

As an example, the legislation creates a new Federal criminal statute under title 18 of the U.S. Code against health care fraud. Fines and imprisonment for up to 10 years can be imposed for violating provisions of the new statute.

Within the practice of health care, legitimate disagreements regarding medical judgment and treatment decisions should not be cause for imposing legal penalties. It is critical that the antifraud provisions be carefully crafted to avoid punishing unintentional acts by health professions.

Accordingly, I am pleased the conference report contains language I proposed that specifically defines any new Federal health care offense to include both a knowing and willful standard of intent.

The addition of willful in this standard is essential to ensure that inadvertent or accidental conduct is not deemed criminal. The standard is now clear that criminal liability will be imposed only on an individual who knows of a legal duty and, intentionally, violates that duty.

Without this clarification, legitimate disagreements regarding a physician's medical judgment and treatment decisions could have been the basis for imposing criminal penalties.

Another issue which surfaced during consideration of the antifraud provisions concerned the impact on the provision of alternative and complementary health care.

As my colleagues know, I have championed the cause of alternative and complementary medicine. I am sensitive to concerns within this community regarding unintended negative implications of the fraud language on the provision and practice of nontraditional and nonmedical forms of health care.

I want to make it clear to my friends in the alternative and complementary medicine community that under this bill the practice of complementary, alternative, innovative, experimental or investigational medical or health care itself, will not constitute fraud.

I have specifically addressed these concerns in the legislative and conference report language to clarify any misunderstandings or ambiguity arising from the implementation of the fraud provisions.

In this regard, I want to thank the National Nutritional Foods Association, the American Chiropractic Association and the American Preventive Medical Association for their input.

While it is easy to focus only on the laudable benefits of the insurance provisions in this bill, because they are so important, we must not lose sight of the very significant tax provisions that are also included in this legislation. These provisions will work to make health insurance more affordable, to ease the financial burdens of long-term care, and to allow individuals to use individual retirement account funds for catastrophic health expenses without penalty.

Mr. President, I am very pleased that this bill increases the percentage of health insurance costs that can be deducted by the self-employed to 80 percent. This provision takes a huge step toward correcting what has long been a gross inequity. No one has ever been able to defend the policy of allowing corporations to fully deduct health insurance expenses, but allowing the self-employed to deduct only a small portion. At a time when we are trying to encourage the creation of new businesses, especially by those who have

been laid off from large corporations over the past few years, this lack of full deductibility has been a real disincentive.

Although this bill takes us most of the way there by getting to 80 percent deductibility, I want to note that our job is far from finished in this area. First, 80 percent is not enough. We must find a way to go the rest of the way and allow for full deductibility.

Second, under this bill, it takes us 10 years to go from the 35 percent that is deductible under the current law to the 80 percent level that this bill finally provides. I urge my colleagues to not sit back and relax on this issue. I hope that in the next Congress, we can find a way to get to full deductibility and sooner.

The long-term care provisions of this bill are also very important, Mr. President. As our population ages, millions of families will find themselves facing the problem of how to pay for needed health care for aged loved ones. Up until now, the Medicaid program has borne the brunt of these expenses in cases where the individual or family did not have the resources to cover the often very significant cost of nursing home care or skilled nursing assistance.

It is clear, however, that our Medicaid system will simply not be adequate to cover such expenses as we move into the next century and the public's capacity to pay for these huge expenses are pushed beyond the limit.

The bill before us begins to address this problem by making it easier for individuals and families to pay for long-term care insurance, easier for insurance companies to provide such coverage, and more beneficial to employees of companies that provide such insurance as part of an employee benefit package. These changes are key in moving the majority of the responsibility for long-term care expenses from the public sector to families and individuals.

Many of these tax provisions are very similar to changes I have long advocated in long-term care legislation. These provisions are, in fact, comparable to the long-term care provisions included in the quality care for life legislation I introduced earlier in this Congress. I believe these provisions will serve to begin to shift public attitude from one largely of government dependence to one of personal responsibility. Private insurance is vital to making this shift, and these provisions will all make it much easier for insurance to be a viable alternative.

Mr. President, I also want to comment on a small, but important, provision, that will help thousands of Americans who are hit by high medical expenses. This bill allows for penalty-free withdrawals from individual retirement accounts to pay medical expenses that exceed 7.5 percent of the taxpayer's adjusted gross income.

When the IRA concept was first enacted into our tax law, penalties were placed on early withdrawals to discourage any use of the money beside that for which it is mainly intended—to provide funds for retirement. This was wise, Mr. President.

However, we also need to recognize that when devastating illness strikes a family, the need for cash is immediate. This provision helps in cases where a family is hard hit with medical expenses but has the means to help pay them in IRA funds. I also commend the provision that allows IRA funds to be used to pay for health insurance premiums in cases of unemployment. This provisions should help many families who might face the ugly choice of dropping health care coverage when the paycheck temporarily stops.

Also included in the conference report is a four year pilot project for medical savings accounts, or MSA's.

Beginning in 1997, MSA's are available to employees covered under an employ-sponsored high deductible plan of a small employer or self-employed individual. Taxpayers (including the self-employed) will be allowed to make tax-deductible contributions within limits of an MSA.

The number of taxpayers benefiting annually from an MSA contribution would be limited to a threshold level of 750,000 taxpayers.

I strongly support MSA's. I believe they will provide needed incentives for Americans to become more cost conscious as purchasers of medical services. MSA's will clearly give people more control over their health care dollars with the opportunity to save unspent MSA dollars for future health and long-term care needs.

Mr. President, overall this legislation represents an appropriate balance between the role of the Federal Government with the private insurance market in addressing the health-related problems currently facing many of our citizens.

However, we must recognize that we are breaking new ground with the enactment of this bill. The level of Federal involvement proposed in H.R. 3103 in the affairs of the historically private marketplace of insurance products does indeed raise concerns. We will not ignore these concerns in the implementation of this new legislation, and we will review carefully the long-term impact of these provisions.

Mr. President, I would also like to say to the gentleman from New Mexico, Senator DOMENICI, that I, too, am disappointed that the conferees could not work out language on mental health.

I voted for that amendment, because I strongly believe we need to do more to address the problem of mental health insurance coverage for the millions of Americans who suffer from mental illnesses that are as devastating to individuals and families as physical ones.

During our preconference sessions, I worked with my colleagues to see if there were alternatives to parity which could be pursued in this legislation, because I truly believe that we are not doing enough on mental health. One idea I put forward was to direct increased resources to mental health through the Substance Abuse and Mental Health Services Administration.

I put this proposal forward in a good-faith effort to increase our federal presence on mental health. I understand the concerns of my colleagues that this would not go far enough when compared to the Domenici amendment, but nevertheless I regret that the bill does not contain any mental health provision. I will continue to work with my colleagues on this issue.

Nevertheless, on balance, I am convinced that this bill will serve the interests of the American people who have long sought responsible health insurance reform.

Finally, Mr. President, I would be remiss if I did not take this opportunity to recognize the efforts of the distinguished Chairman of the Committee on Labor and Human Resources, Senator KASSEBAUM, who is to be commended for her leadership and perseverence, in developing this legislation.

I can think of no fitting tribute to her than the enactment of this health reform bill.

Her dedication, hard work, and common sense have been hallmarks of her career in the U.S. Senate.

Let me also thank the ranking minority member, Senator KENNEDY, who has also been an instrumental player and leader in the development of this legislation.

I urge my colleagues to support the conference report to H.R. 3103.

Mr. KENNEDY. Mr. President, I yield myself the remaining 2 minutes.

Today, in spite of 18 months of Republican attempts to deny a pay increase to the most underpaid American workers, Congress will, at long last, send the President legislation to raise the minimum wage. Finally, 5½ years after the minimum wage was last increased, Congress is taking steps to ensure that all workers can earn a living wage.

This day has been a long time coming; 18 months ago, in February 1995, I introduced legislation to raise the minimum wage to $5.65 an hour in three 50-cent increments, and joined Senator DASCHLE 1 month later to introduce S. 413, which would have raised the minimum wage by 90 cents in two increments—on July 1, 1995 and July 1, 1996.

A year ago, on July 31, 1995, I offered a resolution expressing the sense of the Senate that the Senate should take up the minimum wage increase before the end of last year. It received only two Republican votes and was defeated.

I was unable to get a hearing on our bill until December, and—month after month—the Republican chairman of the Labor Committee refused to schedule a markup session to consider it.

Finally, with the very skillful assistance of the Democratic leader, Senator DASCHLE, I was able to offer our bill as

an amendment to another bill in March, and obtained a strong vote in favor of a 90-cent increase in the minimum wage. The Republican leader at the time, Senator Dole, responded by pulling the parks bill from the floor of the Senate. He then tied the Senate in procedural knots for weeks, rather than allow a second vote on our bill.

It was only after Senator Dole left the Senate to campaign for the Presidency that we succeeded in scheduling a vote on our bill, and only after threatening to shut down the Senate. I hope every American remembers that this victory for the working poor became possible only after Senator Dole left Washington to become a private citizen.

Now 13 months have passed since the first of the increases in our original bill would have taken effect. The Republicans' delaying tactics have cost minimum wage workers almost $4 billion. I hope every American remembers how tenaciously and how long the Republicans have fought to prevent this increase in the minimum wage.

By contrast, in vote after vote, my Democratic colleagues have been united in their support of fair wages for all workers. I want to salute them for that unity and thank them for their support throughout this long fight.

Thanks to the perseverance of my Democratic colleagues, the poorest American workers will see their incomes increase by 22 percent. By the time next year that the second increase takes effect, they will see their incomes increase by $1,800 a year, enough to pay for 7 months of groceries or a year of community college.

Unlike the punitive welfare reform bill Congress has just passed, this raise in the minimum wage will actually improve the lives of millions of people. It will lift 300,000 people out of poverty, including 100,000 children, and save families across the Nation from having to make cruel economic decisions, such as choosing between keeping the utilities turned on and paying for groceries or medicine.

The real problem for much of the welfare population is their inability to find jobs that pay enough to support them and their families. If work does not pay a living wage, requiring welfare mothers to work will do nothing to end their poverty.

It is unfortunate that this good legislation for low-wage workers was coupled with a package of tax giveaways to large and small businesses. I regret that many objectionable changes to our tax laws are being made under the cover of raising the minimum wage.

On balance though, H.R. 3448 is legislation that should be passed. This long awaited raise in the minimum wage should be delayed no longer.

These are important factors for hard-working men and women in this country. This is an extremely important achievement and accomplishment. I look forward to casting my vote in favor of the increase in the minimum wage.

Mrs. KASSEBAUM. Mr. President, I say how very grateful I am to so many for all of the efforts that have gone into making the passage of the House insurance reform possible tonight.

It is not possible to name all the names, and I ask unanimous consent they be printed in the RECORD.

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

Labor Committee: Dean Rosen, Susan Hattan, Anne Rufo, David Nexon, Lauren Ewers.

Finance Committee Majority: Lindy Paull, Frank Polk, Julie James, Mark Prater, Doug Fisher, Gioia Bonmartini, Alex Vachon, Brig Gulya, Sam Olchyk, Donna Ridenour.

Minority: John Talisman, Patti McClanahan, David Podoff, Laird Burnett, Keith Lind.

Majority Leader: Annette Guarisco, Vicki Hart, Susan Connell.

Minority Leader: Rima Cohen.

Joint Committee on Taxation: Ken Kies, Mary Schmitt, Carolyn Smith, Cecily Rock, Brian Graff, Judy Xanthopoulos.

Congressional Research Service: Beth Fuchs, Madeleine Smith, Kathleen Swendiman, Jennifer O'Sullivan, Celinda Franco.

Thanks to the staff of: House Ways and Means Committee—particularly Chip Kahn, Elise Gemeinhardt, and Kathy Means; House Commerce Committee—Howard Cohan, Melody Harned; House Economic Opportunities Committee—Russ Mueller; Congressional Budget Office Staff; House and Senate Legislative Counsels—particularly Bill Baird, Ed Grossman, John Goetcheus, and Julie Miller.

Mrs. KASSEBAUM. Without the dedicated efforts of our staff, it would not have been possible. I mention Dean Rosen, Susan Hattan of my staff, and David Nexon and Lauren Ewers of Senator KENNEDY's staff, and many others who have spent countless time and effort.

It is an important piece of legislation. I am very proud we have accomplished it in a bipartisan fashion. It could not have been done without them.

Senator KENNEDY mentioned the minimum wage legislation which we will be voting on as well, in back-to-back votes. I will speak after those votes on something I regard very important to the success of both welfare reform and the minimum wage, and that is job training programs.

Without our willingness to be more innovative and skillful in how we handle job training problems, we will not succeed with the type of welfare reform or minimum wage that enables us to have skilled young people and retrained older people entering our job markets. I think that is an important component of the success of those bills.

I yield any remaining time, but say again how proud and grateful I am to all who have had a hand in the passage of this legislation.

CORRECTING THE ENROLLMENT OF H.R. 3103

The PRESIDING OFFICER. Pursuant to the previous order, the Chair announces the adoption of House Concurrent Resolution 208, just received from the House.

The concurrent resolution (H. Con. Res. 208) was deemed agreed to.

HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report of H.R. 3103. The yeas and nays have not been ordered.

Mr. DOMENICI. 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.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays on the minimum wage increase, H.R. 3448, the Small Business Tax Relief Act.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays have been ordered.

The PRESIDING OFFICER. The question is on agreeing to the conference report on H.R. 3103.

The yeas and nays have been ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Washington [Mrs. MURRAY] and the Senator from Arkansas [Mr. PRYOR], are necessarily absent.

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

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 264 Leg.]

YEAS—98

Abraham	Feinstein	Lott
Akaka	Ford	Lugar
Ashcroft	Frahm	Mack
Baucus	Frist	McCain
Bennett	Glenn	McConnell
Biden	Gorton	Mikulski
Bingaman	Graham	Moseley-Braun
Bond	Gramm	Moynihan
Boxer	Grams	Murkowski
Bradley	Grassley	Nickles
Breaux	Gregg	Nunn
Brown	Harkin	Pell
Bryan	Hatch	Pressler
Bumpers	Hatfield	Reid
Burns	Heflin	Robb
Byrd	Helms	Rockefeller
Campbell	Hollings	Roth
Chafee	Hutchison	Santorum
Coats	Inhofe	Sarbanes
Cochran	Inouye	Shelby
Cohen	Jeffords	Simon
Conrad	Johnston	Simpson
Coverdell	Kassebaum	Smith
Craig	Kempthorne	Snowe
D'Amato	Kennedy	Specter
Daschle	Kerrey	Stevens
DeWine	Kerry	Thomas
Dodd	Kohl	Thompson
Domenici	Kyl	Thurmond
Dorgan	Lautenberg	Warner
Exon	Leahy	Wellstone
Faircloth	Levin	Wyden
Feingold	Lieberman	

NOT VOTING—2

Murray	Pryor

The conference report was agreed to.

Mr. BREAUX. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

SMALL BUSINESS JOB PROTECTION ACT OF 1996—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the clerk will report the conference report to accompany H.R. 3448.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill H.R. 3448 to provide tax relief for small businesses, to protect jobs, to create opportunities, to increase the take-home pay of workers, to amend the Portal-to-Portal Act of 1947 relating to the payment of wages to employees who use employer-owned vehicles, and to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate and to prevent job loss by providing flexibility to employers in complying with minimum wage and overtime requirements under that Act, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

(The conference report is printed in the House proceedings of the RECORD of August 1, 1996.)

The PRESIDING OFFICER. The question is on agreeing to the adoption of the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Washington [Mrs. MURRAY] and the Senator from Arkansas [Mr. PRYOR], are necessarily absent.

The result was announced—yeas 76, nays 22, as follows:

[Rollcall Vote No. 265 Leg.]

YEAS—76

Abraham	Frist	Mikulski
Akaka	Glenn	Moseley-Braun
Baucus	Gorton	Moynihan
Bennett	Graham	Murkowski
Biden	Grams	Nunn
Bingaman	Grassley	Pell
Boxer	Gregg	Pressler
Bradley	Harkin	Reid
Breaux	Hatch	Robb
Bryan	Hatfield	Rockefeller
Bumpers	Heflin	Roth
Byrd	Hollings	Santorum
Campbell	Inouye	Sarbanes
Chafee	Jeffords	Shelby
Cohen	Johnston	Simon
Conrad	Kassebaum	Simpson
D'Amato	Kennedy	Snowe
Daschle	Kerrey	Specter
DeWine	Kerry	Stevens
Dodd	Kohl	Thompson
Domenici	Lautenberg	Thurmond
Dorgan	Leahy	Warner
Exon	Levin	Wellstone
Feingold	Lieberman	Wyden
Feinstein	McCain	
Ford	McConnell	

NAYS—22

Ashcroft	Coats	Faircloth
Bond	Cochran	Frahm
Brown	Coverdell	Gramm
Burns	Craig	Helms
Hutchison	Lott	Smith
Inhofe	Lugar	Thomas
Kempthorne	Mack	
Kyl	Nickles	

NOT VOTING—2

Murray	Pryor

The conference report was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

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

The motion to lay on the table was agreed to.

Mr. FORD. Will the Senator yield to me?

Mr. KENNEDY. Can I ask for order, Mr. President?

The PRESIDING OFFICER. The Senate will come to order. Will Senators remove audible conversations to the Cloakroom?

The Chair recognizes the Senator from Massachusetts.

Mr. FORD. Mr. President, will the Senator yield me 10 seconds?

Mr. KENNEDY. I yield.

EXPLANATION OF ABSENCE

Mr. FORD. Mr. President, I would like for the record to reflect that our good friend and colleague, DAVID PRYOR, has missed votes yesterday and today because of the death in his family of his father-in-law and the funeral today. I want the record to reflect that because it was not official business.

I thank the Chair.

Mr. KENNEDY. Mr. President, in the last half hour, we have experienced a double-header victory for the American people: health care and a raise in the minimum wage. In a sense, both these bills had nine lives, and they needed all of them. But they have come to a successful resolution this evening and, hopefully, they will be on the President's desk in the very near future.

I would like to just take a moment—I know others want to address the Senate and we still have time for discussion on these two measures—but I do want to at this time express my very, very strong personal appreciation for the support, the assistance, and the help of our leader, Senator DASCHLE, for his leadership throughout the process on both of these pieces of legislation, as well as so much other legislation.

I pay tribute, as I did earlier, to Senator KASSEBAUM for sponsoring the legislation and for all that she has done to move it forward.

To Senator HARKIN for his work on the genetic information, the fraud and abuse provisions. He has been tireless in both of these areas, as well as many others.

Senator WELLSTONE's work on domestic violence, the mental health issues has been enormously important, and although we did not achieve them in this legislation, I think all of us have an understanding we are going to revisit those issues in September, and I look forward to joining with Senator WELLSTONE, Senator DOMENICI and others for, hopefully, an important down-payment on that issue to try and reflect what is the reality, and that is a mental illness should be treated just like every other illness in our health care system.

To Senator SIMON for his work on the privacy issues.

To Senator MIKULSKI and Senator DODD who were extremely active and involved in the markup and are always involved, Senator DODD particularly, on children's issues and Senator MIKULSKI on the impact of this legislation and also the minimum wage legislation on women in our society.

To Senator BREAUX for his help in making the compromise possible.

And to all the others who helped.

I also thank all of my staff who worked so tirelessly: David Nexon who has done such an extraordinary job over many years and has devoted the better part of his life to trying to improve quality health for American people. I think all of us at this time are mindful of the extraordinary quality of individuals on our staff who really make such an enormous difference in the legislative achievements and for changes in policy.

Carey Parker; Nick Littlefield, our overall staff director for his tirelessness in both of these endeavors; Lauren Ewers, who has been a key member of our health staff; Jim Manley; Dennis Kelleher, Sue Castleberry, April Savoy, Brian Moran.

I, too, want to thank Dean Rosen and Susan Hattan of Senator KASSEBAUM's staff.

I think we have been fortunate on our committee to have Republican and Democratic staff. There have been extremely important and cooperative, and have high talent on both sides of the aisle. Senator MOYNIHAN's staff, Laird Burnett and Jon Talisman, have been enormously helpful.

Finally, I also thank Minority Leader GEPHARDT in the House of Representatives for his strong support and advocacy in working with all of our friends and Members of our party.

Congressman DINGELL, Congressman WAXMAN and the others in the House who participated in the conference committee. I am grateful to all of them.

With respect to the minimum wage, this uphill effort against the odds could not have succeeded without the leadership and support of Secretary of Labor Bob Reich and the contributions of his Department. Many people there lent us their expertise, but let me single out Assistant Secretary Geri Palast, Chief Economist Lisa Lynch, John Fraser at the Wage and Hour Administration, and Seth Harris at the Office of Policy.

Many organizations made a difference in this effort, but I want especially to thank the U.S. Catholic Conference, the Women's Legal Defense Fund, the Mon Valley Unemployed Council, and the Business and Professional Women USA for all of their help. As always, the AFL-CIO and its unions worked very hard for this legislation,

even though very few union members earn wages low enough to be affected by this increase. They did so because they honor work and care about the well-being of every American—not just their members. Chris Owens worked with all of these groups to help educate the public and the Congress.

Finally, on my own staff, Sarah Fox devoted her phenomenal energy to this bill for a year before leaving to join the National Labor Relations Board. And Ross Eisenbrey, a congressional fellow detailed from the Department of Labor, worked very hard over the last 16 months to help us accomplish this 22 percent pay increase for millions of Americans.

I thank the majority leader for his help and assistance and courtesy on these issues, as on others.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. THURMOND. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on the Executive Calendar: Calendar Nos. 687 through 709, 711 through 715 and all nominations placed on the Secretary's desk in the Air Force, Army, Marine Corps, and Navy.

I further ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and that the Senate then return to legislative session.

I might say, these are military nominations.

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

The nominations considered and confirmed, en bloc, are as follows:

PANAMA CANAL COMMISSION

Alberto Aleman Zubieta, a citizen of the Republic of Panama, to be Administrator of the Panama Canal Commission.

UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

Everett Alvarez, Jr., of Maryland, to be a Member of the Board of Regents of the Uniformed Services University of the Health Sciences for a term expiring May 1, 1999. (Reappointment).

AIR FORCE

The following-named officer for promotion in the Regular Air Force of the United States to the grade indicated under title 10, United States Code, section 624:

To be brigadier general

Col. Gilbert J. Regan, 000–00–0000, U.S. Air Force.

The following-named officer for appointment in the Reserve of the Air Force, to the Air Force, to the grade indicated, under title 10, United State Code, sections 8374, 12201, and 12212:

To be brigadier general

Col. Christopher J. Luna, 000–00–0000, Air National Guard of the United States.

The following-named officer for appointment to the grade of lieutenant general in the United States Air Force while assigned to a position of important and responsibility under title 10 United States Code, section 601:

To be lieutenant general

Maj. Gen. Roger G. DeKok, 000–00–0000.

The following-named officer for appointment to the grade of lieutenant general in the U.S. Air Force while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Patrick K. Gamble, 000–00–0000.

The following-named officer for reappointment to the grade of lieutenant general in the U.S. Air Force while assigned to a position of importance and responsibility under title 10 United States Code, section 601:

To be lieutenant general

Lt. Gen. Lester L. Lyles, 000–00–0000.

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. John B. Sams, Jr., 000–00–0000, U.S. Air Force.

The following-named officer for reappointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. Charles T. Robertson, 000–00–0000, U.S. Air Force.

The following-named officer for reappointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Frank B. Campbell, 000–00–0000, U.S. Air Force.

ARMY

The following-named officer for reappointment to the grade of lieutenant general in the United States Army while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. David L. Benton, 000–00–0000.

The following-named Army Medical Service Corps Competitive Category officer for appointment in the Regular Army of the United States to the grade of brigadier general under the provisions of title 10, United States Code, sections 611(a) and 624(c):

To be brigadier general

Col. Mack C. Hill, 000–00–0000, U.S. Army

The following-named Army Medical Corps Competitive Category officers for appointment in the Regular Army of the United States to the grade of brigadier general under the provisions of title 10, United States Code, sections 611(a) and 624(c):

To be brigadier general

Col. Ralph O. Dewitt, Jr., 000–00–0000, U.S. Army.
Col. Kevin C. Kiley, 000–00–0000, U.S. Army.
Col. Michael J. Kussman, 000–00–0000, U.S. Army.
Col. Darrel R. Porr, 000–00–0000, U.S. Army.

The following-named officer for appointment to the grade of lieutenant general in the U.S Army while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. Eric K. Shinseki, 000–00–0000.

The following-named officers for promotion in the Regular Army of the United States to the grade indicated under title 10, United States Code, sections 611(a) and 624:

To be major general

Brig. Gen. Michael W. Ackerman, 000–00–0000.
Brig. Gen. Frank H. Akers, Jr., 000–00–0000.
Brig. Gen. Leo J. Baxter, 000–00–0000.
Brig. Gen. Roy E. Beauchamp, 000–00–0000.
Brig. Gen. Kenneth R. Bowra, 000–00–0000.
Brig. Gen. Kevin P. Byrnes, 000–00–0000.
Brig. Gen. Michael A. Canavan, 000–00–0000.
Brig. Gen. Robert T. Clark, 000–00–0000.
Brig. Gen. Michael L. Dodson, 000–00–0000.
Brig. Gen. Robert B. Flowers, 000–00–0000.
Brig. Gen. Peter C. Franklin, 000–00–0000.
Brig. Gen. Thomas W. Garrett, 000–00–0000.
Brig. Gen. Emmitt E. Gibson, 000–00–0000.
Brig. Gen. David L. Grange, 000–00–0000.
Brig. Gen. David R. Gust, 000–00–0000.
Brig. Gen. Mark R. Hamilton, 000–00–0000.
Brig. Gen. Patricia R.P. Hickerson, 000–00–0000.
Brig. Gen. Robert R. Ivany, 000–00–0000.
Brig. Gen. Joseph K. Kellogg, Jr., 000–00–0000.
Brig. Gen. John M. LeMoyne, 000–00–0000.
Brig. Gen. John M. McDuffie, 000–00–0000.
Brig. Gen. Freddy E. McFarren, 000–00–0000.
Brig. Gen. Mario F. Montero, Jr., 000–00–0000.
Brig. Gen. Stephen T. Rippe, 000–00–0000.
Brig. Gen. John J. Ryneska, 000–00–0000.
Brig. Gen. Robert D. Shadley, 000–00–0000.
Brig. Gen. Edwin P. Smith, 000–00–0000.
Brig. Gen. John B. Sylvester, 000–00–0000.
Brig. Gen. Ralph G. Wooten, 000–00–0000.

MARINE CORPS

The following-named brigadier generals of the U.S. Marine Corps Reserve for promotion to the grade of major general, under the provisions of section 5898 of title 10, United States Code:

To be major general

Brig. Gen. John W. Hill, 000–00–0000, USMCR.
Brig. Gen. Dennis M. McCarthy, 000–00–0000, USMCR.

The following-named colonels of the U.S. Marine Corps for promotion to the grade of brigadier general, under the provisions of section 624 of title 10, United States Code:

To be brigadier general

Col. Robert R. Blackman, Jr., 000–00–0000, USMC.
Col. William G. Bowdon III, 000–00–0000, USMC.
Col. James T. Conway, 000–00–0000, USMC.
Col. Keith T. Holcomb, 000–00–0000, USMC.
Col. Harold Mashburn, Jr., 000–00–0000, USMC.
Col. Gregory S. Newbold, 000–00–0000, USMC.

The following-named colonel of the U.S. Marine Corps for promotion to the grade of brigadier general, under the provisions of section 624 of title 10, United States Code:

To be brigadier general

Col. Guy M. Vanderlinden, 000–00–0000, USMC.

The following-named colonel of the U.S. Marine Corps for promotion to the grade of brigadier general under the provisions of section 624 of title 10, United States Code:

To be brigadier general

Col. Arnold Fields, 000–00–0000, USMC.

The following-named officer for appointment to the grade of lieutenant general in the U.S. Marine Corps while assigned to a position of importance and responsibility under the provisions of section 601(a) title 10, United States Code:

To be lieutenant general

Maj. Gen. Carlton W. Fulford, Jr., 000–00–0000.

The following-named officer, on the active-duty list, for promotion to the grade of brigadier general in the U.S. Marine Corps in accordanmce with section 5046 of title 10, United States Code:

Theodore G. Hess, 000–00–0000.

NAVY

The following-named officers for promition in the Naval Reserve of the United States to the grade indicated under title 10, United States Code, section 5912:

UNRESTRICTED LINE

To be real admiral

Rear Adm. (lh) James Wayne Eastwood, 000–00–0000, U.S. Naval Reserve.

Rear Adm. (lh) John Edwin Kerr, 000–00–0000, U.S. Naval Reserve.

Rear Adm. (lh) John Benjamin Totushek, 000–00–0000, U.S. Naval Reserve.

RESTRICTED LINE

To be rear admiral

Rear Adm. (lh) Robert Hulburt Weidman, Jr., 000–00–0000, U.S. Naval Reserve.

STAFF CORPS

To be rear admiral

Rear Adm. (1h) M. Eugene Fussell, 000–00–0000, U.S. Naval Reserve.

The following-named officer for appointment to the grade of vice admiral in the U.S. Navy while assigned to a position of importance and responsibility under title 10 United States Code, section 601:

To be vice admiral

Rear Adm. (Selectee) Lyle G. Bien, 000–00–0000.

NAVY

The following-named officer for reappointment to the grade of Admiral in the U.S. Navy while assigned to a position of importance and responsibility under title 10, United States Code, sections 601 and 5033:

CHIEF OF NAVAL OPERATIONS

To be admiral

Adm. Jay L. Johnson, 000–00–0000.

AIR FORCE

The following-named officer for appointment to the grade of general in the U.S. Air Force while assigned to a position of importance and responsibility under title 10 United States Code, section 601:

To be general

Lt. Gen. Howell M. Estes III, 000–00–0000.

ARMY

The following U.S. Army National Guard officer for promotion in the Reserve of the Army to the grade indicated under title 10, United States Code, sections 3385, 3392 and 12203(a):

To be major general

Brig. Gen. Gerald A. Rudisill, Jr., , 000–00–0000.

AIR FORCE

The following-named officer for promotion in the Regular Air Force of the United States to the grade indicated under title 10, United States Code, section 624:

To be brigadier-general

Col. Garry R. Trexler, 000–00–0000.

The following-named officers for appointment in the Reserve of the Air Force, to the grade indicated, under the provisions of title 10, United States Code, sections 8373, 8374, 12201, and 12212:

To be major general

Brig. Gen. Keith D. Bjerke, 000–00–0000, Air National Guard.

Brig. Gen. Edmond W. Boenisch, Jr., 000–00–0000, Air National Guard.

Brig. Gen. Stewart R. Byrne, 000–00–0000, Air National Guard.

Brig. Gen. John H. Fenimore, V, 000–00–0000, Air National Guard.

Brig. Gen. Johnny J. Hobbs, 000–00–0000, Air National Guard.

Brig. Gen. Stephen G. Kearney, 000–00–0000, Air National Guard.

Brig. Gen. William B. Lynch, 000–00–0000, Air National Guard.

To be brigadier general

Col. Brian E. Barents, 000–00–0000, Air National Guard.

Col. George P. Christakos, 000–00–0000, Air National Guard.

Col. Walter C. Corish, Jr., 000–00–0000, Air National Guard.

Col. Fred E. Ellis, 000–00–0000, Air National Guard.

Col. Frederick D. Feinstein, 000–00–0000, Air National Guard.

Col. William P. Gralow, 000–00–0000, Air National Guard.

Col. Douglas E. Henneman, 000–00–0000, Air National Guard.

Col. Edward R. Jayne II, 000–00–0000, Air National Guard.

Col. Raymond T. Klosowski, 000–00–0000, Air National Guard.

Col. Fred N. Larson, 000–00–0000, Air National Guard.

Col. Bruce W. Maclane, 000–00–0000, Air National Guard.

Col. Ronald W. Mielke, 000–00–0000, Air National Guard.

Col. Frank A. Mitolo, 000–00–0000, Air National Guard.

Col. Frank D. Rezac, 000–00–0000, Air National Guard.

Col. John P. Silliman, Jr., 000–00–0000, Air National Guard.

Col. George E. Wilson III, 000–00–0000, Air National Guard.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE AIR FORCE, ARMY, MARINE CORPS, NAVY

Air Force nominations beginning Gregory O. Allen, and ending Stephen M. Wolfe, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 3, 1996.

Air Force nominations beginning Derrick K. Anderson, and ending Joni E. Young, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 3, 1996.

Air Force nominations beginning Stephen D. Chiabotti, and ending John M. Lopardi, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 3, 1996.

Army nominations of Wayne E. Anderson, which was received by the Senate and appeared in the CONGRESSIONAL RECORD of June 18, 1996.

Army nominations beginning Ann L. Bagley, and ending *Burkhardt H. Zorn, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of July 11, 1996.

Army nominations beginning James W. Baik, and ending Peter C. Young, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of July 11, 1996.

Marine Corps nominations beginning Richard L. West, and ending Paul P. Harris, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of July 9, 1996.

Marine Corps nomination of John Joseph Canney, which nominations was received by the Senate and appeared in the CONGRESSIONAL RECORD of July 11, 1996.

Navy nominations of Michael P. Agor, and ending Donald H. Flowers, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of May 17, 1996.

Navy nominations beginning William S. Adsit, and ending Crispin A. Toledo, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 3, 1996.

Navy nominations beginning Johnny P. Albus, and ending Mark E. Schultz, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 3, 1996.

Navy nominations beginning Anthony L. Evangelista, and ending Laura C. McClelland, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of July 9, 1996.

NOMINATION OF ADM. JAY L. JOHNSON

Mr. WARNER. On that list, Mr. President, appears the name of Admiral Johnson, who will take over as Chief of Naval Operations, succeeding Admiral Boorda, a man for whom all of us had the highest respect, a man in whom the Navy, from the lowest ranking enlisted sailors to the top flag officers, had confidence. In the wake of the tragedy concerning Admiral Boorda, it will be a challenge for Admiral Johnson to lead the Navy. But having gotten to know him, having talked to many, many naval officers who know him, both active and retired, I can say that he is regarded as the man best qualified in the U.S. Navy today to assume this role of leadership at this time in the Navy's history.

Mr. President, I would like to read from a letter forwarded to me by a former Chief of Naval Operations, Admiral Trost. Admiral Trost once served with me in the Department of the Navy. He was my naval aide. He writes as follows: ''Admiral Johnson enjoys the confidence of his fellow flag officers who see him as the team leader who will lead them in successfully meeting the challenges which face our Navy now and in the future. He is the officer deemed best-suited to lead our superb Navy onward into the 21st century.''

May the new Chief have ''fair winds and following seas.''

I yield the floor, Mr. President.

Mr. BYRD. Mr. President, I do not support the nomination of Admiral Johnson for the top uniformed position in the Navy, Chief of Naval Operations. I take this position because I believe that the stormy seas that the Navy has experienced in recent years call for the selection of Navy leaders who can serve as an inspiration not only in their warfighting specialties and military prowess, but who also demonstrate a solid commitment to the avoidance of the slightest appearance of conflict of interest.

In this case, Admiral Johnson received substantial sums of money, over $175,000 over the last 6 years, to serve on the board of an insurance company, USAA, which caters to military officers. I know that his acceptance of this position was legitimate, and was entirely legal. I do not know how much

time the position demanded of Admiral Johnson in his off-duty hours. I do not raise any issue of wrongdoing in this matter. But there is the inherent appearance of conflict of interest in serving as an active duty Admiral while appearing to endorse a commercial insurance service catering to other naval officers, by virtue of the fact that he accepted a paid position on its Board of Directors. I note that the Secretary of Defense has now disallowed this practice of serving on such boards for renumeration, but I think it does not show the kind of judgement I would expect of someone whose personal example must guide the Navy after an era with too many instances of misconduct and poor judgment on the part of Navy leaders.

I support the Navy. It involves tough, demanding work, with long periods of family separation serving in dangerous environments across the world. The spirit of courageous service and the expertise the Navy daily demonstrates in warfighting and in making ready for warfighting needs to be matched with better judgement in areas involving apparent financial conflicts of interest. These issues of character need to be addressed in a way that will serve as a sorely needed example in a society where standards and values seem to be slipping away from where they should be. This is the message I wish to convey in stating my opposition to this nomination. Let the record show that, if a roll call vote were taken on this nomination, I would be recorded as voting ''no.''

Mr. KEMPTHORNE. Mr. President, I rise in strong support of the nomination of Adm. Jay Johnson to serve as Chief of Naval Operations.

As the chairman of the Personnel Subcommittee of the Armed Services Committee, I have taken a very close look at Admiral Johnson's record of service, his leadership qualities, his vision for the Navy and his character to insure he will lead the Navy with distinction and honor into the next century.

Based upon all of the information provided to the Armed Services Committee and a private meeting in my office, I have concluded Admiral Johnson is the best person to assume the challenges and opportunities that appear on the horizon for the next Chief of Naval Operations.

Admiral Johnson has an exceptional record of performance as a naval aviator. During his career, Admiral Johnson has also served with distinction in numerous command positions such as Commanding Officer VF–84, Commander Carrier Air Wing One, Commander Carrier Group Eight, Commander Theodore Roosevelt Battle Group, Commander Second Fleet, Commander Striking Fleet Atlantic, and Commander Joint Task Force 120. In March, 1996 Admiral Johnson reported for duty as the 28th Vice Chief of Naval Operations.

A review of Adm. Jay Johnson's record indicates leadership qualities that will serve him well as our Nation's next Chief of Naval Operations. I strongly support Admiral Johnson's confirmation to serve as the next CNO. I have every confidence Admiral Johnson will serve our Nation well in this important position.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I will only take a moment, if I may.

A TRIBUTE TO LEADERSHIP

Mr. KERRY. Mr. President, I would like to pay a special tribute to the leadership of two Senators on the issues that we have just passed. There are a lot of people who often question what happens around here and the meaning of the life of being a Senator, and some people have, obviously, chosen to engage in a different life and move on, some out of frustration from what you can get done around here.

I think the example of my senior colleague, Senator KENNEDY from Massachusetts, on the legislation that we have just passed, both the health care bill and the minimum wage, is precisely what being a U.S. Senator is all about and why it is so important for people to be able to make a difference in the lives of our fellow citizens.

Both of these bills have happened because of many people, and Senator KENNEDY graciously mentioned many of those involved in it.

But I think all of us know that on day after day after day he was down here on the floor blocking, pushing tenaciously, advocating on behalf of people who do not often have a loud voice on the floor of the U.S. Senate. Millions of Americans will now earn more and millions of Americans will preserve more of their income as well as the fabric of their lives as a consequence of his extraordinary commitment to these two issues. I think the entire Senate should salute the meaning that he has given to being a Senator and a legislator in the course of these efforts.

For Senator KASSEBAUM, who will be leaving the U.S. Senate, I think that this health care bill would not have been on the floor, notwithstanding Senator KENNEDY's great efforts, had she not stood up and made it clear that this bill was going to find its moment on the floor of the U.S. Senate. She stood up to the leadership on her side and made that clear.

So this bill is a legacy to two Senators who have cared and remain steadfast in their sense of priorities and of public rectitude. I wanted to pay tribute to both of them for those efforts. And there are many, many Americans whose lives will be better because of what has been achieved here today.

I yield the floor.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, the Senator from Massachusetts has said it so well. I wish to associate myself with his remarks.

This is a very important day for all of us. But I cannot think of anyone who deserves more credit and more commendation for the tremendous work that it has taken to get us to this point of passage of essential health reform than the senior Senator from Massachusetts, Senator KENNEDY.

It has been my great pleasure to work with him, not only on this legislation but on so many other matters. In the view of many of us, he is a professional's professional. His dedication, his intelligence, his integrity, his willingness to compromise and work with Senators from both sides of the aisle on both sides of the issues has been proven throughout this effort to pass this health bill.

His persistence and perseverance to ensure that at some point in this session we would enact the Kennedy-Kassebaum bill is a tribute to him and to the extraordinary effort that he has put forth. So I want to commend him, commend his extraordinary staff and all of those responsible for bringing us to this point this afternoon.

As the distinguished junior Senator from Massachusetts indicated, the Senator from Kansas also deserves our thanks and a great deal of credit for working so diligently with Senator KENNEDY and all of us to bring about this very important accomplishment.

This is a day that will affect many, many millions of Americans, Americans who care deeply about their health and the health of their families, Americans who deeply need help to find and afford adequate health insurance. We are going to be able to help families do that in large measure, thanks to the accomplishments and to the extraordinary leadership demonstrated today by Senators KENNEDY and KASSEBAUM.

I yield the floor.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Thank you, Mr. President.

HEALTH CARE AND MINIMUM WAGE LEGISLATION

Mrs. BOXER. Mr. President, I rise to say how pleased I am on behalf of the people of California that we have made such progress on raising the minimum wage tonight and passing a long overdue health care bill. The things that we did tonight are going to ripple throughout this country. There has been much discussion of the trickle-down effect. People who work hard at the bottom end of the economic ladder deserve dignity and an income to support their

families. Today is a good day for them. It is a good day for all of us.

I also want to pay tribute to the senior Senator from Massachusetts, Senator KENNEDY. I had the privilege and honor of standing with him at numerous press conferences and briefings. We brought small business people out who said that they paid their people more than the minimum wage, and they were proud of it. They had loyal and hard-working employees.

At another, we had working women tell us that the difference to them between the hourly wage they are getting and the wage they will get after this 90-cent-an-hour increase meant that they could pay for some long overdue doctor bills. So we have done something very fine here today.

And health care—two of the provisions of the Clinton health care bill were taken out of that bill and passed in the form of a Kassebaum-Kennedy bill. People can take their health insurance with them from job to job. It is a lifting of a burden and a worry. People with pre-existing conditions, like high blood pressure, will not be denied coverage. We should be very, very proud as we leave here this evening.

Mr. President, in closing, I want to call attention to one issue that was not so good, not so kind, not so nice to the American people. When the minimum wage bill left the Senate, it had in it a provision that I was honored to author. It would have protected widows and widowers from poverty when the working spouse with a pension dies first. Currently, when the working spouse dies with a pension, the surviving spouse's pension is cut 50 percent under the only pension option required by federal law.

We can fix this problem without any cost. We can offer those couples when they do their pension planning an option that ensures the surviving spouse pension is not cut in half. We could have done that in this bill. We did it in the Senate's bill on an overwhelming 96–2 vote. But the House leadership took the provision out.

I look forward to coming back here after the break and working with my colleagues on the Family First agenda that Senator DASCHLE has laid out: Income security, pension security, health care security, security in our communities by putting more police on the beat.

These are the things Democrats are working for. I know we can reach across this aisle, as we did on the two bills that just passed, to carry out that agenda. Then we can really feel good about what we do here in the U.S. Senate.

Thank you very much, Mr. President. I yield the floor.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

HEALTH INSURANCE LEGISLATION

Mr. GRASSLEY. Mr. President, Congress has been struggling to address the problems of our health care system for at least 4 years now. We have a bill before us which constructively addresses some of these problems. And the President has indicated that he will sign it.

The bill preserves the essence of the Kassebaum bill. It provides a medical savings account opportunity. It increases the health insurance deduction for the self-employed. It will facilitate and encourage the purchase of private long-term care insurance. And, it will provide major new weapons in the fight against health care fraud and abuse.

Senator KASSEBAUM's legislation addresses some of the most distressing health insurance problems of Americans. It should increase the availability of health insurance by requiring insurers to issue health coverage to businesses which want to purchase health insurance for their employees.

It should substantially increase the portability of health insurance by limiting the ability of group health plans to impose pre-existing condition exclusions on workers moving from one job to another. Workers insured in one job will now be able to move to another job without fear of losing their health insurance. It will also improve portability for individuals moving from the group to the individual health insurance market.

The bill still defers to health insurance reforms passed by the states. In my State, we enacted earlier this year a good health insurance reform law. The Kassebaum bill defers to State insurance reforms which substantially achieve the ends the Kassebaum bill seeks. So, my expectation is that Iowans will continue to receive health insurance under the terms of the Iowa reforms.

But many States have not enacted health system reforms. Should those States continue without their own reforms, the Kassebaum bill will provide their citizens with these protections.

The bill includes a medical savings account program. As the sponsor of one of the major medical savings account proposals in the Senate, I am very pleased to see that the conferees agreed to include a modified version of the original proposal introduced by Congressman ARCHER and myself.

The provisions contained in the bill retain the essential structure of the MSA concept. I would have preferred to see the maximum annual contribution to an MSA account be larger than 65 or 75 percent of the deductible for an individual or a family. I would have preferred that more than 750,000 be able to participate. I do not see as a major limitation the fact that participation will be limited to smaller businesses and the self-employed. That's where the problem of the uninsured is greatest; hence, MSA's make sense for those individuals.

If I have any concerns about the MSA provisions, Mr. President, it is that I have been given to understand that the those provisions are elaborate and complicated. Given this, I can only hope that the MSA program laid out in this bill will not fail because of this complexity. If we must have a trial of this concept, we have the right to expect that it will have a fair chance to succeed, and not hamstrung by overly complicated rules and regulations.

The farm community and the small business community strongly support this MSA concept. In my State of Iowa, a great many people are familiar with high deductible health insurance policies. I believe that many Iowa farmers and small businesspeople will want to participate in this program.

Another feature of the bill that will be welcomed by the small business community in my State is an increase in the deductibility of health insurance premiums for the self-employed from 30 percent to 80 percent by the year 2006.

One of the great inequities in our health care system is that businesses that offer health insurance as an employee benefit can deduct the cost of that insurance from their Federal taxes. The employees of those companies get those benefits, which are a part of their earned compensation, tax free. The self-employed, however, get only the current law 30 percent deduction for what they must spend for health insurance.

The bill provides a medical expense deduction for payment of qualified long-term care insurance premiums and expenses. This should give a boost to the use of private long-term care insurance. Given our Federal budget deficit problem, and the difficulty we are going to have as a government and society paying for the benefits we have already promised, we simply must encourage increased use of private long-term care insurance. These provisions should help.

Second, Senator COHEN's waste, fraud and abuse legislation is included in the bill. These provisions constitute a substantial increase in the remedies available to law enforcement for combatting health care fraud and abuse. The General Accounting Office has estimated that fraud represents as much as 10 percent of total health care spending.

Perhaps 10 percent does not sound like much. But 10 percent of more than $900 billion per year is a huge amount of money. We must do our very best to insure that we are not defrauded of any of this money and that not a penny is wasted.

Mr. President, we have been promising these incremental reforms since at least 1992. Most of us have been saying, since at least 1992, that we could easily enact reforms such as those in this bill. We should pass it.

Mr. President, I feel that I should conclude by making clear to my own constituents what this bill is not designed to do. I think we will be making a serious mistake if we over-sell what it is designed to do and, therefore, what it will accomplish. If we do exaggerate what this bill is designed to do,

the American people will be very disappointed and disillusioned when they discover that the bill does not live up to their expectations.

Therefore, I want to make clear, at least to the people I serve in Iowa, what this bill has never been designed to do.

It does not attempt to make health insurance more affordable;

It would not completely eliminate denial of coverage for pre-existing conditions;

It would not provide portability between different individual policies; and

It would not necessarily mean that currently uninsured individuals would have to be sold a health insurance policy.

Having said that, let me conclude by saying that this monumental piece of legislation is the kind of incremental common sense reform individuals and families across the country have been looking for. I am proud to support it and I urge the President to sign it.

GOOD SAMARITAN FOOD DONATION BILL

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 2428, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2428) to encourage the donation of food and grocery products to nonprofit organizations for distribution to needy individuals by giving the Model Good Samaritan Food Donation Act the full force and effect of law.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. SANTORUM. Mr. President, I rise to support the passage of the Good Samaritan Food Donation Act, H.R. 2428. This important measure will encourage the charitable distribution of food by establishing a single national liability standard for the good-faith donation of food and grocery products. It has been named in honor of my good friend, the late Bill Emerson, who staunchly advocated this measure as well as other nutrition programs during his service in the House of Representatives, and I believe it is a fine tribute to his interest and commitment to ensuring that hungry Americans are properly fed. I would also like to commend Senator BOND and Senator LEAHY for their efforts in seeing this bill brought to the floor as quickly as possible.

Liability concerns are the overriding reason why unsalable, but otherwise wholesome, food is destroyed rather than donated to charity. In 1990, Congress attempted to address these concerns with enactment of the Model Good Samaritan Food Donation Act, which gave States a model statute to enact in order to provide some measure of protection from liability. All 50 States and the District of Columbia have enacted some form of legislation aimed at extending liability protections to donors and distributors of donated food. Unfortunately, States have taken a wide variety of approaches to this issue, leaving donors and distributors of food with a confusing patchwork of laws with which to contend.

It is my understanding that none of the various State laws have been tested in the courts. Nevertheless, the fear of potential liability continues to discourage potential donors 6 years after passage of the model statute. When Second Harvest, the Nation's largest network of food banks, commissioned a survey last year to examine the factors affecting food donations, the fear of liability remained the single most important reason why food is destroyed rather than donated.

Computerization and new inventory practices by some of the Nation's largest food retailers and distributors have meant less food is wasted in this country. For food banks, this new efficiency has made it more difficult to obtain food donations. Fear of liability only makes their essential work harder.

By enacting this measure, Congress will be helping to ensure that food banks can respond to the needs of the hungry in our communities. This modest bill should be just the first step in a sustained effort to see that other obstacles to charitable activities are removed as well.

AMENDMENTS NOS. 5148 AND 5149

Mr. SANTORUM. I understand there are two amendments at the desk, one by Senator LEAHY and one by Senator KENNEDY. I ask unanimous consent they be considered en bloc.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SANTORUM] proposes amendments en bloc numbered 5148 and 5149.

Mr. SANTORUM. I ask unanimous consent reading of the amendments be dispensed with.

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

The amendments (No. 5148 and 5149) were agreed to, en bloc, as follows:

AMENDMENT NO. 5148

Beginning on page 2, strike line 16 and all that follows through page 3, line 11, and insert the following:

(C) by striking subsection (c) and inserting the following:

''(c) LIABILITY FOR DAMAGES FROM DONATED FOOD AND GROCERY PRODUCTS.—

''(1) LIABILITY OF PERSON OR GLEANER.—A person or gleaner shall not be subject to civil or criminal liability arising from the nature, age, packaging, or condition of apparently wholesome food or an apparently fit grocery product that the person or gleaner donates in good faith to a nonprofit organization for ultimate distribution to needy individuals.

''(2) LIABILITY OF NONPROFIT ORGANIZATION.—A nonprofit organization shall not be subject to civil or criminal liability arising from the nature, age, packaging, or condition of apparently wholesome food or an apparently fit grocery product that the nonprofit organization received as a donation in good faith from a person or gleaner for ultimate distribution to needy individuals.

''(3) EXCEPTION.—Paragraphs (1) and (2) shall not apply to an injury to or death of an ultimate user or recipient of the food or grocery product that results from an act or omission of the person, gleaner, or nonprofit organization, as applicable, constituting gross negligence or intentional misconduct.''.

AMENDMENT NO. 5149

On page 2, line 8, insert ''the title heading and'' before ''sections''.

On page 2, strike line 15 and insert the following:

Samaritan'';

(C) in subsection (b)(7), to read as follows:

''(7) GROSS NEGLIGENCE.—The term 'gross negligence' means voluntary and conscious conduct (including a failure to act) by a person who, at the time of the conduct, knew that the conduct was likely to be harmful to the health or well-being of another person.'';

On page 3, line 11, strike the period and insert ''; and''.

On page 3, between lines 11 and 12, insert the following:

(E) in subsection (f), by adding at the end the following: ''Nothing in this section shall be construed to supersede State or local health regulations.''.

On page 4, after line 1, insert the following:

(c) CONFORMING AMENDMENT.—The table of contents for the National and Community Service Act of 1990 is amended by striking the items relating to title IV.

Mr. KENNEDY. Mr. President, H.R. 2428 provides limited immunity from tort liability for nonprofit food banks. I am pleased to support the bill now that it includes my amendment clarifying that nothing in the bill supersedes State or local health regulations.

Tort liability is a central pillar of our legal system. It protects consumers by providing an incentive for reasonable care, and it ensures reimbursement for those who are injured by negligent conduct. Any exceptions to the general rules of tort liability must be narrowly tailored.

I do not object to the effort embodied in this bill to provide a measure of additional protection against liability for food banks. These organizations engage in important work, and they deserve our support. I have some concerns about the scope of the protection we are extending to food banks. I would have preferred a definition of gross conduct which made clear that conduct, including a failure to act, by a person who knew or should have known that the conduct was likely to be harmful to the health or well-being of another person would still be actionable. But I am satisfied that the standard contained in this bill still requires that food donors and food banks exercise care to ensure that the food they donate or distribute does not harm the people receiving the food.

My amendment makes explicit the fact that nothing in this Good Samaritan Food Donation Act supersedes State or local health regulations. If we diminish the protections afforded by the tort laws, it is vital for the health

and safety of those who consume donated food that regulatory protections remain in place.

I also remain concerned about subsection (b) of the bill, which transfers this provision from the National and Community Service Act to the Child Nutrition Act. But I will not object or seek to amend that subsection based on my understanding that the Labor and Human Resources Committee will continue to exercise jurisdiction over this provision in conjunction with the Agriculture Committee.

I ask the Senator from Missouri if my understanding of this jurisdictional matter is correct.

Mr. BOND. I agree with the Senator from Massachusetts that we have reached that understanding.

Mr. KENNEDY. I thank my friend.

Mr. SANTORUM. I ask unanimous consent the amendments be agreed, to en bloc.

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

The amendments (Nos. 5148 and 5149) were agreed to, en bloc.

Mr. SANTORUM. Mr. President, I ask unanimous consent the bill be deemed read the third time and passed, and the motion to reconsider be laid upon the table.

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

The bill (H.R. 2428) was deemed read the third time and passed.

Mr. BOND. Mr. President, I am pleased that the Senate supported overwhelmingly the passage of H.R. 2428, the Bill Emerson Good Samaritan Food Donation Act.

This is a tremendous tribute to my good friend and colleague from Missouri, Congressman Bill Emerson, who represented southeast Missouri's Eighth Congressional District for 16 years. Bill Emerson was well known in this body, and certainly to many around this city, and was loved by the people of southeast Missouri. He had a long and distinguished career of service in the U.S. Congress.

Bill was especially well known for his work in agriculture and in the fight against hunger, including being an ardent supporter of food distribution programs. One of his legislative priorities this session was a bill that would make it easier for millions of tons of unused food by restaurants, supermarkets, and other private businesses to end up in food pantries and shelters rather than in garbage cans and dumpsters.

The Bill Emerson Good Samaritan Food Donation Act is identical to legislation championed by Bill Emerson before his death. In the past, private donors have been reluctant to make contributions to nonprofit organizations because they are concerned about potential civil and criminal liability. With this legislation, private donors will be protected from such liability, except in cases of gross negligence and intentional misconduct. Those in need will truly benefit from this legislation.

Again, I am happy to be a part of this commonsense approach to fight hunger, and I appreciate the cooperation of all Members involved in this process.

Mr. SANTORUM. Mr. President, I want to say this bill was a long time coming. We have been hassling through a variety of different amendments. I want to thank Senator LEAHY, Senator KENNEDY, and others for their cooperation in finally getting this bill to pass.

This is a bill that really is a tribute to a friend of mine and many here in this body, Bill Emerson, who recently passed away after a long bout with cancer. Bill did tremendous work in the area of nutrition on the Agriculture Committee in the House. This is a fitting tribute, a bill that will bear his name, that will provide much more food for food banks to be able to feed needy families all over this country.

I am very proud to have been involved with this effort. Thank you, Mr. President.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

HOMEMAKER IRA'S

Mrs. HUTCHISON. Mr. President, I want to say, along with many others who have talked about some of the really important legislation that has been accomplished in the last few weeks in Congress, along with the one that I have worked the hardest for, and the one that I think will have a lasting impact, not tomorrow and not next year, but 20 years from now, and that is the homemaker IRA's.

When I got to the Senate, I was very surprised that there was still the inequity against homemakers being able to save for their retirement security in the same way that someone who works outside the home is now able to do. In fact, this penalizes the one-income-earner family when the homemaker stays home and raises children. I think we should be encouraging homemakers to be able to do that, rather than discouraging them. That is why Senator MIKULSKI and I introduced the homemaker IRA bill in 1993.

We have been working for these 3 years, and this year, Senator ROTH, the chairman of the Finance Committee took up our cause. He and Chairman BILL ARCHER said that this would be a priority for them, and I want to thank Chairman ARCHER and Chairman ROTH for not only saying it would be a priority, but for delivering on that promise. They have delivered homemakers of this country an equal opportunity to save for their retirement security.

What this means, Mr. President, is that a homemaker will now be able to set aside $2,000 a year toward retirement security, accruing tax-free. That can make a difference of over $150,000 in a lifetime of savings, so that now a one-income-earner couple, if they both save the maximum amount for 30 years, would have around $350,000 as a nest egg. That could make a big difference in retirement planning, especially for people who are squeezing to make ends meet so that one parent can stay home and raise the children.

So this is a wonderful accomplishment. It is one for which will not be appreciated, probably, in the near future because it does have to accrue into retirement. But this was a great bipartisan effort.

I do want to commend Senator LOTT for helping us move this through. I want to commend Senator ROTH and Congressman ARCHER for shepherding it through the committees in the House and Senate. I just want to say how much I appreciate Senator MIKULSKI, Senator FEINSTEIN, NANCY JOHNSON, and JENNIFER DUNN and SUSAN MOLINARI on the House side, along with BARBARA KENNELLY, for making sure that this did become an accomplishment of this session of Congress.

Thank you, Mr. President. I yield the floor.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1997—CONFERENCE REPORT

Mr. COATS. Mr. President, in a moment, I am going to propound a unanimous-consent request that we move to the conference report to accompany H.R. 3230, the National Defense Authorization Act for fiscal year 1997. I note the absence of members of the other party on the floor. Obviously, they will want to be notified of this. I do not intend to pull any surprises here. I will be propounding that UC in a few moments.

The reason I do this, Mr. President, is that we have worked long and hard and very diligently this year to avoid the problems that we encountered last year in not moving the defense authorization bill for fiscal year 1996 as quickly as we would have liked. There were some issues that were contentious, and we had difficulty resolving some of those issues.

There was a determination on the part of the chairman and members of the committee this year to avoid the problem we had last year. I commend Senator THURMOND for the extraordinary work that he led in bringing this item to closure in a timely fashion. We held hearings earlier than we ever have, we held markups earlier than we ever have—at least since I have been on the committee—and we moved forward in an extraordinarily efficient way. We resolved the contentious issues and the differences between Members and between our parties on those issues, and we have legislation which now has passed both the House and Senate, and we have a conference report that we ought to be prepared to vote on.

Now, the reason why this is so important is that within this conference report are a number of significant items that are important to the security of

this Nation. Most important is funding for antiterrorist activities that goes to various committees. And there probably is not a more pressing issue before the American people right now other than this terrorist activity that has taken place in the United States and questions as to what the response of the Congress and the administration is going to be.

This legislation provides for $122 million for the strengthening of domestic preparedness to deal with threatened or actual use of nuclear, chemical, biological, or radiological weapons. We are facing a new world today, a world that leaves no American safe in their home, on the streets, at the Olympic games, in New York City, in Indianapolis, IN, or anywhere else. It is vitally important that we move forward in providing for adequate counters to these threats that exist to the American people. This legislation begins the process of doing just that, and the $122 million that is authorized in this authorization bill is important to accomplish that purpose.

If we cannot move forward before we break for recess, we will have delayed, for at least 30 days, and probably more, moving this legislation onto the President's desk for signature, so that we can begin the process of dealing with the terrorist situation that we face.

There is $201 million in here to carry out the provisions of the Defense Against Weapons of Mass Destruction Act, the Nunn-Lugar Act. This is a cooperative effort between the United States and the former Soviet Union. It is important to the security of the United States.

We have a number of other items in here, including pay raises for military uniform personnel and civilian personnel. We have a dental insurance plan for retired service members and their families. We have money in here, or authorization, to support research into the gulf war veterans' illness. We have $466 million of authorized funds for construction of new barracks, dormitories and family housing.

For those Members who are familiar with the situation that exists within the military on family housing, who have bases in their districts or in their States, they know of the vital importance of moving forward with the rehab and construction of existing housing and the construction of new housing for our military. More than 60 percent of current military housing is labeled as substandard by military standards. It is housing that you, I, or anybody on this floor would not let our families live in, if we could help it. Yet, our service families have no choice. It is an urgent priority of the Secretary of Defense, the Department of Defense, and this Congress to begin to rehab and provide adequate housing for our military.

On and on it goes. There is $6 billion for increasing funding for procurement of ships, aircraft, and tactical systems; $3 billion for an increase for research and development; increased funding for development of a national missile defense system and a tactical missile defense system that protects our troops in the field and Americans here at home.

I could go on, Mr. President, but we are faced with a situation that unnecessarily delays our ability to provide necessary authorization for vital national security interests that are important to the United States. I, for one, do not understand why we can't go forward with this. I believe I would at this point——

Mr. SANTORUM. Will the Senator yield?

Mr. COATS. Yes.

Mr. SANTORUM. Will the Senator from Indiana tell me, were the Democrats who signed this conference report—my understanding was that a majority of the Democrats on the committee signed this conference report, is that correct?

Mr. COATS. This conference report is overwhelmingly supported by Members of both parties, Democrats and Republicans. I do not have the exact numbers.

Mr. SANTORUM. My understanding is that all but two Democrats signed this conference report.

Mr. COATS. That is my understanding. The issues that divided us within this report have been resolved and accepted and signed by all but two Members.

Mr. SANTORUM. I thank the Senator.

Mr. KEMPTHORNE. Mr. President, I ask the Senator from Indiana if it is his belief that, so often when there is a conflict anywhere in the world where we may have to commit troops, that the one statement that you hear universally from this body and the House of Representatives is, ''We support our troops.''

Do you believe that if we take action on this defense authorization bill that would be a strong signal to our troops that we support them and that there is nothing that can stand in the way of authorizing that bill tonight, and send the message that we support our troops?

Mr. COATS. Mr. President, I say to my friend from Idaho that, if there were outstanding issues over which we had legitimate differences and we had not been able to resolve those differences and that is one reason not to go forward, that might be understandable. But the issues have been resolved. Democrats and Republicans have agreed to the resolutions of the contentious issues.

So, whether it is missile defense, or a pay raise, or readiness, or modernization, or funds to combat terrorism, all of those issues have been decided in the conference. We have done so in an expeditious fashion, and the American public has asked us to come here and do our work. I do not know of anything more important—I do not know of any mandate the Congress has in the Constitution that is more important—than providing for the national defense. I do not know of any issue that is more important for Members of the Senate than being able to say to the people that they represent that we have provided for the national security of the United States. That is our foremost obligation.

As I said, were there outstanding differences of opinion on issues that we had not been able to resolve, I can understand why we might not be able to do this before this Congress recesses for a 30-day period of time. But, since that is not the case, since there is agreement, since it is a bipartisan agreement, I believe we ought to, in the interest of national security and the interest of combating terrorism, go forward. And I for one do not understand why we can't do that.

Mr. KEMPTHORNE. Mr. President, will the Senator yield for one further question?

Mr. COATS. Yes. I am happy to yield to the Senator.

Mr. KEMPTHORNE. This morning I received a personal phone call from the Secretary of Defense, William Perry, who thanked me as a member of the committee for all of the efforts that the committee put forth so that we could have this bill completed in conference, and the fact that it was here before the Senate. The Secretary indicated that he was so pleased with this authorization of the conference report, and he said that he was communicating to the President his strong desire that the President sign this bill because this is what the Pentagon wants, and this is what the administration wants.

Is that the Senator's understanding as well? And, again, is there any reason in the world we should not move on this tonight and give the administration what they have asked for?

Mr. COATS. I think the minority leader is about ready to tell us the reason we can't move forward tonight. Again, that just points to the bipartisan support. The administration has signaled through the Secretary of Defense, President Clinton's appointed Secretary of Defense, that they are happy with the bill. They thank us for moving forward with the bill in an expeditious fashion. They do not want to get into the situation that we got into last year any more than we want to put them in that situation. I have received similar calls. It appears to be a piece of legislation important to the United States, important to the national security, one that is supported by Democrats and Republicans, one that is supported by the administration, and, yet, we are not able to resolve to go forward in what Senator THURMOND and Senator NUNN a few hours ago said we can dispose of in 20 minutes.

Mr. SANTORUM. Will the Senator yield?

Mr. COATS. Yes.

Mr. SANTORUM. I also want to add to that laundry list of support that the House passed this bill with a vetoproof

majority. This has overwhelming support in the House of Representatives. As the Senator mentioned, the President would like this bill.

I am anxious for the Senator to propound his unanimous consent to see why we cannot move forward with this very vital piece of legislation for our national security.

Mr. COATS. Mr. President, I will now do that. I am sure the minority leader would like to comment on it. But I ask unanimous consent that we proceed immediately to the conference report to accompany H.R. 3230, the National Defense Authorization Act for fiscal year 1997.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DASCHLE. Mr. President, I appreciate very much the comments made by the distinguished Senator from Indiana and my other colleagues.

This is the bill. It is over 1,000 pages. I will not ask the distinguished Senator from Indiana whether he has read every page or not. But I daresay that I suppose that, if anybody has, he has, as thoughtful and as studious as he is. But there are very few people in this body who have read this report. It is 1,000 pages long. We got it yesterday. Two Democrats on the conference refused to sign this report because they had very serious concerns about it that they would like the opportunity to discuss.

This is the most expensive legislation that we will pass this year in one bill. I intend to vote for it, I think. I want to read it over the next couple of weeks myself. I think I will be supporting it. But I must say it wouldn't be a bad idea if we just took a little time, had a little chance to read it, and discuss whether or not it is the bill we want to vote for. That is all we are asking.

I have heard a lot of comments about how this would only take 20 minutes or 15 minutes. I must say when you have a bill like this of 1,000 pages, I can recall many times we have been on the floor—whether it was health reform or many other bills—when someone has risen, and said with indignation, ''We can't pass this because we do not know what is in it.'' I heard that speech from my colleagues on the Republican side probably a half-dozen times in the last Congress.

So I do not think it is too much to ask, Mr. President, that we have the opportunity to look at it, read it, hopefully talk about it, have a good discussion, and analyze it. After all, it is the defense of the United States that we are talking about here. We should not minimize it. We certainly should not demean it. And I am not implying that anyone is. But this is a very critical decision. This is something we ought to be careful about.

So we just are not prepared tonight, now that everybody is gone and were told that there would be no more votes, to bring this up under any circumstances, especially under a unanimous consent agreement without any debate or any thoughtful deliberation, and without having read this. I can't do that. Not many of my colleagues can do that.

So let us just take another breath, take another look, and we will be ready to go when we come back in September.

I yield the floor.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, first of all, I appreciate the fact that the minority leader is willing to read the bill over the August recess. I just want to let him know, as a member of the committee who has helped negotiate the bill and is familiar with all aspects of the bill, that I will leave him my phone number in case he has questions. He can track me down, and I will be happy to answer those.

But I would state to the minority leader that, as he well knows, we frequently bring a bill that comprises a great number of pages to the floor and pass them with less tribulation than would be accorded this particular bill. We do so because they have been subject to weeks, if not months, of negotiations between members of the committee, between leadership, between all of those involved, and all of those who have questions about the various issues.

So when the bill finally arrives at the floor, when it finally comes here for final passage, we are all very familiar with it, and we know what the differences are between us. In this particular instance, probably the most knowledgeable Member of the U.S. Senate as to the national defense issues facing this country is not a Republican but a Democrat—Senator SAM NUNN, chairman of the committee for many, many years, now ranking member of the committee. It was Senator NUNN that just an hour ago stood on the floor and said we have resolved all the differences here; there is no reason why this should take very long. And that was propounded not by a Republican. That was propounded by the Democrat ranking member of the committee. The distinguished chairman of the committee, Senator THURMOND, agreed. Those of us who serve on the committee, both Republicans and Democrats, indicated that we have looked at it. We have been meeting in rooms for weeks attempting to iron out the small details and the differences on this.

There really are no outstanding issues. We could talk about issues, but they have already been discussed and they are already familiar to everybody here. I would also point out to the minority leader that just today the minimum wage conference report came to us, the safe drinking water conference report came to us, the health bill came to us yesterday, defense came on Wednesday.

Now, of those four—minimum wage, safe drinking water, health, defense—defense is the one that got here first. Those other three were passed today without extended debate, with very limited debate. Why? Because all of the details had been worked out, because we have been debating the bill for months and various committees have been meeting and all of us had the opportunity to look and determine what is in the bill, to raise questions about any details we had concerns about, and to resolve the differences. All of that has been done.

So anybody who has been watching this proceeding knows that we have just passed three major pieces of legislation that have been in negotiation for months, and yet they were brought to the floor with less time to debate than the defense bill. As important as those bills are—health, safe drinking water, and minimum wage conference reports—I do not believe they stand higher priority than the national defense of the United States.

I regret that the minority leader felt constrained to object to this bill. I regret that we have to delay moving forward to the important provisions in this legislation that affect all Americans.

Mr. President, with that I yield the floor.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

SMALL BUSINESS JOB PROTECTION ACT

Mr. ROTH. Mr. President, parliamentary inquiry. Under the unanimous consent agreement, following the vote, we were supposed to complete the debate on the health legislation and then proceed to the legislation on the minimum wage and small business taxes. We are anxious to move ahead on the small business tax legislation.

What is necessary to get us on that?

The PRESIDING OFFICER. The Senator is correct. By a previous consent agreement, debate on the conference report to the Small Business Job Protection Act, H.R. 3448, is the pending business. The Senator from Delaware has 60 minutes under his control, the Senator from New York has 60 minutes under his control, and the Senator from Massachusetts, Mr. KENNEDY, has 30 minutes under his control.

Who yields time?

Mr. ROTH. I yield myself such time as I may take, and I will be very brief.

It is my understanding that there are no requests for time on the minority side. Is that correct?

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. That is correct. My distinguished chairman, as always, has so stated the facts. But there is a small semantic issue here. Some call this the small business relief act; others on this side call it the minimum wage bill. But

we will not resolve that tonight, nor need we.

Mr. ROTH. Could I ask the distinguished ranking member whether or not his side is willing to yield all time?

Mr. MOYNIHAN. If I may speak directly to the Senator—I ask unanimous consent to do—exactly.

Mr. ROTH. So I think both sides are willing to yield back——

Mr. MOYNIHAN. I cannot speak for the Senator from Massachusetts, who is not present.

That is the case.

Mr. ROTH. Could I ask, would it be possible to check that with the staff?

Mr. MOYNIHAN. I have just so done and am informed that is the case.

I see the Senator from Kansas is present, however.

Mrs. KASSEBAUM. Mr. President, I was going to speak, after the chairman and ranking member finish speaking, on a component I believe was important to consider along with the minimum wage and the welfare reform legislation.

Mr. ROTH. Mr. President, this has certainly been a busy month. I appreciate not only the perseverance of my colleagues, but also the willingness of the many valiant staff members who have been working around the clock—both here and on the House side.

This Congress began with great promise, and I'm pleased to say that we are drawing near conclusion with great accomplishment. With the passage of this small business legislation Americans everywhere will have tools necessary for increased opportunity, greater achievement, and more certain security. This is important. It's important for our future, for the well-being of American families, and for the strength of our communities.

And what a departure this is from the past—from the old philosophies that ran this city. It was then that Washington seemed to have only three criteria when it came to American businesses: if they moved, tax them; if they kept moving, regulate them; if they stopped moving, subsidize them.

I believe this legislation demonstrates that those days are over. This legislation demonstrates that this Congress understands that opportunity for Americans, security for our families, is directly tied to the strength of small business.

There are 22 million small business owners who provide paychecks for 6 out of 10 Americans. These risk takers provide more than half of our economy's output, and what we're demonstrating with this legislation is that this Congress is ready and willing to help create an environment where there can be greater growth, opportunity, and jobs—and environment where these small businessmen and women can hire, expand, and modernize.

Among the many important provisions offered in this legislation, first and foremost is an increase in the amount of equipment eligible for expensing. We raise the current law level of $17,500 per year to $25,000 per year, beginning in 1997 and fully phased in by the year 2003.

Next, we include a package of subchapter S corporation reforms that will permit more shareholders in S corporations, the use of S corporations for estate planning purposes, and increased flexibility for subchapter S corporation business use.

We also include a package of pension simplification provisions. An important element of this package is a new pension plan directed to small business, known as SIMPLE. The SIMPLE plan developed by Senator Dole will enable small business owners to set up pensions with less record keeping and guaranteed benefits to their employees. Additionally, tax exempt organizations, as well as State and local governments, will be able to offer section 401k pension plans.

One provision in this legislation that I'm particularly proud of is the new spousal IRA. This will permit homemakers to contribute up to $2,000 per year to an IRA, the same amount as their spouse. This represents an increase of $1,750 over current law, and will go a long way toward creating self-reliance and retirement security for American families.

Among other important changes offered by this legislation is a 6-month delay in the effective date for electronic filing of taxes for small business. In other words, small businesses will be provided more time to become familiar with, and prepare for, the electronic filing program that was part of NAFTA.

These, Mr. President, are some of the major provisions of the Small Business Job Protection Act of 1996. In addition to these important changes, we offer a package of extensions of expiring tax provisions.

These include an extension of the tax-free treatment of employer provided education expenses. Other important extensions cover the research and development tax credit, the orphan drug tax credit, and a new work opportunity tax credit. Along with these were extend tax deductible contributions of appreciated stock to certain charities, the section 29 tax credit for alternative fuels produced from biomass and coal facilities, and a moratorium on the collection of diesel tax paid by recreational boaters at marinas.

Another very important provision in this legislation—one that is not so much associated with strong businesses as it is with strong families and a strong America—is the new credit for adoption expenses. This tax credit will provide $6,000 for special needs adoptions and $5,000 for other adoptions. This, Mr. President, will go a long way to helping loving parents provide homes for children who will now be raised in families.

Mr. President, these are only a few of the many components of this important legislation. One final change, I would like to mention is that extension of the generalized system of preferences trade program, otherwise known as GSP. This extension will run through May 31, 1997, and will help our exporters better compete in the global economy.

It's important to note that this conference agreement is a bipartisan effort—a bipartisan effort that is fully paid for. It contains incentives that will go a long way toward creating an environment for growth, job creation, economic security, and real opportunity for Americans. With the changes we propose in this legislation, small business men and women will have greater incentives and resources to move our economy forward.

As I've said many times, taxation and regulation have profound influences on the ability of nations to create jobs. What we do with this legislation is take some of the burden off the backs of American small business men and women. My hope is that this is only a beginning.

Mr. President, as we complete action on the H.R. 3448, the Small Business Job Protection Act of 1996, I would like to take this opportunity to thank the many staff members who worked long and hard on this bill.

Senate Finance Committee majority staff—Lindy Paull, Frank Polk, Mark Prater, Dough Fisher, Brig Gulya, Sam Olchyk, Tom Roesser, Rosemary Becchi, Lori Peterson, Erik Autor, and Jeremy Preiss.

Senate Finance Committee minority staff—Mark Patterson, Jon Talisman, Patti McClanahan, Maury Passman, and Debbie Lamb.

Senator LOTT's staff—Annette Guarisco and Susan Connell.

Senator DASCHLE's staff—Larry Stein, Alexandra Deane Thornton, and Leslie Kramerich.

House of Representatives Ways and Means majority staff—Phil Moseley, Chris Smith, Jim Clark, Donna Steele Flynn, Paul Auster, Tim Hanford, John Harrington, Norah Moseley, Mac McKenney, Thelma Askey, and Meredith Broadbent.

House of Representatives Ways and Means minority staff—Janice Mays, John Buckley, Mildeen Worrell, Kathleen O'Connell, Beth Vance, Bruce Wilson, and Maryjane Wignot.

Joint Committee on Taxation staff—Ken Kies, Mary Schmitt, Carolyn Smith, Joe Mikrut, Cecily Rock, Ben Hartley, Mel Thomas, Harold Hirsch, Barry Wold, Steve Arkin, Tom Barthold, Tom Bowne, Barbara Angus, Brian Graff, Leon Klud, Judy Owens, Laurie Mathews, Alysa McDaniel, Joe Nega, Angela Yu, and a special thanks to Bernie Schmitt and his excellent estimating staff who worked long into the night on several occasions.

Mr. MOYNIHAN. An increase in the minimum wage is long overdue, and this legislation should be sent to the President before the August recess. The value of the minimum wage has eroded due to inflation since it was last increased in 1989.

It is true that an increase in the minimum wage will reduce demand for labor somewhat, although not significantly in my view. But if you are looking for a painless time to increase the minimum wage, it is now. The current economic expansion is in its 66th month. Unemployment is down to 5.4 percent. The Washington Post recently reported that labor shortages have developed around the country, so much so that some fast-food franchises are paying substantial signing bonuses to new employees.

In response to concerns of some on the other side that the minimum wage increase will cause hardship to small businesses, the Finance Committee took up the small business tax package last month. We worked on a bipartisan basis to craft a small business relief bill all Senators could support. It was approved unanimously by the Finance Committee on June 12, 1996. The bill passed the Senate with broad bipartisan support by a vote of 74 to 24 on July 9, 1996.

Unfortunately, many of the provisions that lent bipartisan support to the small business tax title of the bill in the Senate were dropped in conference. I will briefly mention two matters of particular importance: the tax exemption for employer-provided educational assistance, and the phase-out of the long-standing tax incentives for Puerto Rico codified in section 936 of the Internal Revenue Code.

The conference agreement inexplicably limits prospective extension of the exclusion for employer-provided educational assistance to undergraduate education. Only undergraduate education is covered prospectively here, whereas both undergraduate and graduate education were extended through 1997 in the Senate bill.

This provision is one of the most successful education programs the Federal Government sponsors. It encourages employees to upgrade their skills and thereby maintain and improve their productivity throughout their careers.

Roughly a million persons a year are assisted by their employers with higher education expenses on a tax-free basis, a quarter of them at the graduate level. Both employers and employees benefit. Many of our most successful companies know the benefits of sending valuable employees to school to learn a new field, or a field that has developed since that person had his or her education. Employers understand the opportunities for bringing a promising young person, or middle management person, to higher levels of productivity, and pay them more in the process. This is an elegant piece of unobtrusive social policy.

Second, addressing the special tax rules for Puerto Rico is a difficult subject, but the Senate approach was acceptable to the elected officials in Puerto Rico, and should have been adopted by the conference. The conference agreement fails to provide a continuing economic incentive for investment in Puerto Rico after 10 years. Puerto Rico still has significant economic problems, such as high unemployment rates and low median incomes. The island's unemployment rate is almost 14 percent. While this rate is the lowest in 20 years, we are still talking about an economy in which unemployment has routinely approached, and exceeded, 20 percent in the last two decades. It is also an economy in which the median income of the American citizens who live there is about $6,200, or half that of Mississippi, our poorest State.

Section 936 of the Tax Code has been in existence for 60 years, and nearly all have come to recognize that it is time to move to the next stage. However, we have a profound responsibility to that possession, which we obtained just short of 100 years ago in the aftermath of the Spanish-American War.

Under the Senate provision, adopted at the urging of this Senator, a permanent, although reduced, wage-based credit for jobs located in Puerto Rico would have remained for existing employers. This would have preserved a limited measure of Federal support for Puerto Rico after the remainder of the section 936 incentives are gone after 10 years. It was the least that should be done, given that the people of Puerto Rico—citizens of the United States—are being asked to pay for half or more of these tax cuts for small business, none of which will benefit Puerto Rico.

Understanding the responsibility we have to this island and its people, I hope that at a later time, as early in the next Congress as possible, we will return to this issue and adequately address our obligations to Puerto Rico. We must work together to provide effective economic incentives for new investment in Puerto Rico to provide new jobs and job security for Puerto Rican workers. The people of Puerto Rico—who are not represented in Congress—have the right to be respected and to have their interests advanced.

Thus, while I am disappointed by the resolution of the conference on the small business tax package, I will vote for the conference report because of the importance of the increase in the minimum wage. I will continue to pursue the issues that were not resolved to my satisfaction in the conference report.

Mr. ROTH. I will yield such time as the distinguished Senator from Kansas desires.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mrs. KASSEBAUM. Mr. President, I certainly thank the chairman of the Finance Committee, Senator ROTH. I appreciate his help and leadership on health insurance reform, and certainly as he worked with small business tax relief as a part of the minimum wage package.

I supported the conference report, Mr. President, on small business tax relief which includes, of course, an increase in the minimum wage. However, I have strong reservations about raising the minimum wage because I have believed that in many instances with small businesses, particularly the mom and pop operations, it will mean some loss of jobs or, indeed, reduced hours. But we will have to see.

I supported the conference report overall because I believe the detrimental effects of the minimum wage increase will be offset by many of the small business tax relief provisions. However, as this minimum wage increase moves closer to becoming law, along with health care and welfare reform, I believe it is important to point out that there is still a gaping hole in our efforts to assist workers and improve their economic security. Congress has yet to act on the legislation to reform our job training system, which is, I would suggest, in drastic need of repair.

I listened with great interest to the debate that took place yesterday on welfare reform where Senator after Senator pointed out the importance of training to bring welfare recipients into the work force. As we debated the minimum wage bill through its passage and briefly the conference report, we heard the argument that this increase is needed to raise the living standards of those who are at the bottom of the economic ladder. Yet we all know that the only way to improve the long-term prospects of those at the bottom of the pay scale is to equip them with the skills and education that will allow them to compete and move upward in today's changing workplace. It is ever more competitive, ever more demanding of new skills and, unfortunately, the training infrastructure that we have now in place is woefully inadequate. In fact, it is nothing less, I would suggest, than a national disgrace.

I will not take up the time of the Senate at this point to discuss the scores of reports documenting with overwhelming evidence why the current system is broken and must be fixed. I would just like to mention one of the latest GAO reports outlining the failure of current Federal programs.

The General Accounting Office compared control groups with participants in JTPA titles II-A and II-C, both programs for the economically disadvantaged, the very people we are trying to help with the minimum wage. Amazingly, the report found that there were no statistically significant differences over time between the earnings of both groups. This was one in which they were assisting the economically disadvantaged and others where there had been no program offered.

In other words, the Federal training these disadvantaged participants received did nothing to improve their income. It had no effect. This is nothing short of a fraud on the American taxpayer and, more importantly, a cruel hoax on the disadvantaged who think they are getting help but end up no better off. I remain astounded that we should want to continue funding these ineffective programs.

I am particularly disappointed with the Secretary of Labor, who supports this increase in the minimum wage but is also responsible for these job training programs which he knows are in a state of disarray. He has done little to advance legislation to reform job training even though bills passed both Houses with wide bipartisan margins. For 3½ years now, the Secretary has stressed the critical importance of training for the closing of the wage gap for those at the bottom. We have talked often about this. He has been supportive of early efforts. Yet he has done nothing to really try to improve our Federal job training system.

Even before the ink was dry, the Secretary recommended that the President veto the job training conference report. Secretary Reich's main concern with the job training reform bill seems to be lack of accountability. But, according to the National Journal article:

> When pressed, (Secretary) Reich acknowledged that his real problem with accountability concerns the legislation's failure to require participation of mayors in local boards and federal approval of state workforce development plans.

In other words, his concerns are largely political. He wants to preserve the Federal Government's control, the status quo, and business as usual. This is not going to solve the problem.

We have such an opportunity to really try to be more innovative and try to bring to the fore something that will reinforce what we are seeking to do with welfare reform and the minimum wage legislation. When it comes to job training, I suggest the status quo is unacceptable. We must move forward this year with comprehensive job training reform. After months and months of negotiations, and compromises made on all sides, we now have a conference agreement that will bring real reform to a broken system, consolidating duplicative programs over some 80 programs. They will be combined and much duplication removed, giving the States the flexibility needed to design the programs that fit their States, whether it be Kansas, Iowa, New Hampshire, New York or California, and focus the resources there where there is the greatest need—whether it would be in vocational education or a job services initiative.

The job training conference report will encourage real partnership between educators, job trainers and the business community. And it will focus accountability on real results. If we are truly concerned about raising living standards, raising the minimum wage is only half the answer. Proponents of the minimum wage have argued that you cannot support a family on $4.25 an hour, and that is certainly correct. You cannot support a family on $5.15 an hour either. Education and training are also needed to improve one's living standards, and right now we are wasting billions of dollars on dozens of ineffective programs that are just not delivering to those who need help the most. I personally cannot believe there is anything more important we could do to really enhance those who, we have argued for months, most need assistance, than by being willing to address this issue.

I want to put my colleagues on notice that I will do everything I can to ensure the job training conference report comes to a vote this year and goes to the President.

The Senator from Nebraska, Senator KERREY, and I have asked Senator LOTT and Senator DASCHLE to bring this conference report up the week that we return from recess. I tend to believe most of us are now asking the majority leader to consider legislation the week we return. But I am hopeful our request will be met. I will continue to push this conference report because I believe it is too important—and the status quo is unacceptable—not only to the American taxpayer but, more important, to those who desperately need and want training education as well.

I yield the floor.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I am happy that the Senate is finally taking up the conference report on the Small Business Job Protection Act. The House has already overwhelmingly passed this measure in a vote of 354 to 72. Finally, we are making laws instead of rhetoric about tax relief.

Finally, American families and entrepreneurs can get a break from the tax man.

As a member of the Finance Committee, I am proud of my part in moving this legislation through the Finance Committee and through the bill's conference committee.

This bill is good, sound bi-partisan work. In my belief, great credit also goes to Finance Chairman ROTH for his leadership of the committee. To ensure that his efforts will not go unnoticed, I want to remind all Senators that Chairman ROTH completed work on three separate conference reports this week. This is no small accomplishment, and I extend my gratitude to my friend from Delaware.

For my State of Iowa, this conference report on the small business tax bill makes some vital improvements. Particularly, I want to point out the provisions enabling new loans for first time farmers. I hope that this legislation will save the future of agriculture.

LOANS FOR FIRST TIME FARMERS

I introduced this Aggie Bond legislation with Senators PRESSLER, BAUCUS, and MOSELEY-BRAUN. It improves the program that allows tax-exempt bonds to finance discount rate loans for beginning farmers.

Loans for beginning farmers are important because of the changing scene in agriculture and the inability of young farmers to get started in farming. Of particular importance are the statistics of the average age of farmers. In Iowa, our farmers average in their late fifties. In 5 to 6 years, we will have 25 percent of our farmers retiring.

The U.S. Department of Agriculture has announced that my State of Iowa has 2,000 less farms today than it did only a year ago. Four other States also lost 2,000 farms each. The largest decreases were in the States of Ohio, Alabama, Georgia, and Indiana. Clearly, farming States are still feeling the effects of the agricultural recession of the 1980's.

Young people are discouraged about becoming farmers because they cannot afford to get started. Many want to continue the family farm when their parents retire and cannot.

This Aggie Bond legislation helps by lifting the present restriction that disallows the bonds from being used to finance family to family transactions. In other words, under present law, a young person cannot get a good loan to continue the family farm. This legislation fixes that problem. I am very proud to be an agent of this important change.

CONTRIBUTIONS IN AID OF CONSTRUCTION

Mr. President, this Conference Report also includes another unrelated important change for families trying to buy a home.

The provision is called Contributions in Aid of Construction. It repeals an indirect tax that has been imposed on families building homes since the 1986 Tax Act.

It will save families up to $2,000 off the price of a new home. Current law requires that water utilities pass a ''gross up'' tax onto a family that wants to buy a home. The ''gross up'' tax can increase the cost of extending water services to a new home by 70 percent. This conference report repeals this unfair ''gross up'' tax. It will foster home ownership where it is currently out of reach.

Repealing the ''gross up'' tax is an outstanding addition to this Small Business Job Protection Act. I am pleased to have introduced the original bill.

PENSION SIMPLIFICATION

Mr. President, I want to point out that the pension simplification provisions in this bill represent a major step forward. Not much has been said about these provisions in the commentary about what we are accomplishing here this week.

But I think you can argue that these pension simplification provisions could represent one of the major accomplishments of this week of many substantial legislative accomplishments.

Their enactment should ultimately result in more pension plans being created, particularly by smaller businesses. Since it is that segment of the business community that has the greatest difficulty in offering pensions to their employees, enactment of these provisions could result in a major increase in pension coverage.

Ultimately, that means more savings and more income for retirees.

We included in the bill a number of provisions which will help clarify the treatment of church pension plans.

We included last year in the Finance Committee's portions of the Balanced Budget Act a Pryor-Grassley bill designed to deal with many of the problems the church plans were having with the rules pertaining to highly compensated employees and to nondiscrimination.

Ultimately, those provisions were dropped from the legislation on the grounds that they did not meet the requirements of the Byrd Rule.

The legislation that we are considering today will go a long way toward taking care of the most serious of the problems faced by the church plans.

Mr. President, these simplification provisions have been on our Congressional agenda for several years. I understand that President Clinton has indicated support for pension simplification provisions. It is high time they were enacted.

Finally, I just want to stress again the importance that today we are making laws instead of rhetoric about tax relief. Families and small businesses not only need it, they deserve it. I encourage all of my colleagues to support this conference report.

Mr. CONRAD. Mr. President, I strongly support the legislation before us today. I am pleased that Members from both sides of the aisle rolled up their sleeves and got the job done in a bipartisan way. In particular, the ranking member, PATRICK MOYNIHAN, has done a fine job.

The positives of this legislation are many:

It benefits working families by raising the minimum wage which now hovers near a 40-year low.

It benefits orphaned and abandoned children seeking adoption by providing a tax credit to families for adoption expenses.

This bill provides many tax benefits to small businesses encouraging investment and growth.

And, finally, it simplifies dozens of pension provisions for small businesses and working families, thereby, increasing pension savings.

Tens of millions of American workers will benefit from the increase in the minimum wage and from the tax incentives for small businesses, and we have helped them by working out our differences and allowing this measure to move forward.

The current minimum wage is near a 40-year low in purchasing power, and amounts to an annual income of only $8,800. Clearly, a family is not going to make it on $8,800 a year. Workers deserve a living wage for their labor, and this raise in the minimum wage is well earned by those workers. In 1995, 42,000 workers in my State of North Dakota received under $5.15 per hour for their work. This bill is an important and timely raise for them.

The minimum wage increase will also help families move off welfare and into jobs. Welfare reform will not work until jobs that pay a decent, living wage are available. This raise increases the chances of the poorest Americans staying off welfare. It goes hand-in-hand with our efforts to reform the welfare system.

I appreciate the recognition the conference committee gave to orphaned children who are older, handicapped, or have other special needs. Families which adopt these children will be allowed a $6,000 tax credit for adoption expenses. Families adopting nonspecial needs children will be allowed a $5,000 credit.

We have an obligation to not only protect abused, neglected, and abandoned children, but we have a responsibility to help these vulnerable children find nurturing and stable families to adopt them.

The adoption tax credit is a good first step to help place children waiting to be adopted. Many stable and nurturing families may not have the resources to pay adoption expenses and other expenses such as building ramps and modifying a home to make it accessible for an adoptive child with special needs. This will help.

I am also very pleased with the provisions benefiting small and startup businesses. First, the increase in expensing of investment for small businesses by nearly 45 percent—from $17,500 to $25,000—will help thousands of small businesses in my State and around the Nation. I am pleased that this bill permanently extends that benefit to horse ranchers as well.

Second, the modifications of the law relating to subchapter S corporations will stimulate investment and growth of thousands of small businesses. The legislation expands the number of owners allowed from 35 to 75 and provides other benefits to S corporations.

Third, the pension simplification provisions will help millions of Americans working for small businesses provide for their retirement. Anyone who has ever waded through the morass that we call pension law will understand how important these simplifications are to small business owners. Owners of small businesses are too busy running their businesses and providing jobs to have to deal with the virtually incomprehensible language of the Tax Code and of the Internal Revenue Service's rules and regulations. This pension simplification is a significant step forward. We need to make more.

One of the most important pension reforms will allow a family to provide for the retirement of a spouse who chooses to stay home. Spousal individual retirement accounts of up to $2,000 per year for qualifying families for the spouse that chooses to stay at home to take care of children ends the discrimination against families in which one parent works at home. The work of raising children is the most important job in our society.

Fourth, the extension of certain expiring tax provisions will provide incentives for investment in technology, for hiring hard-to-place workers, for producing clean fuels from low-rank coals and lignite, and for developing orphan drugs.

The rapid development and commercialization of new technologies is particularly important to the incomes of working people. High-technology provides better jobs at better pay for millions of Americans and helps keep this Nation competitive in the international marketplace. Additionally, the incentives to develop new technologies to turn our abundant coal resources into environmentally friendly fuels is critical if we are ever to make progress toward energy independence.

With regard to technology development, I am particularly disappointed that we did not continue the R&E tax credit uninterrupted. Our high-technology companies deserve a consistent and supportive tax policy from their government. It is my hope we can revisit this issue next year.

The revenue offsets have been greatly improved from the initial House package, although I continue to have serious reservations about some of them. Dropping the tax on court awarded damages for pain and suffering is a major improvement. Court-awarded damages for pain and suffering are meant to make the plaintiff whole and should not be considered income.

Concerning employee stock ownership plans, I believe that it may be a mistake to take away a portion of the tax benefits used by ESOP's. Employee stock ownership plans are a way for working families to buy a piece of America and to provide for their retirement needs.

I am also concerned that we are extending the airport and airway trust fund excise tax without a serious review of all the issues. While the extension is only for 6 months—until December 1996—it keeps in place a system designed prior to airline deregulation. That leftover tax clearly discriminates against smaller communities which tend to have high airline ticket prices. In addition, it makes little sense that one passenger will pay two to three times more taxes on the same flight as his or her seat-mate. The burden each passenger places on the FAA is the same. While some argue that the excise tax discourages wasteful airline spending since costs plus the tax must be passed on, this current tax also raises by ten percent the cost of every safety measure the airline undertakes.

Finally, I again want to compliment those who worked in a bipartisan fashion to achieve a result. Frankly, there are probably few Members on either side of the aisle that support every provision in this bill, but together, this package advances the Nation's interests. If enacted into law, it will have a positive effect on working families, small businesses, and adoptive families and their children. I recommend that it pass.

Ms. MOSELEY-BRAUN. Mr. President, I want to take this opportunity,

as we are about to vote on an extension of the Generalized System of Preferences, to raise a subject that is of great concern to all soybean growing States, including my State of Illinois, which is second only to Iowa in the production of soybeans. A number of countries, including Brazil and Argentina, employ a tax system that works to distort trade. It is designed to create an unfair competitive advantage for the processed agricultural exports of these countries at the expense of our exporters.

Let me briefly describe how this practice, known as a differential export tax scheme, or DET, works. Using soybeans as an example, under a DET system, a much higher export tax is imposed on raw soybeans than on processed soybean products, such as soybean meal and oil. This serves to restrain exports of raw soybeans, giving a foreign country's domestic oilseed processors a captive market, in effect, for raw soybeans at a price that is depressed below world market prices. Because these processors have artificially lower raw material costs, their costs of production are substantially less than those of U.S. oilseed processors. As a result of this government interference, those foreign oilseed processors are receiving an indirect subsidy that clearly violates the spirit of free and fair trade, and, if provided as a direct export subsidy, would be subject to World Trade Organization rules.

U.S. processors are placed at a terrible competitive disadvantage as a result of this practice: They not only must continue to pay the world price for raw soybeans, they are forced to sell their processed soybean products at world prices that are suppressed to the level of the DET-supported export prices. This DET-induced downward pressure on world price levels for these products has severely reduced revenues for the U.S. soybean processing industry. In addition, countries that rely on this trade-distorting practice have dramatically displaced U.S.-processed soybean sales in world markets.

I understand that efforts may be underway in some of these countries to end these tax schemes. I believe, however, unless we see some demonstrable progress by these countries in the coming months, the Senate Finance Committee should undertake a close review of this issue as part of its trade agenda in the next Congress.

Mr. DODD. Mr. President, more than 6 months ago, President Clinton came before the Congress and called for a modest increase in America's minimum wage—from $4.25 to $5.15 an hour.

And for the past nearly 6 months, 12 million Americans woke up every morning, went to work each day and continued to earn a meager $34 a day—waiting for this Congress to uphold its responsibility to working Americans and raise the minimum wage.

Today, their wait is finally over.

Today, working Americans are finally getting a break.

Americans who were being asked to live on $8,500 a year are receiving a much-needed helping hand from the U.S. Congress.

Due to this legislation, minimum wage workers will see an additional $1,800 in their paychecks by the end of the year.

Raising the minimum wage will allow millions of America's working families to pay for 7 months of groceries, 1 year of health care costs, or more than a year's tuition at a 2-year college.

And today, the nearly one in five minimum wage workers who currently live in poverty will now have a genuine opportunity to make a better life for their children.

My only regret is that it took so long to reach this moment. Over the past 6½ months, my colleagues across the aisle used every possible tool to block this legislation.

They claimed that raising the minimum wage would cost jobs—even though study after study shows this to be a fallacious argument.

They raised erroneous economic arguments—even though 101 economists endorsed an increase in the minimum wage.

They proposed amendments that would have excluded 10 million minimum wage recipients from the bill's benefits.

But, in the end, the obstructionist efforts of my Republican colleagues were overwhelmed by the voices of the American people, calling for a minimum wage increase.

For the more than two-thirds of minimum wage workers above the age of 21; for the 4 in 10 who are the sole wage earner for their families; and for all the Americans trying to make ends meet and put food on the table, this vote represents a genuine victory and a first step to a better future.

Throughout America, millions of working families are struggling to get by and the votes today on the minimum wage and Kassebaum-Kennedy health insurance bill make that process just a little bit easier.

It is something we can all take great pride in and I urge all my colleagues to join me in voting on behalf of this bill.

Mr. GRASSLEY. Mr. President, as Chairman of the International Trade Subcommittee of the Senate Finance Committee, I want to point out a provision in the Small Business Job Protection Act relating to trade that I strongly support. That is the extension of the Generalized System of Preferences [GSP]. This extension is long overdue.

The GSP is important for many reasons. From a foreign relations standpoint, it allows the United States to assist the economy of developing countries without the use of direct foreign aid. But it also is of great benefit to American businesses. That is why it is most appropriate that the extension of the GSP be included in the Small Business Job Protection Act. Many American small businesses import raw materials or other products. The expiration of the GSP has forced these companies to pay a duty, or a tax, on some of these products. That's what a duty is: an additional tax.

By extending the GSP retroactively, these companies will not be required to pay this tax. This tax is significant and can cost U.S. businesses hundreds of millions of dollars. In fact in 1995, American businesses saved $650 million due to the GSP. I wonder how many good, high-paying jobs will be created by cutting taxes by $650 million? So, Mr. President, it is very important that the GSP be extended and it is very appropriate that the Senate consider it as part of this bill.

It is essential to remember, however, that since its inception in the Trade Act of 1974, the GSP program has provided for the exemption of ''articles which the President determines to be import-sensitive.'' This is a very important directive and critical to our most import-impacted producing industries. A clear example of an import sensitive article which should not be subject to GSP and, thus, not subject to the annual petitions of foreign producers that can be filed under this program, is ceramic tile.

It is well documented that the U.S. ceramic tile market repeatedly has been recognized as extremely import-sensitive. During the past 30 years, this U.S. industry had to defend itself against a variety of unfair and illegal import practices carried out by some of our closest trading partners. Imports already dominate the U.S. ceramic tile market and have done so for the last decade. They currently provide approximately 60 percent of the largest and most important glazed tile sector according to 1995 year-end Government figures.

Moreover, one of the guiding principles of the GSP program has been reciprocal market access. Currently, GSP eligible beneficiary countries supply almost one-fourth of the U.S. ceramic tile imports, and they are rapidly increasing their sales and market shares. U.S. ceramic tile manufacturers, however, are still denied access to many of these foreign markets.

Also, previous abuses of the GSP eligible status with regard to some ceramic tile product lines have been well documented. In 1979, the USTR rejected various petitions for duty-free treatment of ceramic tile from certain GSP beneficiary countries. With the acquiescence of the U.S. industry, however, the USTR at that time created a duty-free exception for the then minuscule category of irregular edged specialty mosaic tile. Immediately thereafter, I am told that foreign manufacturers from major GSP beneficiary countries either shifted their production to specialty mosaic tile or simply identified their existing products as specialty mosaic tile on custom invoices and stopped paying duties on these products. These actions flooded the U.S.

market with duty-free ceramic tiles that apparently had been superficially restyled or mislabeled.

In light of these factors, the U.S. industry has been recognized by successive Congresses and administrations as import-sensitive dating back to the Dillon and Kennedy Rounds of the General Agreement on Tariffs and Trade (GATT). Yet during this same period, the American ceramic tile industry has been forced to defend itself from over a dozen petitions filed by various designated GSP-eligible countries seeking duty-free treatment for their ceramic tile sent into this market.

The domestic ceramic tile industry has been fortunate, to date, because both the USTR and the International Trade Commission have recognized the import-sensitivity of the U.S. market and have denied these repeated petitions. If, however, just one petitioning nation ever succeeds in gaining GSP benefits for ceramic tile, then all GSP beneficiary countries will be entitled to similar treatment. This could eliminate many American tile jobs and devastate the domestic industry. Therefore, it is my strong belief that a proven import sensitive and already import-dominated product, such as ceramic tile, should not continually be subjected to defending against repeated duty-free petitions, but should be exempted from the GSP program.

Mr. President, I would like to address one final trade issue. It is not a part of this bill but it does relate to GSP, because the problem I will discuss is a result of an inequitable tax policy put in place by some countries that are major beneficiaries of the GSP program. This tax policy, known as a differential export tax scheme or DET, is used to confer an unfair competitive advantage for these countries' exports of agricultural products, particularly soybean meal and oil, to the detriment of U.S. producers, processors, and exporters.

Mr. President, I'll briefly describe how this differential export tax scheme operates. Under a DET system, exports of a raw commodity, in this case soybeans, are taxed at a higher rate than exports of the processed derivatives of that commodity, soybean meal and oil. Since this increased tax discourages the export of soybeans, the oilseed crushers in those countries are able to purchase soybeans from their domestic growers at prices well below the world market prices paid by U.S. oilseed crushers. Because they pay a lower cost for their raw materials, these foreign crushers are then able to undercut U.S. processors in the world market for processed soybean products.

For example, the State of Rio Grande do Sul in Brazil recently changed its tax structure so that a tax of 13 percent is levied on all exports of raw soybeans, while the export tax on soybean meal and oil is only 5 percent. At current market values, this gives the Brazilian crushers an additional crushing margin of about $22 per ton. This is essentially an indirect subsidy for these crushers and significantly distorts free trade. I assume this practice would be subject to World Trade Organization rules if the subsidy were provided as a direct export subsidy.

The consequence of this type of practice is a drastic loss in the U.S. share of world export markets for processed soybean products, and artificial downward pressure on world price levels for these same products. This is not acceptable. As you know Mr. President, Iowa is, in any given year, either the first or second leading soybean producing state in the nation. This is a distinction we share with our neighbors in Illinois. So this unfair trade practice is of great concern to Iowa farmers and processors, and those in other states as well.

I understand that progress is being made on resolving this issue, but more work must be done. In the case of Brazil, it is my understanding that the Brazilian federal government strongly supports reform of this DET system, and in fact is considering the complete elimination of all taxes levied upon exports of agricultural products, both raw and processed. In the coming weeks and months, I will be closely watching how Brazil, Argentina, and other countries reform these practices. However, I am serving notice today that if these practices are allowed to continue, I will consider pursuing appropriate legislative or administrative measures to counter them.

Mr. President, I yield the floor.

A VICTORY FOR WORKING AMERICANS

Mr. KERRY. Mr. President, today—finally—we are raising the minimum wage and putting families first. We have won a major victory for every American who values work and believes in fairness. It is a victory for common sense over ideology, for bipartisanship over saber rattling.

It is a victory for 290,000 hard-working families in Massachusetts who are playing by the rules and struggling to make ends meet—who have fallen behind in the last 20 years and now have a chance to do better, to keep up, and give their children a chance at a decent life. It is a victory for the millions of Americans who were trying to make a living and raise a family on $4.25 an hour and now will get $1800 more a year—enough to buy groceries for 7 months.

Raising the minimum wage is a work force enhancement program and a family protection program for an investment of 90 cents an hour—a move which will strengthen the fabric of the American community and narrow the widening gap in the workforce.

For the first time in years, we are giving workers a raise. This is a down payment on our commitment to make sure that everyone in this economy can participate—that everyone can earn more, learn more, provide more for their families, and be part of an economy that works for families—that values the dignity of work for those at the bottom as well as the top.

Mr. President, raising the minimum wage is, in fact, the most basic welfare reform measure we could enact. It helps make work pay for those who will be returning to the workforce. It will allow working mothers who come off welfare to have a fighting chance to put food on the table for their children and still find enough to pay the rent.

In the last few months we have heard a lot of talk from many of my Republican colleagues that welfare recipients need to learn the dignity of work, and we would agree with them and we have passed a welfare reform package incorporating that concept. But I also believe that the dignity of a liveable minimum wage is that, as a society, we believe that if you are willing to work hard, you deserve the dignity of earning enough to at least pull yourself out of poverty and put food on the table and a roof over your children's heads.

Mr. President, this is the beginning of a new era of worker fairness, of giving a raise to those who need it most, and taking one more step toward relieving the insecurities of the American worker. There is no greater gift to a young mother who is trying to make ends meet, trying to pay the rent, buy food, pay child care, pay for health care, and save for the future than to say to her that we know how difficult the struggle is and we, as a nation, as a Congress, as a people are willing to do what we can to help.

Today, Mr. President, with this vote to increase the minimum wage and give workers a raise, we have sent a message to America that we have rejected the extreme, hard line policies of the ideological warriors who believe that the bottom line is the only line, and that if those at the top earn more then those at the bottom will be better off. We have sent a message, instead, that we are, indeed, a common sense, pro-family community that believes in fairness and in a fair wage for a day's work. And we have sent a message that we believe that if you increase the intrinsic value of work you decrease the emotional cost of welfare, and the emotional toll that hopelessness and fear take on hard working mothers and families.

Mr. President, we have done the right thing. Some have fought it. Some have argued vehemently against it. Some have found arguments to try to stop it. But in the end, we have struck an important blow for fairness, for work, for families; and in so doing we have brought two words back into the lexicon of the 104th Congress and they are ''compassion'' and ''community''. Increasing the minimum wage means that we understand that we are all in this together and that we care. That, Mr. President, is a victory for the principles for which I have fought during my tenure here, and for which I will continue to fight in the future.

Mr. LAUTENBERG. Mr. President, I rise to speak in support of the increase in the minimum wage.

Mr. President, 5 years is a long time to go without a raise. Senators and Representatives do not go that long. Nor do corporate executives, or even most average working people.

And neither should those who earn the minimum wage.

Mr. President, the increase in the minimum wage that we will pass today will be the first raise in 5 years for close to 12 million American workers. It's about time.

Mr. President, there's a lot of mythology about just who these minimum wage workers are.

Contrary to those prevailing myths, Mr. President, most minimum wage workers are not rich suburban teenagers who take a job for extra spending money.

The fact is—two-thirds of minimum wage workers are adults; 58 percent are women; 40 percent are the sole breadwinners for their families; and of the 25 percent that are teenagers, over half come from families with below-average income.

Mr. President, fundamental fairness dictates that a person who gets up every day, goes to work, 40 hours a week, 52 weeks a year, should earn a living wage.

And yet, a minimum wage worker who works 40-hours per week, every single week of the year, doesn't even earn enough to reach the poverty line. That's wrong. And we have an obligation to do something about it.

Mr. President, the minimum wage increase in this bill will lift 300,000 American families out of poverty. And that includes 100,000 children.

Mr. President, an increase in the minimum wage to $5.15 per hour means an increase in income of $1,800 per year for about 10 million workers.

That's enough to pay for 7 months of groceries, or 4 months of rent, or even 1 year of tuition at a 2-year college.

It's tremendously important for millions of American families.

In my home State of New Jersey, the minimum wage is currently $5.05 an hour, above the national minimum, and only 10 cents below this new minimum of $5.15.

In my State, this wage increase will amount to $4 per week for a minimum wage worker. You might think that a 10-cent-an-hour raise wouldn't be a big deal. Well, you would be wrong.

In communities and families all over New Jersey, and around this country, even such a small increase in income could mean the difference between caring for children, and having them go hungry.

Four dollars buys 2 more gallons of milk, or 2 more loaves of bread, or 8 more boxes of spaghetti.

To millions of American families, even just a few dollars more per week is a lot of money.

Mr. President, people who work hard and play by the rules should be able to provide for themselves, and their families.

The best way to encourage and honor the work ethic so important to our economic future is to ensure that even those at the bottom earn a living wage.

So, Mr. President, I urge my colleagues to support working Americans and to support this bill. It's the right thing to do. And it's long overdue.

Mr. HARKIN. Mr. President, I supported the health insurance conference agreement. I want to speak a few minutes about some of the very good and some very problematic provisions in this agreement. I want to congratulate Senator KENNEDY and Senator KASSEBAUM and others for their hard work and perseverance.

A number of the provisions of this bill follow the framework of a proposal I put forth in the last Congress. In 1994, I offered what I called a downpayment plan that would have made health insurance affordable for every child in America, provided for increased portability and other insurance reforms, full tax deductibility of health insurance costs for the self-employed and a clampdown on health care fraud, waste, and abuse. I am pleased that provisions similar to several of these items are included in this conference report.

I am very pleased that this legislation prohibits group and individual health plans from establishing eligibility, continuation, or enrollment requirements based on genetic information. I offered an amendment on this issue during committee consideration of S. 1028 and am pleased that it is included in the conference bill.

I believe this is a very important provision that will become even more important as the availability and use of genetic tests grows in the coming years. Genetic information should be used to help people stay healthy and should not be used to put a person at a disadvantage when it comes to health insurance.

While this legislation still leaves serious flaws in our health care system, it represents an important step toward reforming health care and injecting some fairness and common sense into the system.

The portability provision in the bill would provide some much-needed relief for many Americans. Provisions to gradually raise the percentage of health insurance costs that farmers and other self-employed can deduct from their taxes from 30 to 80 percent over the next 10 years, would provide greater relief, if not equity, with larger businesses.

Mr. President, the portability provisions in the bill are particularly important. Americans should not have to worry about facing preexisting condition exclusions if they get sick, change jobs, or lose their job.

This health insurance bill will provide many American families with added security and choices.

The provisions in the legislation related to preexisting conditions are important and add some common sense to the current health insurance market. The bill limits the ability of insurers to impose exclusions for preexisting conditions. Under the legislation, no such exclusion can last for more than 12 months. Once someone has been covered for 12 months, no new exclusions can be imposed as long as there is no gap in coverage—even if someone changes jobs, loses their job, or changes insurance companies.

The preexisting condition provisions will help real people who have already experienced an illness and want to switch insurers or change jobs

For example, a father from Iowa City called my office about his daughter who has a chronic health condition and will graduate from college this spring. He was worried that when she graduates and is no longer covered under his health insurance policy she will not be able to find insurance coverage for her chronic health condition.

Because the Health Insurance Reform Act would require insurers to credit prior insurance coverage, his daughter can move to another health insurance plan without being denied coverage for her preexisting condition.

The portability provision in the bill will help with so-called job lock. Workers who want to change jobs for higher wages or advance their careers often have to pass up opportunities because it might mean losing health coverage. These provisions will provide greater security for Americans currently covered under group health plans.

I've heard form Iowans who have had to pass up new job offers or forgo starting their own small business because they or someone in their family has a preexisting condition. Workers with a sick child are forced to pass up career opportunities because their new insurance may not cover a preexisting condition for 6 months or more.

These families have played by the rules and have been continuously insured—they deserve to know that if they pay their insurance premiums for years, they cannot be denied coverage or be subjected to a new exclusion for a preexisting condition because they change jobs.

But, I do want to express my concern about some of the comments that are being made on both sides of the aisle about this bill.

In today's edition of the Washington Post, House Speaker NEWT GINGRICH is quoted as saying ''it means guaranteed health insurance for everyone who's in the system.''

Mr. President, this bill is an important step forward, but it in no way means guaranteed health insurance for people now in the system. We should not overpromise or oversell this bill. American workers still face the possibility that their employer will reduce their health insurance or drop coverage altogether.

Workers still face the possibility that coverage for their children will be dropped. In fact, the number of children covered by employment-based

health insurance has been decreasing and over 9 million children have no health insurance.

If you lose your job you still face the high costs of health insurance—certainly many people who have just lost their job can't afford health insurance premiums. If you get sick, lose your job, and can't afford health insurance premiums you are still out of luck under this bill.

And, Mr. President, today if a worker switches jobs their next employer may or may not offer health care coverage. The bill before us today does not change this situation. Companies can also continue to eliminate health care coverage for retirees.

So, Mr. President, this bill does not guarantee health insurance. It is an important step forward and it should be passed.

We should not let the perfect be the enemy of the good, but we also shouldn't lead Americans to believe it does more than it really does.

While there are many positive things in this bill that merit its enactment, Mr. President, there are several provisions that I believe would substantially undermine our efforts to combat fraud, waste, and abuse in Medicare and other health programs. Our two lead agencies in combating health care fraud and abuse, the Department of Justice and the office of inspector general of the Department of Health and Human services, have also raised serious concerns with different provisions in this conference report.

First, the conference agreement includes language from the House bill that significantly raises the burden of proof on the Government to prove fraud and impose civil monetary penalties. Let me read from a letter that June Gibbs Brown, HHS inspector general wrote to me recently about this provision.

I ask unanimous consent that the relevant portion of the letter be included at this point.

LETTER FROM JUNE GIBBS BROWN, INSPECTOR GENERAL

September 29, 1995.

Hon. TOM HARKIN,
U.S. Senate, Washington, DC.

Re H.R. 2389: ''Safeguarding Medicare Integrity Act of 1995''

DEAR SENATOR HARKIN: You requested our views regarding the newly introduced H.R. 2389, which we understand may be considered in the deliberations concerning the ''Medicare Preservation Act.'' We strongly support the expressed objective of H.R. 2389 of reducing the fraud and abuse which plagues the Medicare program. The proposed legislation contains some meritorious provisions. However, if enacted, certain major provisions of H.R. 2389 would cripple the efforts of law enforcement agencies to control health care fraud and abuse in the Medicare program and to bring wrongdoers to justice.

The General Accounting Office estimates the loss to Medicare from fraud and abuse at 10 percent of total Medicare expenditures, or about $18 billion. We recommend two steps to decrease this problem: strengthen the relevant legal authorities, and increase the funding for law enforcement efforts. Some worthy concepts have been included in H.R. 2389, and we support them. For example, we support:

''a voluntary disclosure program, which allows corporations to blow the whistle on themselves if upper management finds wrongdoing has occurred, with carefully defined relief for the corporation from *qui tam* suits under the False Claims Act (but not waiver by the Secretary of sanctions);

''minimum periods of exclusion (mostly parallel with periods of exclusion currently in regulations) with respect to existing exclusion authorities from Medicare and Medicaid; and

''increases in the maximum penalty amounts which may be imposed under the civil monetary penalty laws regarding health care fraud.''

As stated above, however, H.R. 2389 contains several provisions which would seriously erode our ability to control Medicare fraud and abuse, including most notably: making the civil monetary penalty and anti-kickback laws considerably more lenient, the unprecedented creation of an advisory opinion mechanism on intent-based status, and a trust fund concept which would fund only private contractors (not law enforcement). Our specific comments on these matters follow.

MAKING CIVIL MONETARY PENALTIES FOR FRAUDULENT CLAIMS MORE LENIENT BY RELIEVING PROVIDERS OF THE DUTY TO USE REASONABLE DILIGENCE TO ENSURE THEIR CLAIMS ARE TRUE AND ACCURATE

Background: The existing civil monetary penalty (CMP) provisions regarding false claims were enacted by Congress in the 1980's as an administrative remedy, with cases tried by administrative law judges with appeals to Federal court. In choosing the ''knows or should know'' standard for the mental element of the offense, Congress chose a standard which is well defined in the Restatement of Torts, Second, Section 12. The term ''should know'' places a duty on health care providers to use ''reasonable diligence'' to ensure that claims submitted to Medicare are true and accurate. The reason this standard was chosen was that the Medicare system is heavily reliant on the honesty and good faith of providers in submitting their claims. The overwhelming majority of claims are never audited or investigated.

Note that the ''should know'' standard does not impose liability for honest mistakes. If the provider exercises reasonable diligence and still makes a mistake, the provider is not liable. No administrative complaint or decision issued by the Department of Health and Human Services (HHS) has found an honest mistake to be the basis for CMP sanction.

H.R. 2389 Proposal: Section 201 would redefine the term ''should know'' in a manner which does away with the duty on providers to exercise reasonable diligence to submit true and accurate claims. Under this definition, providers would only be liable if they act with ''deliberate ignorance'' of false claims or if they act with ''reckless disregard'' of false claims. In an era when there is great concern about fraud and abuse of the Medicare program, it would not be appropriate to relieve providers of the duty to use ''reasonable diligence'' to ensure that their claims are true and accurate.

In addition, the bill treats the CMP authority currently provided to the Secretary in an inconsistent manner. On one hand, it proposes an increase in the amounts of most CMPs which may be imposed under the Social Security Act. Yet, it would significantly curtail enforcement of these sanction authorities by raising the level of culpability which must be proven by the Government in order to impose CMPs. It would be far preferable not to make any changes to the CMP statutes at this time.

MAKING THE ANTI-KICKBACK STATUTE MORE LENIENT BY REQUIRING THE GOVERNMENT TO PROVE THAT ''THE SIGNIFICANT'' INTENT OF THE DEFENDANT WAS UNLAWFUL

Background: The anti-kickback statute makes it a criminal offense knowingly and willfully (intentionally) to offer or receive anything of value in exchange for the referral of Medicare or Medicaid business. The statute is designed to ensure that medical decisions are not influenced by financial rewards from third parties. Kickbacks result in more Medicare services being ordered than otherwise, and law enforcement experts agree that unlawful kickbacks are very common and constitute a serious problem in the Medicare and Medicaid programs.

The two biggest health care fraud cases in history were largely based on unlawful kickbacks. In 1994, National Medical Enterprises, a chain of psychiatric hospitals, paid $379 million for giving kickbacks for patient referrals, and other improprieties. In 1995, Caremark, Inc. paid $161 million for giving kickbacks to physicians who ordered very expensive Caremark home infusion products.

Most kickbacks have sophisticated disguises, like consultation arrangements, returns on investments, etc. These disguises are hard for the Government to penetrate. Proving a kickback case is difficult. There is no record of trivial cases being prosecuted under this statute.

Let me repeat, the IG says this provision will ''significantly curtail enforcement of these sanctions.'' Mr. President, this provision has no business in this conference report and flies in the face of the bill's section title ''Preventing Health Care Fraud and Abuse.''

Along with other exemptions provided in the bill, this change will cost taxpayers $200 million, according to the Congressional Budget Office [CBO].

The conference agreement also includes a provision from the House bill requiring the IG to provide advisory opinions to the public on the Medicare anti-kickback statute. The Attorney General and the HHS strongly oppose this provision. In fact, the Attorney General in a June 6, 1996 to then Majority Leader Dole and Speaker GINGRICH said:

This is an unprecedented and unwise requirement that would severely undermine our law enforcement efforts relating to health care fraud. The HHS IG said in her letter to me that similar provisions would ''severely hamper the Government's ability to prosecute health care fraud.''

She goes on to say:

Even with appropriate written caveats, defense counsel will hold up a stack of advisory opinions before the jury and claim that the defendant read them and honestly believed (however irrationally) that he or she was not violating the law. The prosecution would have to disprove this defense beyond a reasonable doubt. This will seriously affect the likelihood of conviction of those offering kickbacks.

Mr. President, I strongly support the concept of providing the public and health care providers guidance on complying with Medicare law. The government does issue advisory opinions and other guidance and it should be provided the resources to do more. But law enforcement should not be forced to

issue information that it feels will undermine compliance with anti-kickback laws.

The Attorney General and IG have said that these requirements are so damaging to their ability to prosecute fraud because they would require law enforcement to issue opinions on intent based statutes. Because of the inherently subjective nature of intent, they believe it would be impossible for them to determine intent based solely upon a written submission from the requestor. They point out that it does not make sense for a requestor to ask the Government to determine the requestor's own intent.

The Congressional Budget Office has scored this advisory opinion provision as costing taxpayers $280 million over the next 7 years. They recognize the obvious, that this provision will result in fewer successful prosecutions of health care fraud.

Mr. President, there are a number of provisions in the conference agreement that would, taken alone, improve our fight against Medicare fraud, waste, and abuse—provisions I have long advocated. The bill creates a mandatory source of funding for the IG, the FBI, and other law enforcement agencies.

Their efforts return many times their costs in savings. In order to make this change significant, though, we can't simply eliminate existing discretionary funding for these activities in the appropriations bill.

The bill also requires some steps to be taken to encourage and assist Medicare beneficiaries in identifying and reporting fraud and abuse. Significant additional steps are needed to assure that seniors really have the tools they need to fully participate in this important effort.

So, Mr. President, this bill is a mixed bag. I will support it because it provides important new protections to working Americans and tax relief for farmers and the self-employed. However, I will actively work to have the provisions which hamper our efforts to combat health care fraud and abuse removed from the books.

AID TO SMALL BUSINESSES

Mr. KERRY. Mr. President, this is a good day for hard-working Americans and small business owners across the Commonwealth of Massachusetts. The final passage of the Small Business Job Protection Act will stoke the engine of job growth in this country and will help further the current economic expansion.

Just 2 days ago, we learned that, in the second quarter of 1996, our national economy posted a robust 4.2 percent growth rate. This buoyant growth figure is just the latest indication that the Clinton economic plan which the Congress passed in 1993 without one single Republican vote is benefiting hard-working Americans. We have unprecedented low interest rates and subdued inflation and unemployment levels. In fact, the Clinton plan has created more than 10 million jobs since its enactment.

Mr. President, the Clinton plan reduced the deficit from a record-high $290 billion in 1992 to a projected $117 billion this year. That is a 60-percent reduction of the deficit in 4 years, Mr. President. But some Members on the other side of the aisle seem to forget that deficit reduction is, in and of itself, not an economic policy. Cutting wasteful spending in order to keep interest rates low whole protecting programs and services which stimulate growth and create jobs is an economic policy. It is an economic plan. It is, in fact, the core of the Clinton plan, and I am pleased to have helped shape this plan.

Just 2 weeks ago, the Chairman of the Federal Reserve, Alan Greenspan told me that our economy has not looked this sanguine in 3 years. But I reminded him during our Banking Committee hearing that all Americans have not yet felt the benefits of the Clinton plan. Accordingly, I introduced the American Family Income and Economic Security Act this year. Several provisions of my 20-point plan will become law when the President signs the conference report before us.

One of these provisions is raising the minimum wage to $5.15 per hour, which I will address in a separate statement later this afternoon.

Two other provisions of my bill which are echoed in the Small Business Job Protection Act are the extension of the credit for research and experimentation and the deduction for employer-provided educational assistance.

This bill will extend the R&E Tax Credit, sometimes called the Research and Development Tax Credit, until May 1997. Mr. President, for years, I have fought to make this credit permanent; it is one of the most important tax provisions for our high-technology, high-wage, job-crating industries, many of which are found in my home State. I am disappointed this bill does not make the credit permanent or retroactive; however, I am pleased the Congress is once again acknowledging the significance of the credit.

The bill will also extend the exclusion, up to $5,250, for employer-provided educational assistance through May 1997. This provision gives many Americans an opportunity to further their education while working. It allows them to upgrade their skills in order to survive and compete in the changing global economy.

These provisions are the logical complements to the Clinton economic plan. They will help more working Americans to enjoy the benefits of the current robust economic growth. I will continue to fight for other provisions of my American Family Income and Economic Security, like allowing more Americans to save for their retirement through IRA's, safeguarding pension plans from corporate raiders, reducing capital gains tax rates for investors in targeted, high-technology industries, furthering training programs and expanding stock option programs.

Mr. President, there is one last provision of the small business job protection bill of which I am extremely proud. For almost 8 years, hard-working owners of fishing vessels in New Bedford, MA, have been subject to an Internal Revenue Service ruling that would have resulted in approximately $11 million in penalties. This situation arose from an IRS misinterpretation of the Tax Code as applied to crewmembers on small fishing vessels. The IRS' interpretation and assessment nearly devastated the fishing families in southeastern Massachusetts—a region struggling with the departure of the textile industry and the demise of the fishery. I am pleased that this bill includes a correction to this wrongheaded interpretation. This action is providing relief for four fishing vessels in New Bedford—F/V *Edgartown*, F/V *Nordic Pride*, F/V *Lady J*, F/V *Steel*—by rendering moot a court action against them.

Life on the seas requires fishermen to be ruggedly independent individuals. Fishing boat operations reflect this independence in that they are fundamentally small business operations with crews that typically vary from trip to trip, with each crewmember acting as a free agent. Recognizing that there was a unique worker arrangement on fishing vessels, Congress amended the Tax Code in 1976 to clarify the employment status of crewmembers as self-employed and required the self-employed crewmembers to be compensated solely with a share of the catch.

It is common practice on fishing boats around the country to provide a small cash payment called a pers to the cook, first mate and engineer in recognition of additional duties they perform at sea. These pers represent only 1 to 5 percent of the total compensation which amounts to approximately $500 annually on a $30,000 income.

This bill will allow the pers payments—which are essentially calculated as a share of the catch—without jeopardizing the self-employment status of crewmembers. Let me emphasize, Mr. President, that the boat owners believed they complied with the new tax laws and regulations, and in fact they did comply with the law as Congress intended it to be applied to small fishing vessels.

With my colleagues from Massachusetts, Senator KENNEDY and Congressman FRANK, I tried to remedy this situation for 7 years. We appealed to the Treasury Department and the Internal Revenue Service, and introduced legislation that was vetoed twice by President Bush. Today, I am pleased that this issue will be resolved as soon as President Clinton signs this bill.

Mr. President, this has been a long and difficult struggle to provide relief for the fishing families of New Bedford. Like the hard-working people of southeastern Massachusetts, small business owners and American workers will enjoy the benefits of this bill. I am

pleased that the Senate will speak with a strong bipartisan voice to raise the minimum wage, to provide tax incentives for small businesses and, especially, to assist the families of New Bedford, MA.

I yield the floor.

EMPLOYER SECURITIES IN ERISA PLANS

Mr. BREAUX. Mr. President, I rise today to address the full Senate and the distinguished chairman of our Finance Committee, Senator ROTH. On June 5, I suggested to the Finance Committee that it adopt a provision that would permit subchapter S corporations to sponsor ESOP's, or employee stock ownership plans.

When the precise language of my proposal was published as section 1316 of H.R. 3448, I was disappointed to read that some of the special tax benefits that currently are available with respect to ESOP's would not be available in the case of an ESOP that acquires and holds subchapter S corporation stock.

I would like to note that the provision in the bill before us related to employer securities and sub S ERISA plans is not to take effect until January 1, 1998. Between now and then, I will review how we can make it possible for subchapter S corporations to avail themselves of the special ESOP tax benefits, which will encourage greater use of this provision.

After this review, I hope to be able to offer reasonable alterations to H.R. 3448 that will expand our policy of promoting employee ownership through ESOPs.

Mr. ROTH. Mr. President, I appreciate the comments of the Senator from Louisiana and look forward to reviewing any thinking he may have for future legislation on this matter.

DISCRIMINATION UNDER NEW IRS SECTION 936

Mr. GRAMS. Mr. President, I am very concerned about regulations that were just issued by the IRS in May regarding the section 936 possession tax credit. These new regulations cast aside regulatory rules upon which companies have relied for many years permitting arm's length pricing in the purchase of components. The new regulations produce the discriminatory result that an arm's length third-party price can be used to value outbound sales of components but not inbound purchases of components by the possession company for purposes of the section 936 calculation. I believe that a fair and workable solution can be developed to address these concerns and would ask the Senator to join me in encouraging the Treasury Department to seek such a solution.

Mr. ROTH. I believe this is an area that Treasury and the IRS need to revisit. I join the Senator from Minnesota in encouraging them to do so.

Mr. HATCH. Mr. President, I rise today to describe why the repeal of Internal Revenue Code section 956A, which is included in the Small Business Tax Relief bill, is important to both U.S. businesses and American workers.

In his remarks 2 days ago, the distinguished senator from North Dakota insisted on referring to the repeal of 956A as opening a tax loophole. This is simply not true. Rather, what the repeal does is loosen a noose that has been strangling the competitiveness of many of our U.S. businesses.

How many of my colleagues would stand up and say, ''Yes, I would like to hamper the competitiveness of U.S. businesses abroad by imposing tax restrictions on them unequal to any restriction imposed on their competitors.'' Or, how many of my colleagues would say that they are in favor of discouraging U.S. firms from increasing employment at home by taking advantage of business opportunities abroad. Yet, in essence, this is the effect of not repealing section 956A.

I don't believe there is even one Senator in this Chamber who wants to go home in August and brag about putting U.S. companies at a competitive disadvantage. I don't believe there is even one Senator who wants to go home and brag about eliminating jobs for U.S. workers. Yet, this is exactly what section 956A does.

Mr. President, let me briefly discuss the history of section 956A. Until 1993, when President Clinton signed the largest tax increase in the history of this Nation, the U.S. generally did not tax the active income earned by a U.S. corporation's foreign subsidiaries until that income was actually repatriated to the U.S. parent. This tax deferral enabled U.S. companies with foreign affiliates to compete on a reasonably level playing field with foreign competitors. This is because no other industrial nation's tax law forces a parent corporation to pay taxes on income earned by a subsidiary until that money is sent home to the parent.

However, in 1993, the Clinton administration proposed and Congress enacted a limitation on this tax deferral. The provision, now known as section 956A, forces the parent corporation to pay tax on a portion of its foreign subsidiary corporation's active income to the extent it has an excessive accumulation of passive assets.

Mr. President, this new restriction did not close a tax loophole. Instead, 956A closed doors of opportunity for U.S. business and hindered employment and investment growth. As I mentioned, section 956A has no counterpart in the tax laws of our foreign competitors. Hence, it effectively places an undue burden on U.S.-owned companies abroad—a burden that our competitors do not have.

There are some who want us to believe that the enactment of section 956A would discourage U.S. companies from moving jobs overseas. Mr. President, this is just not true. In fact, the provision has resulted in just the opposite effect—it encourages U.S. companies to employ more overseas workers.

Let me explain. As I stated before, section 956A subjects excessive passive assets to U.S. tax before profits are repatriated to the United States. This provision has actually created an unintended incentive for companies to invest in hard assets, such as manufacturing facilities, outside the United States. Doing so enables the subsidiary to increase its hard assets and thus lower the ratio of it passive assets to total assets, which effectively lowers the tax. Manufacturing facilities, unlike passive assets, require workers, almost always hired from the host nation. Thus, the perverse effect of section 956A is to provide an incentive for U.S. multinational companies to invest in jobs overseas for non-U.S. workers.

Contrary to what some contend, U.S. companies generally do not invest abroad simply to take advantage of lower labor costs. In fact, most foreign investments by U.S. companies are in countries where labor costs are often higher than in the United States. In 1993, two-thirds of the assets and sales of U.S.-controlled foreign corporations were in seven primary locations: Germany, France, Japan, United Kingdom, Netherlands, Canada, and Switzerland. The average annual compensation paid to foreign workers in these countries was 15 percent higher than the average paid to workers in the United States by the parent corporations.

U.S. foreign businesses are almost always established in order to better service foreign customers, to have a local presence, to avoid excessive transportation costs, or to develop natural resources in the geographic locations where they are found. In other words, decisions of where to invest are made for solid business reasons—not for tax avoidance. Many foreign countries insist that contracts be made only with local entities.

It is also important to note that these U.S. subsidiary corporations seldom take jobs away from the United States, but actually supplement domestic production and increase U.S. jobs. U.S.-owned foreign corporations are large purchasers of exports from their affiliated companies in the United States. According to the U.S. Department of Commerce, 40 percent of U.S. multinational corporations' exports are sold to U.S. affiliates overseas.

For every one billion U.S. dollars in manufactured exports, over 14,000 manufacturing jobs are created in the United States. Employment growth between 1987 and 1992 at U.S. plants that started or continued exporting during that time was 17 to 18 percent greater than at comparable plants that did not export.

These statistics clearly indicate that expanding U.S. business overseas increases growth back home, including employment growth. We cannot ignore the global economy we are living in by discouraging U.S. companies from expanding to other countries.

Repeal of section 956A doesn't benefit just a handful of large corporations, as has been suggested. Small businesses must invest overseas also. In today's

world, any business that doesn't recognize the necessity to go global is in jeopardy of losing out to foreign competition. In fact, many small Utah businesses are having great success in exporting and are finding a need to invest outside the U.S. to establish a global presence. Does this mean we are losing jobs in Utah? Hardly. Rather, such international growth has further fueled my State's employment boom.

Finally, Mr. President, let me emphasize that repealing 956A will give no special treatment to U.S. businesses with foreign affiliates. In fact, the tax treatment of U.S. businesses after the repeal of 956A will be the same as the tax treatment received by a U.S. individual who holds shares in a company and defers U.S. tax on the earnings of the company until the company actually pays the dividend to the shareholder.

Until 1993, our tax law has always taxed the active profits of American-owned companies abroad when those earnings were sent to the U.S. company through dividend, transfer payment, or other means. Let me reiterate that repeal of section 956A does not change this basic concept of the Internal Revenue Code. Rather, it restores the traditional treatment that was changed by the misguided 1993 provision.

I am proud to say that I stand for creating employment for American workers. I stand for increasing our exports and developing foreign markets, and I stand for repealing section 956A to remove the strangling provisions it places on U.S. businesses trying to compete on a level playing ground with foreign competitors.

Ms. MOSELEY-BRAUN. Mr. President, I rise in support of the Small Business Job Protection Act, particularly its minimum wage provisions. I would like to commend Chairman ROTH and members of the Finance Committee who worked in a bipartisan fashion to put together a very comprehensive bill that helps small businesses invest, grow and create new jobs.

I am particularly proud to have succeeded in including a large number of provisions in the Small Business Job Protection Act that I, along with my colleagues, worked very hard to place in the bill and retain in conference. These provisions will help to change peoples lives by creating pension equity, providing educational assistance, preventing job loss, moving people from welfare to work, encouraging research and development and giving assistance to first-time farmers.

One of my primary focuses during this Congress has been to identify and resolve the current pension laws that are and have been inequitable toward women throughout history. As a result of this effort, earlier this year, I introduced the ''Women's Pension Equity Act of 1996.'' This bill begins to assist millions of women retain pension benefits earned during many years of marriage. Today, I want to thank Chairman ROTH for including in this small business tax legislation two of the most important provisions from my women's pension bill, provisions which received broad bipartisan support. One requires the Department of Treasury to create model language for spousal consent with respect to survivor annuities for widows. The second requires the Department of Treasury to create model language for Qualified Domestic Relations Order forms used to divide pensions during divorce.

Pension retention—issues associated with holding onto earned pension rights—are important safeguards against ''retirement surprise.'' Pensions are often the most valuable financial asset a couple owns—earned together during their many years of marriage. Unfortunately, it is now all too easy for a woman to unknowingly compromise her right to a share of her spouse's pension benefits in case of widowhood or divorce. If she reads ''lifetime annuity'' to mean her lifetime and signs the forms waiving survivor benefits, she loses her pension if her spouse dies. In case of divorce, if both spouses do not sign a complete QDRO form, she loses her right to any pension benefits, even if the marriage lasted fifty years. The provisions adopted in this bill will make it more likely that women will be able to protect their rights and retain their pensions.

Additionally, I am an original cosponsor of the Spousal IRA Equity legislation. This provision will allow a deductible IRA contribution of up to $2,000 per year to be made by each spouse including homemakers. Currently, a spouse who works outside the home is allowed to make tax-free contributions to an Individual Retirement Account up to $2,000 annually. However, the spouse that works in the home is only allowed to contribute $250 annually. This Congress has agreed for the first time to right this wrong and provide fairness for women who work both outside of and in the home.

I regret the deletion by the conference committee of safeguards against the taxation of non-physical compensatory damages. That provision is inequitable because it makes a distinction between physical and non-physical compensatory damages. Under this bill, victims of sex discrimination, race discrimination, and emotional distress would be required to pay taxes on any damages they receive while, on the other hand, victims of battery will not be taxed. Not only is this provision bad tax policy but it is discriminatory, and will make it more difficult for victims of these crimes to achieve justice. I hope the Congress will revisit this issue and correct this injustice.

Despite my displeasure with this particular provision, this is a good bill. The bill increases investment by small businesses and creates incentives for businesses to move people from welfare to work. It creates a new tax credit, called the Work Opportunity Tax Credit, which replaces the old targeted jobs tax credit program. The Work Opportunity Tax Credit encourages employers to hire people from populations suffering from high unemployment, who are on government assistance or who have limited education. I am just delighted that the conference bill includes a provision I authored, along with my Colleagues Senators BAUCUS and HATCH, that will help expand the pool of eligible employees by adding a category for indigent 18- 24-year-olds. Adding this category encourages employers to hire young people who are all too often overlooked, promotes self-sufficiency and prevents our young people from returning to the welfare system. The Work Opportunity Tax Credit will enable employers to access the credit after an employee has worked 400 hours, thereby providing additional incentives for job training.

Job training and educational assistance by employers is essential to create a strong work force. That is why I am so pleased that I was able to work with Senators ROTH and MOYNIHAN to enable employers to provide educational assistance to their employees without including the costs associated with such assistance in their gross income. This exclusion ended December 31, 1994 and is retroactively reinstated in this bill. However, the program only applies to undergraduate study until January 1, 1998 and it troubles me that the House would not agree to extend the benefit to employees who are in graduate school past June 1996. Employer-provided educational assistance on a graduate level helps our national competitiveness, and I hope that we will revisit the limitations of this bill.

The investments we make today in education and research will determine our global competitiveness in the future. That is why I am happy that this bill extends the Research and Experiment Tax Credit through May 31, 1997 however, I believe it should have been retroactively reinstated in this bill and hope that it will be made permanent in the future. If government does not encourage research and development, it will have a negative impact on our international competitiveness and our national security. The R & E tax credit has demonstrated its efficacy, and it should be continued with sufficient certainty to encourage long term planning and investment in this area.

A tax credit for nonconventional fuels is yet another investment that will help develop new sources of coal and methods to recycle biomass that will increase our technological advancement. The section 29 tax credit is important for recovering and managing landfill gas such as methane. In so doing, it helps to improve the quality of life around landfills, reduce smog, and alleviate global warming. With this tax credit, landfill gas has become a practical fuel for use in conventional electrical generating equipment. However, the extension of the credit will be less effective as it relates to coal because an additional year is needed to

get plants up and running given the complexity in converting coal into synthetic fuels. I hope we will revisit the effective date of the ''placed in service'' deadline.

The effective date was changed in the conference agreement for the repeal of the fifty percent interest income exclusion for financial institution loans to Employee Stock Ownership Plans [ESOPs]. In the original legislation, the House wanted to retroactively repeal the fifty percent interest income exclusion for ESOPs using October 13, 1995 as the effective date. As you may assume, that early effective date would have a devastating impact on companies that had reasonably relied upon the current laws and acted to establish an employee stock ownership plan. I am quite pleased that the conference agreement included today as an effective date. Although I am pleased that today will be the effective date for repealing this provision, I wish that we did not have to repeal the fifty percent interest income exclusion for Employee Stock Ownership Plans at all because they are good for business and good for employees. When an employee owns part of the company, their investment is greater, their work product is better and their loyalty will last longer, this bill only makes it harder for this to occur.

Not only does this bill help small businesses but it also helps first- time farm buyers. As a cosponsor of the Aggie Bond bill, I am thrilled that it is included in this conference agreement. Provisions of the aggie bond legislation helps to insure Illinois farmers and farmers all over the nation are given assistance in maximizing their participation in the first-time farm buyer program. This provision allows the purchase of farms from related parties and increases the maximum-size requirements for first-time farmer industrial development bonds.

Not only does this bill help farmers and small businesses but it also helps low wage workers with an increase in the minimum wage. Raising the minimum wage is about allowing people to realize the American Dream. It is about valuing hard work and providing people with the opportunity to provide for their families.

For the millions of American's who support themselves and their families on $4.25 an hour, the current minimum wage is not enough to raise them out of poverty. The ninety cent increase we are voting for today will make a difference to the ten million Americans that earn the minimum wage.

In Illinois, over 10 percent of the workforce, or 545,647 people, earns the minimum wage. The majority of the people earning the minimum wage—two-thirds—are adults, many are parents. Working 40 hours a week, 52 weeks a year, a person earning the minimum wage currently earns only $8,840. The poverty rate for a family of four is $15,600.

In light of our recent vote on ending the welfare safety net for children, I would like to point out that close to 60 percent of those earning minimum wage are women. These are women who are taking responsibility for themselves and their children. They go to work every single day, and still the minimum wage does not provide them with a living wage on which to raise their families. This increase in the minimum wage will make a difference to these women.

Increasing the minimum wage by 90 cents over the next year is the right thing to do. It has been almost five years since the minimum wage was last increased. As I'm sure anybody who has gone to the grocery store or the doctor's office lately can tell you, in the last five years prices have increased, but wages have stayed the same. The report on our economy issued yesterday confirms this fact: wage growth was at 0.08 percent, while our economy grew at an annual rate of 4.2 percent.

Increasing the minimum wage will raise wages, not lose jobs. Last year a group of respected economists, including three Nobel prize winners, concluded that an increase in the minimum wage to $5.15 an hour will have positive effects on the labor market, workers, and the economy. Paying a living wage does not mean that jobs will be lost.

Workers are our greatest resource. We should recognize the contributions of our workers. Our country is founded on the belief that hard work is the foundation of success—this is the American Dream. Congress should encourage, not discourage, effort and perseverance. A minimum wage should provide a living wage for those who are working day in and day out to provide for themselves and their families. Family values and the American Dream are ideas we like to talk about, but today we can actually make them more real for millions of Americans.

Although it is not perfect, this is a good bill. Women, children, and working people will all benefit, and it will help promote job-creation, and economic growth. I want to commend my colleagues on the Finance Committee, particularly Chairman ROTH and the ranking Democratic member, Senator MOYNIHAN, who have worked hard to produce a bipartisan bill that promotes growth and stability among small businesses.

I urge my colleagues to join with me in supporting the final passage of what is generally a common sense, people oriented, bipartisan bill.

Mr. CRAIG. Mr. President, I rise in opposition to the conference report on H.R. 3448.

This title of this bill is supposed to be the ''Small Business Job Protection Act of 1996''.

Title I, the tax title, is consistent with that spirit. It would make the Tax Code a little fairer, improve economic and employment opportunities, and provide some necessary tax relief.

But the problem remains that, in passing this bill as a whole, we would be driving the economy with one foot on the gas and the other on the brake.

The Senate had the chance to tip this bill in favor of creating more and better jobs and providing necessary relief for small businesses. Unfortunately, on a close vote, this body defeated the amendment offered by the Chairman of the Small Business Committee, the Senator from Missouri [Mr. BOND]. That amendment would have protected small, vulnerable employers from a one-size-fits-all mandate increasing the federal minimum wage.

The Democrat Party had two years, during which it controlled the White House and the Congress, to increase the minimum wage. They never moved a bill out of committee. They never offered an amendment on the floor. They waited until this year to strike. I just have to suspect there were some political motivations involved, and some crocodile tears shed over the workers they say they want to help.

I commend those who have labored long and hard to take a legislative lemon and turn it into lemonade. I am sorry I cannot, in good conscience, vote for the resulting bill.

All too often, Congresses and Presidents have taken a perceived problem, put it under a microscope, and tried to address it with a one-size-fits-all federal mandate. The result often has been government by anecdote. Unintended consequences and innocent bystanders have not always been taken into account in the rush to adopt a ''feel-good'' solution.

That risk of unintended consequences is definitely present in the bill before us today.

We feel for those Americans who are working hard at making ends meet. It is easy and it is tempting to look at a $4.25 an hour minimum wage and say, let's just mandate an increase in that wage. But that is the wrong answer. That approach will hurt the very persons it is meant to help—the working poor and entry-level employees.

Common sense, the laws of economics, and experience all tell us this. We've all heard the numbers. The commonly accepted figure is that a standalone increase in the minimum wage from $4.25 an hour to $5.15—a 21 percent increase—would result in the loss of at least 621,000 jobs. In Idaho, it would destroy 3,200 jobs.

I don't know how many of those jobs might be saved with the tax provisions in this bill, but it's obvious that many small employers will fall through the cracks. These are the businesses who will have little or no opportunity to use the tax relief provisions elsewhere in this bill.

These are employers who have taken pride in creating jobs and opportunities for those who need them, and who take pride in serving their customers at affordable prices.

I've heard from many small businesses in Idaho who are concerned about this bill. They are already calculating whether they will have to lay

off employees because of this bill. Restaurants are already having new menus printed up with higher prices. Jobs will not be available for young and entry-level workers, because some employers simply will no longer be able to afford them when the government arbitrarily raises the price of their labor.

Some have suggested that the economic impact of such an increase is ''negligible.'' But it's not negligible for each American who loses his or her job as a result. In many cases, the job lost would be the most important one that person will ever have—his or her first job.

In recent years, small businesses have created every net new job in this country. They take the risks of hiring and training new workers. They do not have the economies of scale of large businesses and suffer a disproportionate impact from government regulation. They tend to be labor-intensive. If you drive up the costs of their labor, they will be forced to create fewer jobs.

In fact, 77 percent of the economists who responded to a survey of the American Economics Association agreed that, by itself, a higher mandated minimum wage would have a negative impact on employment.

Obviously, that negative impact is going to fall on workers at or near the minimum wage, and especially those who are the least-skilled and need an entry-level job the most.

Realistically, the federal minimum wage today already is a training wage. The average minimum wage worker is earning $6.06 an hour after one year.

In most work places, at every level of compensation, it is common for a new employee to be paid more after a few months. That is because there is almost always a learning curve, during which the employer is investing time, energy, and money in training and acclimating the new employee. The opportunity wage in this amendment simply reflects that reality of labor economics.

Mr. President, I do want to emphasize that I support the tax title of this bill. I particularly want to express my support and appreciation for several of these provisions, including:

The Shelby-Craig adoption tax credit; enactment of this credit is compassionate, pro-family, pro-children, and long overdue; increasing the availability of Individual Retirement Accounts for spouses working in the home as homemakers; revising and extending the Work Opportunity Tax Credit, which will help employers hire and retain disadvantaged employees; restoring and extending the tax exclusion for employer-provided educational assistance; making S corporation rules more flexible; providing fairer treatment for dues paid to agricultural or horticultural organizations; improving depreciation and expensing rules for small businesses.

I also commend the conferees for accepting the House's provision restoring and making permanent the exclusion from FUTA—the Federal Unemployment Tax—for labor performed by a temporary, legal, immigrant agricultural worker. Such employees are ineligible for FUTA benefits that are financed by this tax. Therefore, this tax is imposed on employers for no reason, except that the previous exclusion simply expired.

I have supported these provisions consistently in the past and commend the Finance Committee for including them in this bill.

I do want to express one note of concern. This bill would extend the Research and Experimentation Tax Credit, but with an early sunset—May 31, 1997—and without making it available for investments made after it last expired and before July 1, 1996.

The R and E Credit is one of those ''extenders'' that keep expiring and keep getting renewed. As a matter of fairness, most, if not all, of these extenders simply should be made permanent, or at least extended for a longer period of time. Several times in the past, these provisions have been renewed retroactively, but that is not the case of the R and E Credit this year.

This stop-and-start approach to tax law undoes much of the good intended by these tax incentive provisions. We need to provide taxpayers with greater predictability in the Tax Code if we want to be effective in helping them invest and create jobs.

Overall, the tax title provisions in this bill are valuable and beneficial. I commend the Chairman and Members of the Finance Committee for their work.

We should be passing laws that boost the economy, increase opportunity and create jobs. We can and should do better than passing a bill that gives with one hand and takes away with the other. Therefore, although there are good provisions in this bill, I must cast a nay vote today.

MORNING BUSINESS

THE PRESIDENT'S ''TRAVELGATE'' 180

Mr. GRASSLEY. Mr. President, yesterday's display by the President of the United States, snapping at reporters' questions about the Billy Dale bill, says a lot to me.

First, it tells me the President has once again gone back on his word. This is not a surprise. It has happened so often with this President. And to be fair to him, he is certainly not the first politician that has gone back on his word, from either party.

Yet, this President has championed the little guy. He came to town declaring war against all the wrongs resulting from the Washington political culture. Then, his own White House committed such a wrong.

Initially, the President did the right thing. He said his staff had made a mistake. They had handled the matter wrong. Their display of cronyism and favoritism was at the expense of the careers and reputations of seven dedicated public servants and their families.

All the while, the President's staff was waging war against the character of these seven. It's also known as character assassination. After that, the White House launched the IRS and the FBI to harass them, as if to justify the staff's wrongdoing.

Then, they sent the Justice Department out to prosecute them. They had the full force of the Federal Government out after these seven public servants and their families.

The case went to trial. And it took no time at all for a jury to acquit Billy Dale. That is how trumped up the charges were. A jury had no problem seeing that.

Clearly, the White House drove Mr. Dale and the others right out of town with no justification. It was pure, naked politics, cronyism and favoritism. And when a White House uses the powers and resources of the Nation's No. 1 law enforcement agency, the Nation's tax collecting agency—which also happens to be the No. 1 harassment agency—and the Nation's No. 1 prosecution department, against innocent workers and their families, try telling the public that's not grotesquely wrong.

And that is why Congress moved to reimburse Mr. Dale and the others for their legal expenses.

Even the President, after the acquittal, said he regretted what Mr. Dale had to go through. But the President has now decided that the right move is to reverse himself and defend what his staff did to these seven families. He defends zealous White House staffers using the full powers and resources of the Federal Government to harass innocent people. He lines up on the side of politics, cronyism and favoritism. He fails to right a wrong that was perpetrated by the Washington culture of politics.

The President did another reversal as well. After the acquittal, the President's personal attorney, Robert Bennett, issued an inappropriate and sour-grapes response. Mr. Bennett improperly discussed in public a confidential matter involving a plea agreement he alleged Billy Dale's attorney offered. Billy Dale denies the allegation.

Upon Mr. Bennett discussing confidential information, the White House rightly said Mr. Bennett had stepped over the line. His comments were objectionable and improper. The reason is, plea negotiations are confidential. Rules exist to protect that confidentiality. Mr. Bennett may have violated the intent of those rules. And so the White House admonished him.

It turns out, Mr. President, that the plea agreement issue came up again yesterday. In public. Notwithstanding the rules of confidentiality.

But this time, the White House didn't issue a statement of admonishment.

That's because it was discussed by none other than the President himself. The President of the United States is discussing confidential information in the public arena. And in the process, he's doing exactly the same thing that his office had admonished the President's attorney for doing earlier this year.

So here is what we have learned from the President's skirmish yesterday with reporters. First, he has now done a U-turn and allowed himself to get caught up in the mean-spirited attitude of his zealous political staff. Second, he has allowed himself to stoop to the level of the leakers and character assassins by discussing confidential information. Is this behavior befitting of what is expected of the President of the United States?

At the same time, the President has not kept his eye on the central issue—the clear need to right the wrong perpetrated by zealous White House agents.

Mr. President, this Travelgate issue is marked by a curious but telling phenomenon. At the beginning, the President was saying one thing, but the government he runs was doing the opposite. Obviously, we don't want or expect this in a Presidency. You want the President to say one thing, and have those in his control do that one thing, too. You want uniformity. You want the ''saying'' and the ''doing'' to be one and the same.

But there is another variable in the equation. In the Travelgate matter, the President's words reflected the right thing, and his staff's deeds reflected the wrong thing. So the President, in seeking uniformity, made the wrong choice. Instead of making his administration conform to his admirable utterances, he went native with the wrong side. That is why he is now attacking Billy Dale like his attorney did; and that is why he has suddenly decided he will not sign the bill.

Mr. President, this episode shows that the President has failed to uphold the principle of justice, fairness, and right vs. wrong in this matter. The test of any leader is to view his actions on matters that happen in his own back yard, or which affect him personally. [This is one such matter.] And to me, the President has failed that test of leadership.

By not doing the right thing—and in fact, by now joining the wrong side in the campaign to assassinate one's character—he has undercut his own moral authority as a leader. He has abdicated his responsibility to see that justice was done for seven of his own former employees and their families. He has abandoned his commitment to stand up for the little guy. In a sense—it is okay to stand up for all these high and mighty principles—jut not in my back yard.

And that is why, Mr. President, the President's about face in the Billy Dale matter is disappointing to me. And it tells me much about his leadership capacity.

I yield the floor.

TRIBUTE TO REAR ADM. ROBERT J. NATTER, U.S. NAVY CHIEF OF LEGISLATIVE AFFAIRS

Mr. LOTT. Mr. President, I take this opportunity to recognize and say farewell to an outstanding Naval officer and dear friend, Rear Adm. Robert J. Natter, who has served with distinction for the past 33 months as the Navy's Chief of Legislative Affairs. It is a privilege for me to recognize his many outstanding achievements and commend him for the superb service he has provided this legislative body, the Navy and our great Nation.

A native of Trussville, AL, Admiral Natter comes from a patriotic family of seven boys and two girls that has contributed immeasurably to our Nation's defense. All seven boys have served as commissioned officers in our Armed Forces—six in the Navy and one in the Air Force. Four graduated from the U.S. Naval Academy, one was commissioned through Navy Reserve Officer Training Corps, and one attended Officer Candidate School. Two are currently Navy admirals. I salute this family who has served our Nation so well.

Admiral Natter enlisted in the Naval Reserve at the age of 17 as a seaman recruit. Following 1 year of enlisted service and 4 years at the Naval Academy, he was graduated and commissioned an Ensign in June 1967.

Admiral Natter's service at sea includes department head tours in a Coastal Minesweeper and Frigate, and Executive Officer tours in two Amphibious Tank Landing Ships and a Spruance Destroyer. He distinguished himself in combat as Officer-in-Charge of a Naval Special Warfare detachment in Vietnam. He later commanded the guided missile destroyer U.S.S. *Chandler* and guided missile cruiser U.S.S. *Antietam*. He has been the recipient of many awards and commendations including the Silver Star and Purple Heart.

As the Navy's Chief of Legislative Affairs, Admiral Natter has provided timely support and accurate information on Navy plans and programs. Working closely with the United States Congress, he helped maintain the best-trained, best-equipped, and best prepared Navy in the world. His strong leadership provided a legacy of innovative, affordable and technologically superior naval systems and platforms for those who will serve in the Navy decades after he steps down as the Chief of Legislative Affairs. His consummate leadership, integrity, and tireless energy serve as an example for us all.

Mr. President, Bob Natter, his wife Claudia, and daughters Kelly, Kendall, and Courtney have made many sacrifices during his 30-year naval career. They have made significant contributions to the outstanding naval forces upon which our country relies so heavily. Admiral Natter is a great credit to both the Navy and the country he so proudly serves. As this highly decorated combat veteran now departs to take command of the United States Seventh Fleet, I call upon my colleagues from both sides of the aisle to wish him fair winds and following seas. He is a sailor's sailor.

TRIBUTE TO JOHN WAYNE

Mr. THURMOND. Mr. President, John Wayne, ''The Duke''. The mere name evokes in people around the world powerful images and fond recollections of the late actor and great American. Though he has been gone for 17 years, his spirit clearly lives on through his many movies and in the minds of his millions of fans. On August 17th, hundreds of people who admire this great man will gather in Los Angeles, CA to pay tribute to an individual who is a legend and an institution.

Americans are a tough lot. We are a nation that was founded by men and women of great courage, strength, and morals. It took tough and determined people to win our independence from the British; to fight for the cause of the Confederacy or the Union; to tame the wild west; to twice lead the world to victory in two vicious global wars; and, to have led the fight against forces bent on subjugating the freedom loving people of the world under the corrupt doctrine of godless Communists. Americans are individuals who admire self-reliance, honesty, and fairness, and without question, John Wayne was someone who personified these traits as a man, and who brought these qualities to the silver screen through his prolific career as an actor, director, and producer.

In countless movies, John Wayne portrayed mythic figures of American lore. Characters that included cowboys, lawmen, soldiers, sailors, and marines in films such as ''Stagecoach,'' ''The Sands of Iwo Jima,'' ''The Fighting Seabees,'' ''The Shootist,'' ''The Green Berets,'' ''True Grit,'' and dozens of other titles that soon became classics. It was impossible not to admire John Wayne and the roles he played for they all embodied the ideals that Americans hold dear. Moviegoers knew that if ''The Duke'' took a swing at someone, they deserved it, or if John Wayne fired a weapon, it was only to protect the life of an innocent person, to uphold the law, or to help defend the Nation. The characters John Wayne played were decent men committed to doing what is honorable and just, and for those reasons, he will be remembered as a American icon for many generations to come.

Mr. President, the United States is a nation that is made up of men and women who labor tirelessly to make our county a better place. Few people think about the police officers and firefighters who put their lives on the line, or the tens of thousands of service members spread around the world protecting American security, or the

nurses who tend to our sick. Day in and day out, these people carry out heroic acts with little or no recognition. John Wayne portrayed these people in his films, and they saw their efforts chronicled and, in The Duke, these Americans saw a little bit of themselves. There will probably never again be another actor who so embodies all the best qualities of our Nation. There will certainly never be another John Wayne.

TRIBUTE TO GARRETT D. BOURNE

Mr. THURMOND. Mr. President, I rise today to pay tribute to Colonel Garrett ''Gary'' D. Bourne, as he prepares to retire from his career as an officer and a soldier in the United States Army.

Gary Bourne began his career more than 28 years ago when he was commissioned a second lieutenant in the Field Artillery, and spending his first tour of duty with the 82d Airborne Division. Throughout his career, Gary Bourne has expertly met the many challenges of military service as an Army officer, and he has faithfully served his Nation in a variety of command and staff assignments throughout the world including the continental United States, Vietnam, Europe, Southwest Asia, and Panama.

If there is one thing an officer in the Army wants to do, it is to command troops, and Gary Bourne has done so at the battery and battalion levels. He ultimately held the much coveted position of Brigade Commander when he was tapped to lead the 210th Field Artillery Brigade. During his time with the 210th, the United States faced down Saddam Hussien, and Colonel Bourne was responsible for leading his brigade from Germany to Southwest Asia where his unit served as the covering force artillery commander for the VII Corps during Operation Desert Storm.

From 1987–1990, Colonel Bourne traded in his Battle Dress Uniform for a suit and tie and joined the Army Legislative Liaison Office to the U.S. Senate. During those three years many of us came to know this dedicated officer who tirelessly worked to represent the interests of the Army to members of this Chamber, as well as to assist us with matters related to the Army.

After an almost three decade career in the Army, Colonel Bourne will soon leave his present post as Chief of Staff of the Fifth United States Army and bring his service to the Nation to an end. The Colonel's career has been distinguished, and it has been marked by his commitment to duty and selflessness. I commend Colonel Bourne on his career of accomplishment and wish him and his wife good health and great happiness in the years to come.

FDA PERFORMANCE ACCOUNTABILITY ACT

Mr. GRASSLEY. Mr. President, we have accomplished many things this Congress. Just this week we passed a comprehensive welfare reform proposal which will end welfare as we know it. We passed a meaningful small business tax relief bill. And, we will pass a momentous health insurance reform bill that will improve the availability and portability of health insurance coverage.

I would like to point out another opportunity Congress has to pass a significant reform proposal and that is the Food and Drug Administration Performance and Accountability Act. I hope we can consider this bill when we return in September.

The Senate Labor Committee has spent a considerable amount of time on this comprehensive piece of legislation. And, let me point out, this reform proposal passed out of committee on an 11 to 4 vote.

The commonsense proposals in this bill are designed to strengthen the agency's ability to ensure that safe and effective new medicines are made available to patients without delay by eliminating redtape and streamlining operations.

The FDA is designed to achieve the goal of ensuring a safe and efficient approval process. And, the FDA has been concerned to protect the public from unsafe drugs.

But, it is time to ensure that the agency becomes equally concerned about promoting public health by making safe and effective new therapies available to patients as soon as possible. Patients can be harmed by delay in approving safe and effective new medicines just as they can by the approval of unsafe new medicines.

I urge the majority leader to consider this legislation in a timely enough matter so that we can send it to the President and I ask unanimous consent to have printed in the RECORD an editorial by Senators KASSEBAUM and MIKULSKI in support of this piece of legislation.

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

[From the Washington Post, July 26, 1996]

THE FDA CAN WORK BETTER

(ByBarbara Mikulski and Nancy Kassebaum)

The Post's July 17 editorial ''Reform Isn't Risk-Free'' continues the drumbeat of negative commentary on our efforts and the efforts of a bipartisan group of our colleagues on the Senate Labor and Human Resources Committee to achieve meaningful reform of the Food and Drug Administration.

At the outset, we would make the point that a failure to make needed reforms is by no means a risk-free proposition. Inaction and delay victimize just as surely as the wrong action. We hear constantly about the deformities prevented in the early 1960s by the agency's not approving thalidomide. Rarely, however, is a word spoken about the cases of spina bifida that could have been averted had the FDA not delayed for years in permitting health claims to be made about the benefits of folic acid in preventing such neural tube disorders.

As the 1989 ''Edwards Commission'' report put it: ''The agency should be guided by the principle that expeditious approval of useful and safe new products enhances the health of the American people. Approving such products can be as important as preventing the marketing of harmful or ineffective products.'' The Edwards Commission was but one of a series of distinguished panels convened during the past two decades that have urged FDA reform.

During the year-long process in which our legislation was developed, we drew heavily from the work on these expert panels. Contrary to The Post's suggestion that we are rushing a poorly though-out piece of legislation to the Senate floor, we believe that this bill embodies the best thinking on this topic produced over years and years of study.

Moreover, we have drawn as well from the successful experience of the FDA in expediting approval of AIDS drugs without jeopardizing safety and effectiveness. In response to sustained pressure from the AIDS community, the agency demonstrated that it could, in fact, change its culture and its procedures to implement reforms it had resisted for years.

Unfortunately, this experience has not been regarded as a foundation upon which to build further improvements but, rather, has been seized upon as ''proof'' that further changes are unnecessary. Scientific methods and technology have changed dramatically since the thalidomide incident, while regulatory structures have barely bulged. Applications for the approval of new drugs typically run to hundreds of thousands of pages.

An incentive is growing for U.S. companies to move research, development and production abroad, threatening our nation's continued world leadership in new product development, costing American jobs and further delaying the public's access to important new products.

It is disconcerting to us that our efforts are being regarded as a ''hostile takeover'' of the agency, as opposed to the sincere effort it is to enhance the professionalism, stature and effectiveness of the agency. The bill maintains the FDA firmly in the driver's seat; it does not turn over all the regulatory power to the private sector, as critics have charged inaccurately. It encourages cooperation from the very beginning of the process so that costly delays can be avoided at the end of the road.

It is perhaps even more disconcerting to hear critics of our efforts suggest that we are willing to put people's lives at risk in order to collect large campaign contributions from the drug industry.

The strong bipartisan vote in the Senate Labor and Human Resources Committee reflects the desire of Republicans and Democrats alike to make the FDA work better for all Americans. We have reached out to the administration, and we are more than willing to make constructive changes in the legislation as reported by the committee. We are not, however, willing to tolerate endless rationalizations as to why the status quo should be maintained. Our goal is to maintain these core principles: streamline and clarify the regulatory process while maintaining safety and efficacy.

Our determination to move forward is fueled by the plight of countless individuals who have contacted us over the years to request assistance in speeding the FDA's evaluation of new therapies that hold promise for treating serious illnesses, such as amyotrophic lateral sclerosis (ALS), multiple sclerosis and cancer. For these individuals, the real risk is not that we will act in haste, but rather that we will fail to act at all.

Barbara Mikulski is a Democratic senator from Maryland. Nancy Kassebaum is a Republican senator from Kansas.

RETIREMENT OF COL. JOHN R. BOURGEOIS, USMC

Mr. NUNN. Mr. President, I would like to take a few moments to acknowledge the ''passing of a baton'' both in the literal and figurative sense.

On July 11, 1996, Col. John R. Bourgeois, the 25th director of the U.S. Marine Band and Music Advisor to the White House, retired. He had led the band, known as the President's Own, for 17 years.

A native of Louisiana, Colonel Bourgeois joined the Marine Corps in 1956 and joined the band just 2 years later as a French horn player. When he was appointed to his present grade, he became the first musician in the Marine Corps to serve in every rank from private to colonel.

As director of the Marine Band and Music Advisor to the White House, Colonel Bourgeois has selected the music for each Presidential inauguration since 1981 and has appeared at the White House more frequently than any other musician.

I am sure that those of my colleagues who have enjoyed the band's incredible performances at the evening parades or in other venues are not surprised that Colonel Bourgeois and the Marine Band remain the favorite of Presidents year after year.

When he retired, Colonel Bourgeois literally passed the baton—a baton that had been given to another director of the Marine Band, John Philip Sousa, over a century ago—to Maj. Timothy W. Foley, who has been nominated to become the next director.

The particular connection between the military profession and its rousing music has transcended the years and national borders. It is as much a part of history as military service itself.

As Colonel Bourgeois retires from active duty after a distinguished career of service to the Marine Corps and his country, I know all of my colleagues join me in expressing our deepest appreciation for the passion and professionalism he has brought to his duties, and the joy and pride he has brought to so many Americans.

TAIWAN STUDENTS AND FREE EXPRESSION

Mr. REID. Mr. President, in our Nation we take for granted the ability to speak freely and express what we please with no governmental interference. There are a number of celebrated legal cases that delineate the standard of time and manner regulation of speech in America and other select limitations. Moreover, here in America we don't believe that expression is allowed for one group and not for comparable organizations. Such designated permission is paramount to censorship of the party denied their speech.

In this regard, I voice my concern today about an incident that has been reported about an incident that occurred at the Olympic Games in Atlanta during a table tennis championship between Taiwan and the People's Republic of China. During the game, two Taiwanese students waving the national flags of Taiwan were arrested under the premise that they could not wave large flags, yet all around them large flags from other countries were in fact being waved by a multitude of those present at the event.

Mr. President, to understand the deep significance of this event is to know that the contentions over flags and other items of national emblems and insignia is one of the issues that has long obstructed an amiable relationship between the People's Republic of China and Taiwan. This history is extensive and, frankly, humiliating to Taiwan, which has not always been afforded the full privileges of national pride at events where both the Peoples' Republic of China and Taiwan have been represented.

Again, at these Olympic Games in Atlanta, Taiwan was subject to not displaying their recognized flag and subjecting their representatives to wearing other colors and design. While the Taiwan Government recognized the need for its official representatives to abide by an arrangement with the Olympic Committee, Taiwanese fans were not subject to such agreements. Nor should they have been. I believe the United States would have been furious if its citizens were asked to not display the Stars and Stripes or substitute the flag for another emblem under which to cheer their teams. Yet, in Atlanta, the Taiwanese citizens were arrested for ''disruption of public order by waving the flag of the National Republic of China (Taiwan).'' Mr. Hsu, a citizen of the Peoples' Republic of China and chairman of the International Table Tennis Association, admits to calling on the police to arrest the students.

I am concerned that the Atlanta Police Department was answering to a citizen of the Peoples' Republic of China in conducting arrests of individuals in America. Additionally, the question of subjecting citizens from countries to all of the agreements that the formal representatives may agree to is also a disturbing precedent. I believe the International Olympic Committee should carefully examine these circumstances, particularly since we in the United States fundamentally believe in more expression rather than less. Oliver Wendell Holmes once pronounced a need for great protection of the ''marketplace of ideas.'' We should do no less for the expression of national pride. We should not be party to restricting some individuals for waving flags when the premise of the Olympic Games is the competition of athletes representing their nations. I urge an examination of the facts of this situation by the proper authorities.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Thursday, August 1, the Federal debt stood at $5,183,636,383,503.29.

Five years ago, August 1, 1991, the Federal debt stood at $3,577,200,446,910.06, hence an increase of more than $1.6 trillion dollars—$1,606,435,936,593.23 to be exact—in the past 5 years.

SUSAN COHEN—THE TIRELESS PURSUIT OF JUSTICE

Mr. KENNEDY. Mr. President, on Monday, August 5, a distinguished American named Susan Cohen will be present in the White House when President Clinton signs H.R. 3107, the Iran and Libya Sanctions Act of 1996. Susan Cohen eminently deserves this honor. She was a dedicated and tireless leader in the effort to enact this legislation.

Susan Cohen, of Cape May Court House, NJ, is the mother of Theodora Cohen—a victim of Pan Am Flight 103. Since the bombing of that flight over Lockerbie, Scotland in December 1988, Susan and her husband, Dan, have dedicated their lives to bringing to justice those responsible for their daughter's death. In recent months, Susan has been extremely effective in her efforts to educate Members of Congress about the importance of applying this legislation to Libya, which continues to harbor the two suspects indicted in the bombing.

All of us who know Susan Cohen admire her inspiring devotion to justice. Her efforts have brought us closer to the goal. I commend her for her leadership, and I ask unanimous consent that a recent New York Times article may be printed 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 24, 1996]

TIME PASSES, BUT THE PAIN NEVER FADES

(By Evelyn Nieves)

Susan Cohen watched the mourners toss single roses into the sea, heard a reporter talk about ''a sense of closure,'' and turned off her television, shuddering with sadness and disgust.

Of all the hard times in the week since T.W.A. Flight 800 blew up, seeing Monday's seaside memorial to the 230 victims had to be one of the worst. ''I couldn't stand to watch those people,'' she said. ''It was just too much. And to hear the talk about closure just made me want to throw up.''

The next day, her emotions were still raw. ''All these homilies about loved ones going to a better place. I just hate that,'' she said. ''The politician said eight million meaningless things. As if that could help. As if any of that could help.''

It is going on eight years since Mrs. Cohen and her husband, Daniel, lost their only child, Theodora, 20, to the terrorist bombing of Pan Am Flight 103 over Lockerbie, Scotland, which killed 270 people. ''The pain will not go away,'' Mrs. Cohen said. ''It will never go away.''

Theodora—Theo to all she knew—was a singer and aspiring actress. ''She had a beautiful soprano voice,'' Mrs. Cohen said. ''She was vibrant and artistic.''

She was on her way home from London, where she had spent a semester studying drama. A plastic explosive, hidden in a portable radio in the cargo hold ripped the jet apart and all 259 people aboard, and 11 people on the ground, were killed.

''I feel such a rage of anger that you cannot imagine,'' Mrs. Cohen said, ''Because Theo's murderers are out there. No one has been punished. I looked at Fred Goldman in that ghastly O.J. trial and knew what he was going through for his son.''

When she talks, the words spill out in coherent sentences, as if she has thought them a million times.

The Cohens have spent countless hours since the death of their daughter in pursuit of answers, and justice. Two Libyan Government agents indicted for the bombing remain in Libya, free. Over the last several months, Mrs. Cohen has spent six or seven hours a day on the phone, lobbying Congress to pass sanctions against foreign oil companies doing business in Iran and Libya. Yesterday, it passed the House. ''Because a plane blew up, not because of anything that I've done,'' she said, ''Is that what has to happen for justice? A bombing?''

Even the prospect of tough sanctions does not make her happy. Getting the bill passed was just the first step, she said. Now, ''the fight is to see it's enforced.''

She has worked on fighting Congress with a few other people who lost relatives to the Pan Am 103 bombing, but not many. Over the years, Pan Am 103 families, who won a civil suit against Pan Am, have argued bitterly over how best to pursue justice. ''There are now four groups of Pan Am families,'' Ms. Cohen said.

''We've all fought horribly. I look at the pictures today of families locked shoulder to shoulder on the beach. We started together, too. But the idea that everybody gets together as one big unhappy family is one of the myths of these tragedies.''

Another great myth: ''The Getting On with Your Life story,'' Mrs. Cohen said. ''The idea that you can move beyond the tragedy makes me want to vomit. The year is circular. Theo's birthday is coming up Sept. 10.''

When her daughter died, Mrs. Cohen, a writer like her husband, stopped writing. For months, years it seemed, she stopped doing much of anything. Days passed in bed, months in a blur. Four years ago, the Cohens moved from Port Jervis, N.Y., where they raised their daughter, to Cape May County in New Jersey. ''I couldn't stand that house any more.'' Mrs. Cohen said. ''I couldn't take the memories any more.

Though it doesn't really help, she knows she is not alone. One woman she knows who lost her 20-year-old son to Pan Am 103 visits his grave every day, sometimes twice a day. Another who lost her husband ''has been just as devastated by his loss as I am by my daughter's,'' Ms. Cohen said. ''It takes a great poet to describe this. It takes genius to be able to describe the depths of pain, and I'm not a great poet or a genius.''

The Cohens live with a dog and three cats in a ranch house with bird feeders hanging in the backyard. Mrs. Cohen belongs to a P.G. Wodehouse society, a Sherlock Holmes reading group and goes birding near home. They happen to live in one of the world's best venues for bird-watching.

''It's not like I'm living here and can't get out of bed,'' Ms. Cohen said. ''I'm living. But there's an enormous hole, a hole so huge it's the size of the Grand Canyon. It's never the same. It can never be the same.''

TRIBUTE TO MICHAEL RHODE, JR.

Mr. NUNN. Mr. President, I rise today to note the passing of and to pay tribute to Michael Rhode, Jr., of South Carolina.

Mike Rhode died after a brave bout with cancer in May, only too briefly after he retired from his position as Secretary of the Panama Canal Commission. I only recently learned of Mike's death.

I first met Mike when he served as Chief of the Army's Senate Legislative Liaison Office in the early 1970's when I was a newly elected Member of the U.S. Senate. Mike, who had combat experience in Korea and Vietnam, literally took me under his wing and played a major role in my education about the capabilities of the U.S. Army and the other services. He accompanied me on my official travels, particularly to the territory of our NATO allies. Mike was extremely knowledgeable about NATO and my first-ever report to the Armed Services Committee on NATO specifically cited Mike's invaluable assistance and expertise on NATO matters.

I continued my association with Mike when, upon his retirement from the Army after 26 years of dedicated service to our Nation, he became the Secretary of the Panama Canal Commission in 1980. Mike was extraordinarily helpful to me and the other members of the Armed Services Committee as Secretary of the Commission. He had that unique ability to explain proposed legislation and to suggest ways in which the laws governing the operation and maintenance of the Panama Canal could be modified over the years to ease the transition to Panamanian control by the year 2000.

In looking back over my association—and my friendship—with Mike over the years, I am most struck by his dedication to duty and his warm and gregarious personality. He always had a warm smile and time to spare to answer any question. Shortly before he retired from the Panama Canal Commission, Mike came by my office for a purely social call. We reminisced about old times and talked about the future that awaited both of us in private life. Mike had been in poor health but was confident that he would lick this health problem as he had all other challenges in the past. My most vivid memory of our last meeting was his broad smile and his plans for retirement with his wife Lin and spending time with his daughter, Pamela Lister, and two sons, Michael and Randy.

Mr. President, Mike Rhode was a valued friend and a dedicated and talented public servant. He will be sorely missed.

FDA REFORM

Mr. LOTT. Mr. President, I rise today to once again commend the distinguished Senator from Kansas, Senator KASSEBAUM, on her remarkable leadership on the health insurance reform bill. In addition to completing action of this important legislation, it is my hope and intention to complete action in the fall on another piece of legislation that Senator KASSEBAUM has worked on for some time—S. 1477, the Food and Drug Administration Performance and Accountability Act.

Negotiations to bring all sides together on FDA reform have been ongoing throughout the 104th Congress and the Labor and Human Resources committee has reported out S. 1477 with overwhelming bipartisan support. Since that action, it is my understanding that some very serious discussions have been underway to resolve outstanding issues and that we are very close to reaching final agreement on compromise legislation. I am encouraged by these continued discussions so that this bill can be passed in a bipartisan manner when the Congress returns.

Mr. President, it is also my understanding that the leadership in the House of Representatives is also close to reaching agreement on its FDA legislation. Working together, I am confident the House and the Senate can agree on bipartisan legislation that the President can be enthusiastic about signing.

I urge my colleagues to work with Senator KASSEBAUM to complete this important legislation to modernize the FDA, to streamline the approval process, and to bring breakthrough medications to patients, all while maintaining the highest levels of safety for consumers.

Mr. President, a remarkable amount of business has been accomplished in the past few weeks in the Senate on a bipartisan manner. It is my hope we can add FDA reform to the list.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting two treaties and sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 10:32 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 782) to amend title 18 of the United States Code to allow members of employee associations to represent their views before the U.S. Government.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R.

3103) to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term care services and coverage to simplify the administration of health insurance, and for other purposes.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3230) to authorize appropriations for fiscal year 1997 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.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3517) making appropriations for military construction, family housing, and based realignment and closure for the Department of Defense for the fiscal year ending September 30, 1997, and for other purposes.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3845) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1997, and for other purposes.

At noon, a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 123. An act to amend title 4, United States Code, to declare English as the official language of the Government of the United States.

H.R. 2670. An act to provide for the release of the reversionary interest held by the United States in certain property located in the County of Iosco, Michigan.

H.R. 3387. An act to designate the Southern Piedmont Conservation Research Center located at 1420 Experimental Station Road in Watkinsville, Georgia, as the ''J. Phil Campbell, Senior Natural Resource Conservation Center.''

H.R. 3464. An act to make a minor adjustment in the exterior boundary of the Devils Backbone Wilderness in the Mark Twain National Forest, Missouri, to exclude a small parcel of land containing improvements.

At 12:34 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3448) to provide tax relief for small businesses, to protect jobs, to create opportunities, to increase the take home pay of workers, to amend the Portal-to-Portal Act of 1947 relating to the payment of wages to employees who use employer owned vehicles, and to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate and to prevent job loss by providing flexibility to employers in complying with minimum wage and overtime requirements under that act.

At 2:28 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House the bill (S. 1316) to reauthorize and amend title XIV of the Public Health Service Act (commonly known as the ''Safe Drinking Water Act''), and for other purposes.

At 5:15 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 268. Concurrent resolution to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term care services and coverage, to simplify the administration of health insurance, and for other purposes.

At 6:50 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, in which it requests the concurrence of the Senate:

H.R. 3953. An act to combat terrorism.

The message also announced that the House has agreed to the following concurrent resolutions, without amendment:

S. Con. Res. 47. Concurrent resolution to provide for a Joint Congressional Committee on Inaugural Ceremonies.

S. Con. Res. 48. Concurrent resolution authorizing the rotunda of the United States Capitol to be used on January 20, 1997, in connection with the proceedings and ceremonies for the inauguration of the President-elect and the Vice-President-elect of the United States.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 2739) to provide for a representational allowance for Members of the House of Representatives, to make technical and conforming changes to sundry provisions of law in consequence of administrative reforms in the House of Representatives, and for other purposes.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

H.R. 3603. An act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1997, and for other purposes.

The enrolled bill was signed subsequently by the President pro tempore [Mr. THURMOND].

At 7:41 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 782 an act to amend title 18 of the United States Code to allow members of employee associations to represent their views before the United States Government.

S. 1316. An act to reauthorize and amend title XIV of the Public Health Service Act (commonly known as the ''Safe Drinking Water Act''), and for other purposes.

The enrolled bills were signed subsequently by the President pro tempore [Mr. THURMOND].

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3560. An act to designate the Federal building located at 290 Broadway in New York, New York, as the ''Ronald H. Brown Federal Building.''

H.R. 3710. An act to designate the United States courthouse under construction at 611 North Florida Avenue in Tampa, Florida, as the ''Sam M. Gibbons United States Courthouse.''

The message further announced that the House has agreed to the following concurrent resolution:

H. Con. Res. 207. Concurrent resolution approving certain regulations to implement provisions of the Congressional Accountability Act of 1995 relating to labor-management relations with respect to covered employees, other than employees of the House of Representatives and employees of the Senate, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 123. An act to amend title 4, United States Code, to declare English as the official language of the Government of the United States; to Committee on the Judiciary.

H.R. 2670. An act to provide for the release of the reversionary interest held by the United States in certain property located in the County of Iosco, Michigan; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 3387. An act to designate the Southern Piedmont Conservation Research Center located at 1420 Experimental Station Road in Watkinsville, Georgia, as the ''J. Phil Campbell, Senior Natural Resource Conservation Center''; to the Committee on Agriculture, Nutrition And Forestry.

H.R. 3464. An act to make a minor adjustment in the exterior boundary of the Devils Backbone Wilderness in the Mark Twain National Forest, Missouri, to exclude a small parcel of land containing improvements; to the Committee on Energy and Natural Resources.

H.R. 3560. An act to designate the Federal building located at 290 Broadway in New York, New York, as the ''Ronald H. Brown Federal Building''; to the Committee on Environment and Public Works.

H.R. 3710. An act to designate the United States courthouse under construction at 611 North Florida Avenue in Tampa, Florida, as the ''Sam M. Gibbons United States Courthouse''; to the Committee on Environment and Public Works.

The following concurrent resolution was read and referred as indicated:

H. Con. Res. 207. Concurrent resolution approving certain regulations to implement provisions of the Congressional Accountability Act of 1995 relating to labor-management relations with respect to covered employees, other than employees of the House of Representatives and employees of the Senate, and for other purposes; to the Committee on Rules and Administration.

The following bill, previously received from the House of Representatives for the concurrence of the Senate, was read the first and second time by unanimous consent and referred as indicated:

H.R. 3735. An act to amend the Foreign Assistance Act of 1961 to reauthorize the development fund for Africa under chapter 10 of part I of that Act; to the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR

The following measure was ordered placed on the calendar.

S. 1965. An act to prevent the illegal manufacturing and use of methamphetamine.

MEASURE READ THE FIRST TIME

The following bill was read the first time:

H.R. 3953. An act to combat terrorism.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. McCAIN, from the Committee on Indian Affairs, without amendment:

S. 1970. A bill to amend the National Museum of the American Indian Act to make improvements in the Act, and for other purposes (Rept. No. 104–350).

By Mr. STEVENS, from the Committee on Governmental Affairs, without amendment:

H.R. 1271. A bill to provide protection for family privacy (Rept. No. 104–351).

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute.

S. 982. A bill to protect the national information infrastructure, and for other purposes.

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. GORTON:

S. 2017. A bill to authorize the Secretary of Agriculture to exchange certain lands in the Wenatchee National Forest, Washington, for certain lands owned by Public District No. 1 of Chelan County, Washington, and for other purposes; to the Committee on Energy and Natural Resources.

S. 2018. A bill to approve a settlement agreement between the Bureau of Reclamation and the Oroville-Tonasket Irrigation District; to the Committee on Energy and Natural Resources.

By Mr. CRAIG (for himself, Mr. SIMON, Mr. THOMAS, Mr. REID, Mr. GRAHAM, Mr. AKAKA, and Mr. COHEN):

S. 2019. A bill to provide for referenda to resolve the political status of Puerto Rico, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. GRASSLEY (for himself and Mr. HARKIN):

S. 2020. A bill to establish America's Agricultural Heritage Partnership in Iowa, and for other purposes; to the Committee on Energy and Natural Resources.

By Mrs. FEINSTEIN (for herself and Mrs. BOXER):

S. 2021. A bill to suspend temporarily the duty on certain chemicals used in the formulation of an HIV Protease Inhibitor; to the Committee on Finance.

By Mr. THURMOND (for himself, Mr. FAIRCLOTH, Mr. HOLLINGS, Mr. COATS, and Mr. HELMS):

S. 2022. A bill to amend title 23, United States Code, to modify the minimum allocation formula under the Federal-aid highway program, to provide reimbursement to each State with respect to which the highway users in the State paid into the Highway Trust Fund an amount in excess of the amount received by the State from the Highway Trust Fund, and for other purposes; to the Committee on Environment and Public Works.

By Mr. REID:

S. 2023. A bill to provide for travelers' rights in air commerce, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Ms. SNOWE (for herself and Mrs. FEINSTEIN):

S. 2024. A bill to amend the Public Health Service Act to provide a one-stop shopping information service for individuals with serious or life-threatening diseases; to the Committee on Labor and Human Resources.

By Mr. FEINGOLD:

S. 2025. A bill to amend the Communications Act of 1934 to authorize the States to regulate interference with radio frequencies; to the Committee on Commerce, Science, and Transportation.

By Mr. FAIRCLOTH (for himself, Mrs. KASSEBAUM, Mr. COATS, Mr. ASHCROFT, Mr. DEWINE, Mr. FRIST, and Mr. GORTON):

S. 2026. A bill to amend the Fair Labor Standards Act of 1938 to make uniform the application of the overtime exemption for inside sales personnel, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. LAUTENBERG:

S. 2027. A bill to provide for a 5-year extension of Hazardous Substance Superfund, and for other purposes; to the Committee on Finance.

By Mr. LAUTENBERG (for himself, Mr. BAUCUS, Mr. REID, Mr. GRAHAM, and Mr. MOYNIHAN):

S. 2028. A bill to assist the States and local governments in assessing and remediating brownfields and encouraging environmental cleanup programs, and for other purposes; to the Committee on Environment and Public Works.

By Mr. WYDEN (for himself and Mr. D'AMATO):

S. 2029. A bill to make permanent certain authority relating to self-employment assistance programs; to the Committee on Finance.

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

S. 2030. A bill to establish nationally uniform requirements regarding the titling and registration of salvage, nonrepairable, and rebuilt vehicles, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DOMENICI (for himself, Mr. WELLSTONE, Mr. SIMPSON, Mr. CONRAD, Mr. WARNER, Mr. SPECTER, Mr. REID, Mr. DODD, Mr. GRASSLEY, Mrs. KASSEBAUM, Mr. KENNEDY, Mr. BURNS, Mr. HARKIN, Mr. CHAFEE, and Mr. MOYNIHAN):

S. 2031. A bill to provide health plan protections for individuals with a mental illness; to the Committee on Labor and Human Resources.

By Mr. KERRY (for himself and Mr. KENNEDY):

S. 2032. A bill to designate a portion of the Sudbury, Assabet, and Concord Rivers as a component of the National Wild and Scenic Rivers System; to the Committee on Energy and Natural Resources.

By Mr. JOHNSTON:

S. 2033. A bill to repeal requirements for unnecessary or obsolete reports from the Department of Energy, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BREAUX (for himself, Mr. MACK, Mr. GRAHAM, and Mr. COHEN):

S. 2034. A bill to amend title XVIII of the Social Security Act to make certain changes to hospice care under the Medicare program; to the Committee on Finance.

By Mr. BIDEN:

S. 2035. A bill to invest in the future American workforce and to ensure that all Americans have access to higher education by providing tax relief for investment in a college education and by encouraging savings for college costs, and for other purposes; to the Committee on Finance.

By Mr. DORGAN (for himself, Mr. BAUCUS, Mrs. MURRAY, Mr. WELLSTONE, Mr. CONRAD, Mr. WYDEN, and Mr. DASCHLE):

S. 2036. A bill to amend the Agricultural Market Transition Act to provide equitable treatment for barley producers so that 1996 contract payments to the producers are not reduced to a greater extent than the average percentage reduction in contract payments for other commodities, while maintaining the level of contract payments for other commodities, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. LAUTENBERG:

S. 2037. A bill to provide for aviation security, and for other purposes; to the Committee on Commerce, Science, and Transportation.

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

S. 2038. A bill to authorize the construction of the Fall River Water Users District Rural Water System and authorize the appropriation of Federal dollars to assist the Fall River Water Users District, a nonprofit corporation, in the planning and construction of the water supply system, and for other purposes; to the Committee on Energy and Natural Resources.

S. 2039. A bill to authorize the construction of the Perkins County Rural Water System and authorize the appropriation of Federal dollars to assist the Perkins County Rural Water System, Inc,. a nonprofit corporation, in the planning and construction of the water supply system, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HATCH (for himself and Mrs. HUTCHISON):

S. 2040. A bill to amend the Controlled Substances Act to provide a penalty for the use of a controlled substance with the intent to rape, and for other purposes; to the Committee on the Judiciary.

By Mr. D'AMATO (for himself, Mr. MOYNIHAN, and Mr. FAIRCLOTH):

S. 2041. A bill to amend the Marine Protection, Research, and Sanctuaries Act of 1972 with respect to the dumping of dredged material in Long Island Sound, and for other purposes; to the Committee on Environment and Public Works.

By Mr. MACK (for himself, Mr. BOND, Mr. D'AMATO, and Mr. BENNETT):

S. 2042. A bill to reform the multifamily rental assisted housing programs of the Federal Government, maintain the affordability and availability of low-income housing, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. KERRY:

S. 2043. A bill to require the implementation of a corrective action plan in States in which child poverty has increased; to the Committee on Finance.

By Mr. SANTORUM:

S. 2044. A bill to provide for modification of the State agreement under title II of the Social Security Act with the State of Pennsylvania with respect to certain students; to the Committee on Finance.

By Mr. HATFIELD:

S. 2045. A bill to provide regulatory relief for small business concerns, and for other purposes; to the Committee on Small Business.

By Mr. ROCKEFELLER:

S. 2046. A bill to amend section 29 of the Internal Revenue Code of 1986 to allow a credit for qualified fuels produced from wells drilled during 1997, and for other purposes; to the Committee on Finance.

By Mr. HATCH (for himself, Mr. CONRAD, Mr. PRESSLER, Mr. PRYOR, Mr. NICKLES, and Mr. BAUCUS):

S. 2047. A bill to amend the Internal Revenue Code of 1986 to modify the application of the pension nondiscrimination rules to governmental plans; to the Committee on Finance.

By Mr. MOYNIHAN (for himself, Mr. D'AMATO, and Mr. DODD):

S. 2048. A bill to amend section 552 of title 5, United States Code, (commonly referred to as the Freedom of Information Act), to provide for disclosure of information relating to individuals who committed Nazi war crimes, and for other purposes; to the Committee on the Judiciary.

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

S.J. Res. 59. A joint resolution to consent to certain amendments enacted by the Legislature of the state of Hawaii to the Hawaiian Homes Commission Act, 1920; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

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

S. Res. 287. A resolution to authorize the production of records by the Permanent Subcommittee on Investigations; considered and agreed to.

By Mr. WELLSTONE (for himself, Mr. KENNEDY, and Mr. WYDEN):

S. Con. Res. 68. A concurrent resolution to correct the enrollment of H.R. 3103; considered and agreed to.

By Mr. SANTORUM (for himself and Mrs. FEINSTEIN):

S. Con. Res. 69. A concurrent resolution expressing the sense of the Congress that the German Government should investigate and prosecute Dr. Hans Joachim Sewering for his war crimes of euthanasia committed during World War II; to the Committee on Foreign Relations.

By Mr. MURKOWSKI:

S. Con. Res. 70. A concurrent resolution directing the Clerk of the House of Representatives to make technical corrections in the enrollment of H.R. 1975; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GORTON:

S. 2017. A bill to authorize the Secretary of Agriculture to exchange certain lands in the Wenatchee National Forest, Washington, for certain lands owned by Public District No. 1 of Chelan County, Washington, and for other purposes; to the Committee on Energy and Natural Resources.

LAND EXCHANGE LEGISLATION

Mr. GORTON. Mr. President, today I introduce legislation to authorize a land exchange between the Chelan County PUD, in Washington State and the U.S. Forest Service. The land exchange legislation will consolidate land for a wastewater treatment facility onto Chelan County PUD land. Chelan PUD would in turn own and operate the wastewater treatment facility, which serves both the Forest Service and some of the local community.

The legislation was carefully negotiated between the Forest Service and the Chelan County PUD. The Forest Service supports the legislation, and I hope that the legislation can be enacted this year.

By Mr. GORTON:

S. 2018. A bill to approve a settlement agreement between the Bureau of Reclamation and the Oroville-Tonasket Irrigation District; to the Committee on Energy and Natural Resources.

SETTLEMENT LEGISLATION

Mr. GORTON. Mr. President, today I introduce legislation that will authorize settlement between the Bureau of Reclamation and the Oroville-Tonasket Irrigation District in Washington state. Congressman DOC HASTINGS has introduced identical legislation on this subject in the House of Representatives.

This legislation will authorize a carefully negotiated settlement between the BOR and the Oroville-Tonasketi Irrigation District. If enacted, this legislation will save the BOR, and therefore the Nation's taxpayers, money that would otherwise be spent fighting with the irrigation district in court. Briefly, the legislation directs the irrigation district to release and discharge all past and future claims against the United States associated with the project—such claims are estimated at $4.5 million. The irrigation district will assume full responsibility to indemnify and defend the United States against any third-party claims associated with the project. The irrigation district will make a cash payment of $350,000 to the United States—a condition that has already been met. The irrigation district will release the United States from its obligation to remove existing dilapidated facilities—cost estimated at $150,000 in 1978. The district will also be solely responsible for the operations and maintenance of the project, and will agree to continue to deliver water to and provide for O&M of the wildlife Mitigation facilities at its own expense.

The legislation directs the BOR to release and discharge the irrigation district's construction charge obligation under the 1979 repayment contract—present value estimated at $4.2 million. Within 180 days of the date of enactment, the BOR will transfer the title of the irrigation works to district at no additional cost to the district. The BOR will continue to provide power and energy for water pumping for the project for a period of 50 years—starting October 1990—as provided for in the irrigation discount provision in the Northwest Power Act. At the end of that 50 year period, the irrigation district will have to purchase its power at nonirrigation discount rates.

Mr. President, this legislation will resolve a long standing dispute between the irrigation district and the Bureau of Reclamation that will save the taxpayers the expense of financing a long, drawn out court fight. I will work with my colleagues on the Energy and Natural Resources Committee to see that this legislation is enacted this year.

By Mr. CRAIG (for himself, Mr. SIMON, Mr. THOMAS, Mr. REID, Mr. GRAHAM, Mr. AKAKA, and Mr. COHEN):

S. 2019. A bill to provide for referenda to resolve the political status of Puerto Rico, and for other purposes; to the Committee on Energy and Natural Resources.

PUERTO RICO LEGISLATION

Mr. CRAIG. Mr. President, today I am introducing legislation which would establish a congressionally recognized self-determination process to resolve the political status of Puerto Rico. This proposal is made in light of the formal request of the Legislature of Puerto Rico, expressly directed to the 104th Congress, for a response to the 1993 plebiscite on Puerto Rico's future political status conducted under local law.

Puerto Rico Legislature Resolution 62, adopted by the elected representatives of the residents of Puerto Rico on November 14, 1994, specifically calls upon this Congress to state the ''specific alternatives that it is willing to consider, and the measures it recommends the people of Puerto Rico should take as part of the process to solve the problem of their political status.'' Even though time is running out on the 104th Congress, this Senator believes it would be wrong to adjourn

later this year without introducing in the Senate a proposal which addresses the manner in which Puerto Rico's status can be resolved consistent with both self-determination and the national interest.

The solution to Puerto Rico's status cannot be one which imposes a result on the residents of Puerto Rico or on the United States. The process we are proposing recognizes the right of self-determination on both sides of the relationship. Let me explain why my colleagues should support the bill I am offering.

Puerto Rico has been an unincorporated territory of the United States for almost 100 years, subject to the plenary powers of Congress under the territorial clause of the U.S. Constitution, article IV, section 3, clause 2. Congressional authorization for the adoption of a local constitution and delegation of authority for internal self-government in 1952 represented progress in the evolution of the territory's status, but the 3.8 million U.S. citizens residing in Puerto Rico do not yet have equal legal and political rights with their fellow citizens living in the States, or a guaranteed permanent status protected by the U.S. Constitution.

Puerto Ricans have a statutory citizenship status prescribed by Congress in 1917, with less than equal legal standing and political rights while residing in Puerto Rico because it is not a State. In 1980 the U.S. Supreme Court ruled in *Harris* v. *Rosario* (446 U.S. 651) that as long as Puerto Rico is an unincorporated territory subject to the territorial clause it does not violate the fundamental rights which all U.S. citizens have under the Constitution for Congress to treat the U.S. citizens residing in Puerto Rico differently than their fellow citizens in the 50 States as long as there is a rational basis for such unequal treatment.

While any self-determination process we establish should allow the people in Puerto Rico to express approval of this present status, the idea that perpetual territorial status for such a large and populous area is desirable for either Puerto Rico or the nation as a whole needs to be examined closely. To begin with we need to recognize that Americans from Puerto Rico have served with valor along side their fellow citizens in every war this century, but Congress never has afforded the people an opportunity to express their wishes as to the options for full self-government and a permanent status outside the territorial clause—either as a state or through separate nationhood.

In 1953 the U.N. recognized the Resolution 748 (VIII) that establishment of internal constitutional self-government with the consent of the residents was consistent with self-determination principles of the U.N. Charter, and on that basis the United States stopped reporting to the United Nations on the status of Puerto Rico. While Puerto Rico is no longer a non-self-governing for purposes of Article 73(e) of the U.N. Charter, Puerto Rico remains an unincorporated territory under the U.S. constitutional process. In 1956, 4 years after the commonwealth structure for local self-government was established, the U.S. Supreme Court recognized in *Reid* v. *Covert* (354 U.S. 1), that the status of all such unincorporated territories, results from the exercise of the territorial clause authority and ''. . . the power of Congress to provide rules and regulations to govern *temporarily* territories with wholly dissimilar traditions and institutions . . . '' (emphasis added).

The traditions and institutions in Puerto Rico most relevant to the political status of the people there are no longer wholly dissimilar to those of the United States. Puerto Ricans have been U.S. nationals since 1899, with U.S. citizenship for 80 years. Puerto Rico has been within the U.S. legal and political system and customs territory for nearly a century. A republican form of constitutional internal self-government was instituted through a democratic process 45 years ago.

Clearly, the time has come to establish a process through which the current territorial status can be ended in favor of a constitutionally guaranteed permanent status consistent with full self-government, full political participation and equal citizenship rights. That means full integration into the United States on the basis of equality, or full citizenship and a constitutionally protected political status through separate nationhood.

Again, if the residents of Puerto Rico prefer to remain in an unincorporated status and continue the present commonwealth structure for local government, any congressionally recognized self-determination process should enable them freely to express their wishes in this regard. But they will not be able to make a free and informed choice unless the legal and political nature of the current status is defined in a constitutionally valid and intellectually honest manner.

Therein lies the problem with the 1993 plebiscite, in which the status options were formulated by the local political parties. The commonwealth option on the 1993 ballot included elements which were simply unconstitutional, and policy proposals that were so implausible and misleading as to make the voting results highly ambiguous. For example, commonwealth received the lowest voter approval ever at 48 percent, while statehood received the highest vote ever at 46 percent. But the commonwealth ballot definition include permanent union, the same citizenship rights as persons born in the States, increased Federal programs, and parity with the States in Federal budget outlay—features which are constitutional guaranteed and/or politically possible only with statehood.

At the same time, the commonwealth option also called for Federal tax exemptions, fiscal autonomy, a local veto over Federal laws passed by Congress under a so-called bilateral pact, and other features more consistent with independence than territorial status. Independence received 4 percent voter approval. The combined vote for the have it both ways definition of commonwealth and independence was 52 percent, but the combined vote for statehood and commonwealth as options which involved guaranteed permanent union and U.S. citizenship was over 95 percent.

I doubt that the 103d Congress would have adjourned more than a year after the 1993 vote without breaking a deafening silence regarding the results of the plebiscite if the ballot definitions had not rendered those results both ambiguous and confusing.

Apparently due in large part to Resolution 62, in this Congress the House committees with primary jurisdiction with respect to Puerto Rico's status conducted hearings on the 1993 voting results on October 17, 1995. Each of Puerto Rico's political parties were given a full and fair hearing regarding their views on the 1993 vote.

Based on the record of that hearing, the leadership of the concerned House committees transmitted a comprehensive statement to the leaders of the Puerto Rico Legislature on February 29, 1996, setting forth authoritative policy statements and points of law regarding the 1993 voting results. On March 6, 1996, legislation consistent with the principles set forth in the February 29 policy statement was introduced in the House. After hearings in San Juan Puerto Rico in which all parties were heard once again regarding H.R. 3024—United States-Puerto Rico Political Status Act—the bill was amended to meet certain concerns that had been raised and unanimously approved by the Committee on Resources on June 26, 1996.

On June 28, 1996, senior minority members on the two House committees which had conducted the hearings on the 1993 vote also transmitted views to leaders in the Puerto Rico Legislature regarding the results thereof. In addition, on July 18, 1996, 11 members of the minority in the House, including some of the most knowledgeable and experienced Members of Congress where the issue of Puerto Rico's status is concerned, wrote to that body's minority leader expressing their support for the Puerto Rico status bill reported unanimously by the Resources Committee on June 26, 1996.

What the measures taken by House committees and members to date demonstrate is that there is some important new thinking in Congress about the Puerto Rico status issue. There is an emerging bipartisan consensus that the time has come for Congress to recognize that a process which makes definitive self-determination and permanent full self-government available to Puerto Rico is in the U.S. national interest, as well as that of the residents of Puerto Rico.

In particular, I want to point out that the July 18, 1996 letter from concerned members of the minority to House Minority Leader GEPHARDT defends the specific approach to legitimate self-determination for Puerto Rico set forth in H.R. 3024 against criticism generated by supporters of the fatally-flawed and discredited definition of commonwealth presented on the 1993 plebiscite ballot. Specifically, the July 18 letter notes that:

Some have tried to revive discussion over the language and citizenship provisions of the bill, even though these issues were dealt with in the reported text of H.R. 3024. Others claim that the ballot process is unfairly skewed toward one option or another, hoping to revert back to the three-way ballot in 1993 which yielded no clear majority. More than just attempts to amend the legislation, these efforts are aimed at delaying its consideration or tainting its language so that it will never see the light of day.

I have described the response in the House to Resolution 62 of the Puerto Rico Legislature in some detail so that my Senate colleagues can better appreciate the need for some demonstration that Members of this body have an interest in the issues raised by the formal request directed by the local constitutional authorities to the 104th Congress. The bill we are introducing today is not a definitive or final formal response to that request, but it sends an important message to the House and to Puerto Rico that the Senate also will address this matter consistent with the principles of self-determination and the national interest.

Accordingly, the legislation we are proposing, like the House version, recognizes that the commonwealth option can and should be presented accurately and fairly on a status referendum ballot. The voters must be able to evaluate the current status and the commonwealth structure for local government on the merits. But those who think that Congress is required to adopt the same 3-option ballot format employed in the 1993 local plebiscite format need to think again. While we need to respect, study, and consider the 1993 vote despite obvious flaws in the ballot, Congress cannot restrict itself to considering only past practices in Puerto Rico or the approach previously considered by Congress.

We need to keep an open mind, and this bill proposes a new approach consistent with that being developed in the House. It recognizes that Congress may determine that it could be misleading to present the status quo option without distinguishing it in any way from the options for ending territorial status and instituting fundamental changes that would be required to establish permanent full self-government and a constitutionally guaranteed status.

Only when the people who live in Puerto Rico are allowed to vote in a referendum process which defines the choices in a way that is valid and accurate will Congress be able to understand the meaning of the results. Then Congress can respond to those results by proposing the terms under which the preferred option would be possible, after which an additional informed stage of self-determination can take place. If the terms for change are not approved by the people, or the people vote for the option of continued commonwealth, then Congress will have to consider its response to that result as well.

Before my colleagues, or those responsible for these issues in the administration, attempt to defend the approach of the 1993 plebiscite ballot, I suggest they review all of the congressional documents responding to Puerto Rico Legislature Resolution 62 referred to above. To facilitate an openminded consideration of what we are proposing, those documents are included here in the order mentioned above.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

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

HOUSE OF REPRESENTATIVES,
COMMITTEE ON RESOURCES,
Washington, DC, February 29, 1996.

Hon. ROBERTO REXACH-BENITEZ,
President of the Senate.

Hon. ZAIDA HERNANDEZ-TORRES,
Speaker of the House, of the Commonwealth of Puerto Rico, San Juan, PR.

DEAR MR. REXACH-BENITEZ AND MS. HERNANDEZ-TORRES: The Committee on Resources and the Committee on International Relations are working cooperatively to establish an official record which we believe will enable the House to address the subject-matter of Concurrent Resolution 62, adopted by the Legislature of Puerto Rico on December 14, 1994. While the specific measures addressing Puerto Rico's status which the 104th Congress will consider are still being developed, we believe the history of the self-determination process in Puerto Rico, as well as the record of the Joint Hearing conducted on October 17, 1995 by the Subcommittee on Native American and Insular Affairs and the Subcommittee on Western Hemisphere, lead to the following conclusions with respect to the plebiscite conducted in Puerto Rico on November 14, 1993:

1. The plebiscite was conducted under local law by local authorities, and the voting process appears to have been orderly and consistent with recognized standards for lawful and democratic elections. This locally organized self-determination process was undertaken within the authority of the constitutional government of Puerto Rico, and is consistent with the right of the people of Puerto Rico freely to express their wishes regarding their political status and the form of government under which they live. The United States recognizes the right of the people of Puerto Rico to self-determination, including the right to approve any permanent political status which will be established upon termination of the current unincorporated territory status. Congress will take cognizance of the 1993 plebiscite results in determining future Federal policy toward Puerto Rico.

2. The content of each of the three status options on the ballot was determined by the three major political parties in Puerto Rico identified with those options, respectively. The U.S. Congress did not adopt a formal position as to the feasibility of any of the options prior to presentation to the voters. Consequently, the results of the vote necessarily must be viewed as an expression of the preferences of those who voted as between the proposals and advocacy of the three major political parties for the status option espoused by each such party.

3. None of the status options presented on the ballot received a majority of the votes cast. While the commonwealth option on the ballot received a plurality of votes, this result is difficult to interpret because that option contained proposals to profoundly change rather than continue the current Commonwealth of Puerto Rico government structure. Certain elements of the commonwealth option, including permanent union with the United States and guaranteed U.S. citizenship, can only be achieved through full integration into the U.S. leading to statehood. Other elements of the commonwealth option on the ballot, including a government-to-government bilateral pact which cannot be altered, either are not possible or could only be partially accomplished through treaty arrangements based on separate sovereignty. While the statehood and independence options are more clearly defined, neither of these options can be fully understood on the merits, unless viewed in the context of clear Congressional policy regarding the terms under which either option could be implemented if approved in a future plebiscite recognized by the federal government. Thus, there is a need for Congress to define the real options for change and the true legal and political nature of the status quo, so that the people can know what the actual choices will be in the future.

4. Although there is a history of confusion and ambiguity on the part of some in the U.S. and Puerto Rico regarding the legal and political nature of the current ''commonwealth'' local government structure and territorial status, it is incontrovertible that Puerto Rico's present status is that of an unincorporated territory subject in all respects to the authority of the United States Congress under the Territorial Clause of the U.S. Constitution. As such, the current status does not provide guaranteed permanent union or guaranteed citizenship to the inhabitants of the territory of Puerto Rico, nor does the current status provide the basis for recognition of a separate Puerto Rican sovereignty or a binding government-to-government status pact.

5. In light of the foregoing, the results the November 14, 1993 vote indicates that it is the preference of those who cast ballots to change the present impermanent status in favor of a permanent political status based on full self-government. The only options for a permanent and fully self-governing status are: 1) separate sovereignty and full national independence, 2) separate sovereignty in free association with the United States; 3) full integration into the United States political system ending unincorporated territory status and leading to statehood.

6. Because each ballot option in the 1993 plebiscite addressed citizenship, we want to clarify this issue. First, under separate sovereignty Puerto Ricans will have their own nationality and citizenship. The U.S. political status, nationality, and citizenship provided by Congress under statues implementing the Treaty of Paris during the unincorporated territory period will be replaced by the new Puerto Rican nationhood and citizenship status that comes with separate sovereignty. To prevent hardship or unfairness in individual cases, the U.S. Congress may determine the requirements for eligible persons to continue U.S. nationality and citizenship, or be naturalized, and this will be governed by U.S. law, not Puerto Rican law. If the voters freely choose separate sovereignty, only those born in Puerto Rico who have acquired U.S. citizenship on some other

legal basis outside the scope of the Treaty of Paris citizenship statutes enacted by Congress during the territorial period will not be affected. Thus, the automatic combined Puerto Rican and U.S. citizenship described under the definition of independence on the 1993 plebiscite ballot was a proposal which is misleading and inconsistent with the fundamental principles of separate nationality and non-interference by two sovereign countries in each other's internal affairs, which includes regulation of citizenship. Under statehood, guaranteed equal U.S. citizenship status will become a permanent right. Under the present Commonwealth of Puerto Rico government structure, the current limited U.S. citizenship status and rights will be continued under Federal law enacted under the Territorial Clause and the Treaty of Paris, protected to the extent of partial application of the U.S. Constitution during the period in which Puerto Rico remains an unincorporated territory.

7. The alternative to full integration into the United States or a status based on separate sovereignty is continuation of the current unincorporated territory status. In that event, the present status quo, including the Commonwealth of Puerto Rico structure for local self-government, presumably could continue for some period of time, until Congress in its discretion otherwise determines the permanent disposition of the territory of Puerto Rico and the status of its inhabitants through the exercise of its authority under the Territorial Clause and the provisions of the Treaty of Paris. Congress may consider proposals regarding changes in the current local government structure, including those set forth in the ''Definition of Commonwealth'' on the 1993 plebiscite ballot. However, in our view serious consideration of proposals for equal treatment for residents of Puerto Rico under Federal programs will not be provided unless there is an end to certain exemptions from federal tax laws and other non-taxation in Puerto Rico, so that individuals and corporations in Puerto Rico have the same responsibilities and obligations in this regard as the states. Since the ''commonwealth'' option on the 1993 plebiscite ballot called for ''fiscal autonomy,'' which is understood to mean, among other things, continuation of the current exemptions from federal taxation for the territory, this constitutes another major political, legal and economic obstacle to implementing the changes in Federal law and policy required to fulfill the terms of the ''Definition of Commonwealth.''

8. In addition, it is important to recognize that the existing Commonwealth of Puerto Rico structure for local self-government, and any other measures which Congress may approve while Puerto Rico remains an unincorporated territory, are not unalterable in a sense that is constitutionally binding upon a future Congress. Any provision, agreement or pact to the contrary is legally unenforceable. Thus, the current Federal laws and policies applicable to Puerto Rico are not unalterable, nor can they be made unalterable, and the current status of the inhabitants is not irrevocable, as proposed under the ''commonwealth'' option on the 1993 plebiscite ballot. Congress will continue to respect the principle of self-determination in its exercise of Territorial Clause powers, but that authority must be exercised within the framework of the U.S. Constitution and in a manner deemed by Congress to best serve the U.S. national interest. In our view, promoting the goal of full self-government for the people of Puerto Rico, rather than remaining in a separate and unequal status, is in the best interests of the United States. This is particularly true due to the large population of Puerto Rico, the approach of a new century in which a protracted status debate will interfere with Puerto Rico's economic and social development, and the domestic and international interest in determining a path to full self-government for all territories with a colonial history before the end of this century.

9. The record of the October 17, 1995 hearing referred to above makes it clear that the realities regarding constitutional, legal and political obstacles to implementing the changes required to fulfill the core elements of the ''commonwealth'' option on the ballot were not made clear and understandable in the public discussion and political debate leading up to the vote. Consequently, Congress must determine what steps the Federal government should take in order to help move the self-determination process to the next stage, so that the political status aspirations of the people can be ascertained through a truly informed vote in which the wishes of the people are freely expressed within a framework approved by Congress. Only through such a process will Congress then have a clear basis for determining and resolving the question of Puerto Rico's future political status in a manner consistent with the national interest.

Ultimately, Congress alone can determine Federal policy with respect to self-government and self-determination for the residents of Puerto Rico. It will not be possible for the local government or the people to advance further in the self-determination process until the U.S. Congress meets its moral and governmental responsibility to clarify Federal requirements regarding termination of the present unincorporated territory status of Puerto Rico in favor of one of the options for full self-government.

The results of the locally administered 1993 vote are useful in this regard, but in our view are not definitive beyond what has been stated above. The question of Puerto Rico's political status remains open and unresolved.

Sincerely,

DON YOUNG,
Chairman, Committee on Resources.
ELTON GALLEGLY,
Chairman, Subcommittee on Native American and Insular Affairs.
BEN GILMAN,
Chairman, Committee on International Relations.
DAN BURTON,
Chairman, Subcommittee on the Western Hemisphere.

CONGRESS OF THE UNITED STATES,
Washington, DC, June 28, 1996.

Senator CHARLIE RODRIGUEZ,
Majority Leader, Puerto Rico Senate, the Capitol, San Juan, PR.

DEAR SENATOR RODRIGUEZ: As the senior democrats on the House Resources and International Relations Committees we have always been concerned about the economic and political future of Puerto Rico. As the 104th Congress considers proposed legislation regarding the process of self-determination for Puerto Rico, we believe that it is time to reexamine the status issue in light of the 1993 plebiscite.

On December 14, 1994 the Legislature of Puerto Rico adopted Concurrent Resolution 62 which sought congressional guidance regarding the results of the 1993 status plebiscite. Recently, the Chairman of the relevant committees and subcommittees that deal with Puerto Rico's political status responded to this important resolution. Although we agree with many portions of the letter, we would like to outline some of our views on the issue as well.

We believe that the definition of Commonwealth on the 1993 plebiscite ballot was difficult given Constitutional, and current fiscal and political limitations. Through numerous Supreme Court and other Federal Court decisions, it is clear that Puerto Rico remains an unincorporated territory and is subject to the authority of Congress under the territorial clause. Another aspect of this definition called for the granting of additional tax breaks to Section 936 companies and an increase in federal benefits in order to achieve parity with all the states without having to pay federal taxes. It is important that any judgment on the future of Puerto Rico be based on sound options that reflect the current budgetary context in the United States. This context should also reflect the bi-partisan agreement being worked on by Congress which reduces Section 936 benefits.

Since Congress has neither approved nor resolved the 1993 plebiscite results, we are in favor of legislation that will establish a future process of self-determination for the people of Puerto Rico. This legislation should include a requirement for status plebiscites to take place within a certain number of years and define various status options in a realistic manner.

In two years, Puerto Rico will celebrate its 100th year as part of the United States. Congress has both a political and moral responsibility to ensure that the 3.5 million Americans living in Puerto Rico have a right to express their views on the important issue of political status on a regular basis.

We hope this additional response to Concurrent Resolution 62 is helpful.

Sincerely,

ROBERT TORRICELLI,
BILL RICHARDSON,
LEE HAMILTON,
DALE KILDEE,

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, July 18, 1996.

Hon. RICHARD GEPHARDT,
Minority Leader, the Capitol, Washington, DC.

DEAR MINORITY LEADER GEPHARDT: Given the short time before the adjournment of the 104th Congress, we are eagerly trying to secure floor time for a bill that is of great importance to us, H.R. 3024, the United States-Puerto Rico Political Status Act. Unfortunately, we understand that certain Representatives have approached you in recent days in hopes of derailing this legislative effort.

After nearly 100 years as a territory of the United States, Puerto Rico must be provided with the opportunity to determine its future. While some would have you believe that there is no need for a self-determination process, it must be clear that the existing ''Commonwealth'' structure was never meant to be a permanent solution for Puerto Rico, particularly since the 3.8 million U.S. citizens in Puerto Rico are disenfranchised under the current arrangement. Just as the United Nations has called for an end to colonialism by the year 2000, the United States must lead by example by putting an end to the disenfranchisement of its own citizens and allowing Puerto Rico to resolve, once and for all, its status dilemma.

As you know, H.R. 3024 establishes a process whereby the U.S. citizens of Puerto Rico would be allowed to vote on self-determination by the end of 1998. On the first ballot, the voters would choose to either change their status or maintain the status quo. Then, assuming the majority votes to change their status, they would then again vote to choose between a path toward separation (independence or free association) or a path

toward integration (statehood). In each instance, the results would be definitive and would produce a majority.

With over sixty cosponsors in the House, H.R. 3024 has strong bipartisan support. During the full Resources Committee markup last month, the bill was reported unanimously after adopting only minor perfecting amendments. It is now before the Rules Committee and we are hopeful that it will soon proceed to the House floor. Opponents of H.R. 3024, however, are using a number of tactics to try to delay this process and confuse the issue.

Some have tried to revive discussions over the language and citizenship provisions of the bill, even though these issues were dealt with in the reported text of H.R. 3024. Others claim that the ballot process is unfairly skewed toward one option or another, hoping to revert back to the three-way ballot in 1993 which yielded no clear majority. More than just attempts to amend the legislation, these efforts are aimed at delaying its consideration or tainting its language so that it will never see the light of day this year on the House floor.

All told, these efforts should not obscure the original intent of the legislation: to provide Puerto Rico with a fair process of self-determination for the first time in the Island's history. Your support for this effort is needed and would help Congress give the U.S. citizens of Puerto Rico the voice and participation in the democratic process which they are entitled to and deserve.

Thank you for your interest in the affairs of Puerto Rico. If you would like to discuss this matter further, please do not hesitate to contact us.

Sincerely,

Carlos A. Romero-Barceló, Robert A. Underwood, Nick Rahall, Sam Farr, Esteban E. Torres, Bill Richardson, Patrick J. Kennedy, José E. Serrano, Dale E. Kildee, Pat Williams, Neil Abercrombie.

Mr. CRAIG. Mr. President, I am proud to be an original cosponsor of the legislation introduced by my colleague from Idaho, Senator CRAIG, with whom I have worked closely on many issues over the years.

This important bill establishes a process whereby the people of Puerto Rico can vote for a retention or a change of their current Commonwealth status, a status preserved as a result of the November 14, 1993 plebiscite. If Puerto Ricans choose change, they can select a path toward separation—independence or free association—or a path toward incorporation—statehood. In short, the bill establishes an orderly path toward true self-determination in the true democratic spirit of our Nation.

One might ask why such legislation is necessary given that less than 3 years ago, a plurality of U.S. citizens in Puerto Rico chose the Commonwealth option on the November 14 ballot. This option—drafted by the Commonwealth party itself, under the agreed-upon terms of the plebiscite—presented the people of Puerto Rico with utterly inflated and unrealistic expectations regarding the island's future relationship with the United States. In effect, the Commonwealth option guaranteed United States citizens of Puerto Rico many of the benefits of statehood and many of the benefits of separation without any of the accompanying responsibilities of either. Given these pie-in-the-sky promises, it is no wonder that a plurality of Puerto Ricans—though, important, not a majority—chose the Commonwealth option. However, the future of Puerto Rico's relationship with the United States remains unclear, and congressional action providing Puerto Ricans with the power to determine their fate through a fair and orderly process is long overdue.

It is time that Congress' silence on the results of the November 14, 1993 Puerto Rican plebiscite end, and that we afford United States citizens in Puerto Rico realistic and just options for determining Puerto Rico's future relationship with the United States of America. The Puerto Rican Government has asked that we do as much. On December 14, 1994, the legislature of Puerto Rico adopted Concurrent Resolution 62 which formally requested congressional guidance regarding the results of the 1993 status plebiscite. This legislation provides this guidance.

The process established by this legislation would be unprecedented and long overdue, affording Puerto Ricans for the first time a fair process of self-determination that is consistent with everything America stands for. We owe Puerto Rico—which in 2 years will have been part of the United States for 100 years—at least this much.

For decades, we have treated the right to self-determination as a cornerstone of our foreign policy. It is time that we practice what we preach.

By Mr. GRASSLEY (for himself and Mr. HARKIN):

S. 2020. A bill to establish America's Agricultural Heritage Partnership in Iowa, and for other purposes; to the Committee on Energy and Natural Resources.

THE AGRICULTURAL HERITAGE PARTNERSHIP ACT OF 1996

Mr. GRASSLEY. Mr. President, today I am introducing the America's Agricultural Heritage Partnership Act of 1996. This legislation would authorize the designation of several counties in northeast Iowa as America's Agricultural Heritage Partnership. This project is more commonly known as Silos and Smokestacks.

The story of agriculture in the United States is not only one of national progress and bounty, but is also a story of world progress and bounty. American agriculture is a national and a world treasure. It is a story that needs to be told. That is the silos part of Silos and Smokestacks. The smokestacks are the industrial base that supports our country's agriculture. The mission of America's Agricultural Heritage Partnership—Silos and Smokestacks—is to tell their combined story, through traditional exhibits and by designed routes through the countryside highlighting areas of importance and interest.

Community leaders in Waterloo, IA, the surrounding communities, and the rural area began meeting several years ago to determine how best to tell the agricultural story, especially how it relates to our country's great industrial history. Because of their interest, the National Park Service was then requested to conduct a study to develop recommendations as to the location of a heritage area and how to present the history.

That study recommended that northeast Iowa be the location for an agricultural heritage partnership area. Since that time, the communities have continued their work to lay a proper foundation for the project pending congressional authorization for Silos and Smokestacks.

Waterloo is located in the center of some of the richest, most productive agricultural land in the world. It is also home to John Deere and other farm equipment manufacturers and other related agricultural industries. Waterloo is an ideal location to tell the combined story of American agriculture and the industry associated with it.

This legislation would authorize the Secretary of Agriculture to make grants or enter into cooperative agreements to further this project. He may also provide necessary technical assistance.

This is a worthwhile endeavor to tell an important American story to our citizens and the World. I strongly encourage enactment of this legislation.

Mr. HARKIN. Mr. President, I rise as cosponsor of America's Agricultural Heritage Partnership Act of 1996. This bill would establish America's Agricultural Heritage Partnership in northeast Iowa in order to promote the story of agriculture in our Nation's rich history.

A few years ago, leaders from Waterloo and other communities in northeast Iowa developed an initiative called Silos and Smokestacks. Silos and Smokestacks is a private organization that has worked to remodel and renovate old, and often abandoned, buildings in Waterloo. This effort is a wonderful example of communities and concerned citizens working together to preserve a unique part of American history.

The hard work by Silos and Smokestacks has provided the foundation for a unique heritage park that would combine the stories of our Nation's agricultural and industrial development. In the past, the focus of the National Park Service has been to create and administer the so-called natural areas, commonly known as our National Park System. A heritage park involves local, State, Federal, and private interests in recognizing and preserving sites of cultural and historical significance. Heritage areas are something like a large interactive museum in which people have the opportunity to gain firsthand knowledge of an important facet of our Nation's history.

The National Park Service has determined that northeast Iowa is an ideal

location for a heritage park. This park would tell the nationally significant, but often overlooked, story of American agriculture. Northeast Iowa combines the rich histories of our Nation's farming and industrial sectors. In the area surrounding Waterloo one will find some of the most productive and fertile land in the Nation. Boasting the production lines of John Deere and other farm equipment manufacturers and some of the largest meatpacking operations in the Midwest, the city of Waterloo represents our Nation's industrial strength. Taken together, this area represents nearly every aspect of agricultural and food production.

The National Park Service has suggested that four principal topics of the heritage area could include: the amazing science of agriculture, agriculture as a way of life, organizing for survival, and crops from the field to the table.

The legislation introduced today would authorize the Secretary of Agriculture to make grants and provide technical and management assistance to those entities developing the introductory heritage park. This assistance would be the critical impetus to see this unique project through to completion. A heritage project in northeast Iowa would provide countless Americans with a valuable insight into one of the most fascinating, and important, aspects of American society.

By Mrs. FEINSTEIN (for herself and Mrs. BOXER):

S. 2021. A bill to suspend temporarily the duty on certain chemicals used in the formulation of an HIV protease inhibitor; to the Committee on Finance.

DRUG DEVELOPMENT ACCELERATION LEGISLATION

Mrs. FEINSTEIN. Mr. President, as a nation, we must do everything we can to find a cure for HIV/AIDS. However, until we have a cure for this urgent health priority, we need to find effective treatments and put them in the hands of people with needs.

I rise today to introduce legislation, joined by my colleague Senator BOXER, to eliminate the tariff for several chemical compounds. These compounds are required for the manufacture of an AIDS drug, nelfinavir mesylate, which has produced promising test results.

PROTEASE INHIBITORS

Nelfinavir is one of a new class of AIDS drugs called protease inhibitors. The drugs are designed to block an enzyme, called protease, that appears to play a crucial role in the replication of HIV.

As the Wall Street Journal reported in its coverage of the recently concluded 11th International Conference on AIDS in Vancouver, BC, researchers have evidence that protease inhibitor drugs, when taken in combination with existing therapies, can reduce levels of the AIDS-causing virus in blood to levels so low that the virus is undetectable by even the most sensitive tests. AIDS researchers at the conference describe this new drug therapy as a major and unprecedented step in combating AIDS, one that may represent a treatment approach that may delay the onset of AIDS, extend patients' lives, and transform AIDS into a long-term, manageable disease.

Mr. President, HIV/A is a critical public health issue, requiring the Nation's full attention. In America today, AIDS is the leading cause of death for young Americans between the ages of 25 and 44.

More than 220,700 American men, women and children have died of AIDS by the end of 1993. While the number of deaths trails other urgent health priorities such as cancer or heart disease, AIDS is nearly equally debilitating to the Nation when measured by the years of potential and productive life lost due to the disease.

In my State of California, 1 of every 200 Californians is HIV positive, while 1 of every 25 is HIV positive in my home of San Francisco.

AIDS is a paramount public health concern and every effort should be made to ensure that drugs are made available as swiftly and at as low a cost as possible. We simply cannot delay or waste time in providing drugs, treatments or materials. This tariff legislation represents a modest, but important step.

ZERO TARIFF FOR PHARMACEUTICALS

Under the 1994 GATT agreement, most pharmaceutical products are entitled to enter the country without a tariff. However, the zero tariff does not apply to many new pharmaceutical products or their chemical ingredients. As a result, the chemicals needed to make nelfinavir mesylate, an AIDS protease inhibitor currently undergoing research testing, but not yet a recognized pharmaceutical product under GATT, would be ineligible for the pharmaceutical zero tariff.

During negotiations with World Trade Organization nations to implement the pharmaceutical zero tariff, the administration successfully added the chemical compounds needed to manufacture the AIDS drug. As a result, the tariff will drop to zero on April 1, 1997.

Nelfinavir is on the Food and Drug Administration's fast-track approval process for AIDS drugs. Commercial production of the drug will begin well before April 1, in order that the drug can be immediately available to AIDS patients upon FDA approval. Although currently imported duty-free for use in clinical research trials, the imported chemicals will soon be used for commercial production. During the period of commercial production prior to April 1, the chemical compounds will face a 12 percent tariff, which will only add to the cost and delay the drug's production and distribution to individuals in need.

This proposed legislation would eliminate the tariff for two of the essential and unique chemical inputs, as well as for the active ingredient nelfinavir (Acid Chloride, Chloroalcohol and AG 1346), from August 1 when the drug production increases, until April 1, 1997 when the tariff drops to zero under the WTO pharmaceutical agreement. Without this legislation, the manufacturer would face a 12 percent tariff for its chemicals, which are not available in the United States, as the drug proceeds into production. This tariff reduction will allow for the acceleration of drug production, providing more timely relief for the public.

The Federal Government needs to do everything it can to expedite the development and distribution of AIDS drugs. Without this legislation to remove the tariff, we will be tolerating needless hurdles and delay, rather than needed relief.

The Congressional Budget Office is reviewing the cost of the proposed legislation. However, because the WTO negotiations will already provide a zero tariff for the chemical compounds on April 1, the legislation may have a de minimis impact on tariff revenue. For AIDS patients, their families and those at risk, it's a step Congress should take.

I have also requested various Federal agencies and other organizations to review the legislation and ensure that other important Federal policies, like narcotics enforcement or maintaining a strong, domestic chemical industry, are not undermined. The Drug Enforcement Agency and U.S. Customs Service indicate the chemicals present no risk for law enforcement or anti-narcotics enforcement priorities. Similarly, the U.S. Trade Representative's Industry Sector Advisory Committee for chemicals and the International Trade Commission also reviewed and approved the administration's efforts to include the chemicals in the pharmaceutical appendix negotiations. PhRMA, the Pharmaceutical Research and Manufacturers of America, also has reviewed the proposal and does not oppose the legislation.

The administration deserves tremendous credit for extending a zero tariff for these chemical components. It is my hope that miscellaneous tariff legislation, which is currently pending before the Finance Committee, could accommodate this noncontroversial tariff issue, which can accelerate the development and production of an AIDS drug, with the potential to provide meaningful relief.

As a matter of public policy, we should do everything we can to develop AIDS drugs and treatments. Patients and their families cannot wait for the next round of drugs to be approved and added to the zero-tariff list, scheduled for review in 1999. By importing the chemical compounds without a tariff, we can accelerate the drug development process.

I am pleased to introduce this tariff legislation, along with my colleague Senator BOXER, and will work with the chairman and ranking members of the Finance Committee to pursue the legislation.

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

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

S. 2021

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

SECTION 1. TEMPORARY DUTY SUSPENSION.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new headings:

''9902.30.63	3-acetoxy-2-methylbenzoyl chloride (CAS No. 167678–46–8) (provided for in subheading 2918.29.65)	Free	No change	On or before 3/30/97
9902.30.64	2S, 3R-N-Cbz-3-amino-1-chloro-4-phenylsulfanyl-butan-2-ol (CAS No. 159878–02–1) (provided for in subheading 2922.19.60)	Free	No change	On or before 3/30/97
9902.30.65	N-(1,1-dimethylethyl)deca-hydro-2-[2-hydroxy-3[(3-hydroxy-2-methylbenzoyl) amino]-4-(phenylthio)butyl]-3-isoquinolinecarboxamide, [3S-[2(2S*,3S*), 3.a.,4a.b.,8a.b.]] (CAS No. 159989–64–7) (provided for in subheading 2933.40.60)	Free	No change	On or before 3/30/97''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the date that is 15 days after the date of the enactment of this Act.

(2) RETROACTIVE APPLICATION.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, upon proper request filed with the Customs Service, before the 90th day after the date of the enactment of this Act, any entry, or withdrawal from warehouse for consumption, of an article described in heading 9902.30.63, 9902.30.64, or 9902.30.65 of the Harmonized Tariff Schedule of the United States (as added by subsection (a)), that was made—

(A) on or after August 1, 1996, and

(B) before the date that is 15 days after the date of the enactment of this Act,

shall be liquidated or reliquidated as though such entry or withdrawal was made on the 15th day after such date of enactment.

By Mr. THURMOND (for himself, Mr. FAIRCLOTH, Mr. HOLLINGS, Mr. COATS, and Mr. HELMS):

S. 2022. A bill to amend title 23, United States Code, to modify the minimum allocation formula under the Federal-aid highway program, to provide reimbursement to each State with respect to which the highway users in the State paid into the highway trust fund an amount in excess of the amount received by the State from the highway trust fund, and for other purposes; to the Committee on Environment and Public Works.

THE SURFACE TRANSPORTATION EQUITY ACT

Mr. THURMOND. Mr. President, I rise today to introduce legislation, on behalf of myself and Senators FAIRCLOTH, HOLLINGS, COATS, and HELMS, to correct one of the most inequitable and unfair policies of our Government—the Federal aid to highways distribution formulas. Currently, our Federal Aid to Highways Program collects 18.3 cents tax on each gallon of gasoline. That money is then sent to the Federal Treasury where deductions are made for deficit reduction and other Department of Transportation programs. The remainder is then apportioned among the States by statutory formulas which is used for infrastructure projects. In 1995, South Carolina received 52 cents for each dollar its citizens contributed to the fund. Other States were allocated $2 or more for each dollar contributed. This disparity is inexcusable.

This donor State system was originally devised to build the Interstate Highway System. In order to build highways across the vast expanses of the less populated Western States, it was necessary to incorporate a system in which some States contribute more than they receive. Next year, the last segment of the Interstate System will be completed. Subsequently, all our surface transportation priorities will then be local, but the donor/donee system with its unfair formulas will still be in place.

The statutory formulas are largely based on 1950's population data. Needless to say, there have been great population shifts in this country since that time. As a result, high-growth States have become desperate to find money to cope with the growing demand for highway construction and maintenance. Other States, however, are allocated such an excess amount that some of their funds go unused. In some cases they seek legislation to use the money for more exotic transportation purposes. We should not be building roads where people have been—we shoud build them where they are or where they are going. The present situation is equivalent to laying railroad tracks behind the train. It is inefficient, wasteful, and does not address the transportation needs of our Nation.

Unlike other programs, our Federal aid highway system was intended to be a user fee system where the gas taxes motorists pay go to maintain and improve the roads on which they drive. Unfortunately, the current system does not work in that manner. For example, when a school teacher in Mt. Pleasant, SC, buys gas to commute to her job in Charleston, she should expect that the tax she has paid is going to pay part of the cost of replacing the Cooper River Bridge which is in danger of collapse. Instead, 48 cents of each dollar she pays in gas tax goes to finance projects in other States. On the other hand, when a school teacher in one of the donee States does the same thing, she receives more than double her money back in road improvements. This is simply unfair.

The donor States have made tremendous sacrifices to build the Interstate System from which we all benefit. They have for years postponed addressing critical highway needs at home. The time has come for our national policy to recognize this contribution and address this issue fairly.

Mr. President, the bill we are introducing is simple. It stipulates that the portion of the Federal highway distribution to a State in each year shall be equal to its percentage of all contributions to the fund. In other words, if South Carolina contributes 1.8 percent of the trust fund in a year, it would get back 1.8 percent of whatever amount is appropriated out of the fund that year. Further, my bill would establish a 5-year program to bring the historic donor States into parity with the rest of the country. After implementation of this bill then we will have a Federal Highway Program that is fair to all.

Mr. President, if we are to reauthorize a Federal Highway Program, it must be a fair one. My bill presents a fair and equitable formula for doing this. I urge my colleagues to join us in support of this legislation.

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

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

S. 2022

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Surface Transportation Equity Act of 1996''.

SEC. 2. MINIMUM ALLOCATION.

(a) FISCAL YEAR 1998 AND THEREAFTER.—Section 157(a) of title 23, United States Code, is amended by adding at the end the following:

''(5) FISCAL YEAR 1998 AND THEREAFTER.—In fiscal year 1998 and each fiscal year thereafter, the Secretary, after making the allocations described in section 3 of the Surface Transportation Equity Act of 1996, shall allocate among the States amounts sufficient to ensure that a State's percentage of the total apportionments in each fiscal year and allocations for the prior fiscal year from funds made available out of the Highway Trust Fund is not less than 100 percent of the percentage of estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund in the latest fiscal year for which data are available.''.

(b) CONFORMING AMENDMENT.—Section 157(a)(4) of title 23, United States Code, is amended by striking the paragraph designation and all that follows before ''on October 1'' and inserting the following:

''(4) FISCAL YEARS 1992–1997.—In each of fiscal years 1992 through 1997,''.

SEC. 3. DONOR STATE REIMBURSEMENT.

(a) ALLOCATION.—Over the period consisting of fiscal years 1998 through 2002, the Secretary of Transportation shall proportionally allocate to each eligible State described in subsection (b) the total amount of the excess described in subsection (b).

(b) ELIGIBLE STATES.—For the purpose of this section, an eligible State is a State with respect to which the highway users in the State paid into the Highway Trust Fund, during the period consisting of July 1, 1957, through the end of the latest fiscal year for which data are available, an amount in excess of the amount received by the State from the Highway Trust Fund during that period.

(c) FORMULA.—For each fiscal year, the Secretary of Transportation shall allocate the amounts made available under subsection (a) for the fiscal year in such a way

as to bring each successive eligible State, or eligible States, with the lowest dollar return on dollar paid into the Highway Trust Funding during the period described in subsection (b) up to the highest common return on dollar paid that can be funded with the amounts made available under subsection (a).

(d) APPLICABILITY OF CHAPTER 1 OF TITLE 23.—Funds allocated under this section shall be available for obligation in the same manner and for the same purposes as if the funds were apportioned for the surface transportation program under chapter 1 of title 23, United States Code, except that the funds shall remain available until expended.

(e) ADMINISTRATIVE EXPENSES.—

(1) DEDUCTION.—For each fiscal year, prior to making allocations under this section, the Secretary of Transportation shall deduct such amount, not to exceed 3¾ percent of the amount made available under subsection (f) for the fiscal year, as the Secretary determines is necessary to pay the administrative expenses of carrying out this section. Amounts so deducted shall remain available until expended.

(2) CONSIDERATION OF PRIOR DEDUCTIONS.—In determining each amount to be deducted under paragraph (1), the Secretary of Transportation shall take into consideration the unexpended balance of any amounts deducted for prior fiscal years under paragraph (1).

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated out of the Highway Trust Fund such sums as are necessary to carry out this section.

Mr. HOLLINGS. Mr. President, 5 years ago I opposed legislation extending our Nation's Highway Program. I did that, not because we do not need highways—they have been a fine investment—but because the funding distribution to States had become so egregiously unfair that it threatened support for any highway program at all. It is interesting to note that today we have proposals in the Congress essentially to follow that logic by repealing most of the program to the States on the basis that the Federal funding pattern is so incredibly wrong. As such, I make the case again today for a fair and rational distribution of highway funds and put the Senate on notice that the distribution must change when the Congress considers highway program revisions next year. The U.S. General Accounting Office has studied highway spending again since the 1991 ISTEA legislation, and reported in November 1995 what Senators have long known—a formula that provided South Carolina 52 cents this year for a dollar of taxes contributed is unfair and untenable.

This is not just a matter of my State receiving less. It is a matter of how best to distribute funds for our Nation's highway needs. Objective studies have found that our current funding pattern is wrong, outdated, and unconnected to highway needs. As the GAO put it, ''the States' funding shares for the four major programs are divorced from current conditions,'' and the underlying factors for the two largest programs are ''irrelevant to the highway system's needs.''

Particularly, the current distribution to States includes significant, indirect influences from earlier, unfair funding patterns. It includes postal road factors from the 1921 formula, population data from the 1980 census, and bridge costs reported from States nearly a decade ago which were wildly disparate. Why should South Carolina have gotten $38 per square foot to replace bridges while the District of Columbia received $223 per square foot? Why should these amounts be grandfathered into today's allocations?

Not only did the GAO declare last year that these formula factors are ''irrelevant,'' it suggested better factors more than 10 years ago. At that time, the GAO recommended making a transition to a more fair formula in a way that did not hurt states that had been receiving a greater than equitable share of highway formulas. But as the GAO reported last year, ''However, the Congress elected not to change the basic formula structure.''

Mr. President, I voted against ISTEA because of the objective, well-documented unfairness of the highway formula, and will vigorously oppose any highway bill next year that does not provide fairness. The legislation we are introducing here today is a good starting point to better address our Nation's highway needs.

By Mr. REID:

S. 2023. A bill to provide for travelers' rights in air commerce, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE TRAVELERS' RIGHTS ACT OF 1996

Mr. REID. Mr. President, as our open society has evolved, the Government has consistently, though in varying degrees, had to define the rights of consumers and citizens. In this regard, I introduce today the Travelers' Rights Act. This bill is to expedite access to information to airline customers and broaden the choices that air travelers have through greater information. Additionally, through the Victims Rights Program we call for greater coordination of governmental agencies and American Red Cross in providing facts to victims and survivors of victims.

Mr. President, air travel in America is a fundamental of American transportation. I cannot imagine spanning the distances of Nevada, much less the Western United States to come back here and represent my State without the convenience of air travel. Perhaps we take many things about travel for granted; for instance, I do not know nor can I fathom the many details involved in getting a 747, the size of 12 city busses, into the sky. But, Mr. President, I believe that there are some basic rights of the half-billion passengers of airlines that need to be protected. I have searched the current statutes and regulations and am confident that the Federal Aviation Administration has many of the tools necessary to continue to make our skies safe. I am not convinced, however, that passengers, are receiving sufficient information about the aircraft and the many involved personnel and accessibility to the aircraft. Daily, pilots, mechanics, air tower controllers, and others dedicate themselves to meeting the needs of air travelers, but still the trust relationship requires some understanding that the FAA certificate requirements are being met by the personnel who serve the airline customers.

While some may argue that requires a lot of information. I consider it to be the nature of the information not the quantity to be significant, because the traveler on the airlines are putting their lives in the airlines' hands and should be allowed the knowledge that bestows security, understanding and choice. There is information that ought to be available and if the customer seeks the information the airlines should expeditiously provide it. This bill is not to scare travelers about the safety and security of air travel, rather on the contrary, I believe this bill will inspire confidence through openness and knowledge. Additionally, if customers of air travel exercise their right to know about certain elements about the airlines, aircraft and crew then that too will enhance the trust between customers and the airlines.

The second principle element of the bill is the Victims Rights Program, which is essential in alleviating some of the criticism of the airlines and restoring the confidence of airline customers. Increased coordination of the agencies and the American Red Cross in opening up communication between the investigating parties and the victims, appears to me, to be the least that we can do and an essential right of those who place their trust in air travel.

This legislation is vital in making sure that these fundamental rights of information and knowledge are preserved. As airplane accidents occur and the airplanes are sabotaged, the sense of security that airplane passengers have paid for is undermined. This bill does not try to second guess the Federal Aviation Administration and the inspector general in safety investigations and security methods, because they have been given both the mission and the means of working with the airlines.

Mr. President, last May a ValuJet DC–9 crashed into a Florida swamp, and before that in December an American Airlines aircraft flew into a South American mountainside. Then over 200 individuals died off the coast of New York and the Federal authorities have still not identified all the victims. Indeed, I have heard repeatedly that the survivors of victims cannot get information from the airlines and the National Transportation Safety Board and FBI. I believe that in the past couple of years, air travel have suffered terrible accidents and the American public who travel by air do not seem to get any more consideration, as far as information and education are concerned.

We do hear, Mr. President, that security might be enhanced at the airports,

and that more screening of passengers might take place at airplane boarding and other draconian measures are being considered. Those issues need tremendous study and intensive deliberation of classified information among those who have the expertise. This bill focuses on the prerogatives of the traveler and through access of information the choices of the traveler expand and trust is preserved.

I urge my colleagues to act quickly on this legislation so that this fundamental way of travel is not undermined by the airline industry's own protective silence and guarded communication. When unfortunate accidents or harm occurs, trust is best established by allowing the victims open access. Through this legislation the rights of travelers will be firmly preserved.

By Ms. SNOWE (for herself and Mrs. FEINSTEIN):

S. 2024. A bill to amend the Public Health Service Act to provide a one-stop shopping information service for individuals with serious or life-threatening diseases; to the Committee on Labor and Human Resources.

THE ONE-STOP SHOPPING INFORMATION SERVICE ACT OF 1996

Ms. SNOWE. Mr. President, today, I rise to introduce a vital piece of legislation which will help people with serious or life-threatening diseases obtain the information they desperately need about clinical trials. Easy access to this information is critical, because clinical trials provide cancer patients with potentially promising treatments which are otherwise unavailable and which may be on the cutting edge of medical research.

In June of this year, I convened an important hearing with my colleagues, Senators CONNIE MACK and DIANNE FEINSTEIN, Cochairs of the Senate Cancer Coalition, to address recent developments in breast cancer treatments and research. We convened our hearing on the eve of the Seventh Annual National Race for the Cure, a race that raises millions of dollars each year for breast cancer research and education efforts.

During the hearing, we heard testimony from breast cancer advocates on the difficulty patients and physicians face in learning about ongoing clinical trials. One witness, representing Breast Cancer Action in California, testified about the need for ''One Stop Shopping'' to find out what is available in terms of clinical trials for cancer treatments. She testified that the existing Cancer Information Service at the National Cancer Institute is helpful but underfunded, and provides only partial information because it lists only publicly funded trials. It does not list, however, the 300-plus clinical trials of private pharmaceutical companies, producing a major knowledge gap.

This witness contrasted this difficulty faced by cancer patients with the ease with which AIDS patients obtain information about clinical trials. As the result of a 1988 amendment to the Public Health Service Act, AIDS patients need only dial a 1–800 number in order to obtain information about all clinical trials—both Government financed and private pharmaceutical trials. If you have cancer or some other life-threatening illness, however, you must rely upon your doctor's knowledge about clinical trials, which is likely to be limited. Moreover, information contained on commercial databases are costly to access, difficult to use or understand, and often incomplete.

Since this hearing, I have heard similar complaints not only from cancer patients, but from patients suffering from a wide range of severe or life-threatening illnesses. Today, I rise to introduce legislation to rectify this knowledge gap.

My bill is based closely on the existing language in the Public Health Service Act which created the AIDS database and which has been so successful in making information about AIDS clinical trials available to those who need it. Modeled on that language, my bill establishes a data bank of information on clinical trials and experimental treatments for all serious or life-threatening illnesses. The one stop shopping information service will include a registry of all private and public clinical trials, and will contain information describing the purpose of the trial, eligibility criteria for participating in the trial, as well as the location of the trial. The bill also requires HHS to set up information systems, including a toll-free number, for patients, doctors, and others to access this critical information. The database will also include information on the results of experimental trials, enabling patients to make fully informed decisions about medical treatment.

Imagine facing a deadly disease and not having access to information about the latest treatment options. Imagine enduring great pain and not having access to a centralized source of information about existing clinical trials which may relieve your suffering or extend your life. Imagine the arduous effort needed to gather information about these clinical trials in order to potentially benefit from cutting-edge treatments.

Then consider what this legislation will do for Americans. People with cancer, Alzheimers' disease, Parkinsons, cystic fibrosis, advanced heart disease, multiple sclerosis, or any other serious disease will be able to dial a 1–800 number from their home phone and access the information they need about clinical trials underway across the Nation. They will also be able to obtain information about the results of experimental trials, helping them to make treatment decisions.

All parties will benefit from this legislation. First and foremost, it encourages patient choice and informed decisions. But pharmaceutical companies will also benefit, because this legislation will allow for easier and quicker recruitment of individuals willing to participate in experimental trials, expediting the approval process for investigational new drugs. And the National Institutes of Health and the Food and Drug Administration will be better able to serve the public.

This one-stop shopping service will provide hope to countless Americans. But most importantly, it will help to save lives and reduce the suffering of Americans who are stricken by serious or life-threatening illnesses. We know from experience that this language works. I call for the speedy enactment of this legislation which will be of enormous benefit to countless Americans in times of extraordinary need, and I urge my colleagues to support this important bill.

Mrs. FEINSTEIN. Mr. President, today, with Senator SNOWE, I am introducing a bill to set up a toll-free service so that people with life-threatening diseases can find out about research projects that might help them.

Today there are thousands of serious and life-threatening diseases, diseases for which we have no cure. For genetic diseases alone, there are 3,000 to 4,000. Some of these are familiar, like cancer, Parkinson's disease, and multiple sclerosis. Others are not so common, like cystinosis, Tay-Sachs disease, Wilson's disease, and Sjogren's syndrome. Indeed, there are over 5,000 rare diseases, diseases most of us have never heard of, affecting between 10 and 20 million Americans.

Cancer kills half a million Americans per year. Diabetes afflicts 15 million Americans per year, half of whom do not know they have it. Arthritis affects 40 million Americans every year. 15,000 American children die every year. Among children, the rates of chronic respiratory diseases—asthma, bronchitis, and sinusitis—heart murmurs, migraine headaches, anemia, epilepsy, and diabetes are increasing. Few families escape illness today.

THE BILL

The bill we introduce requires the Secretary of Health and Human Services to establish a ''one-stop shopping'' database, including a toll-free telephone number, so that patients and physicians can find out what clinical research trials are underway on experimental treatments for various diseases. Callers would be able to learn the purpose of the study, eligibility requirements, research sites, and a contact person for the research project. Information would have to be presented in plain English, not medicalese, so that the average person could understand it.

A CONSTITUENT SUGGESTION

The suggestion for this information center came from Nancy Evans, of San Francisco's Breast Cancer Action, in a June 13 hearing of the Senate Cancer Coalition, which I cochair with Senator MACK. She described the difficulty that patients have in trying to find out

what experimental treatments might be available, research trials sponsored by the Federal Government, and by private companies. Most of them are desperate; most have tried everything. She testified that the National Cancer Institute has established 1–800–4–CANCER, but their information is incomplete. It does not include all trials and the information is often difficult for the lay person to understand.

In addition, the National Kidney Cancer Association has called for a central database.

PEOPLE IN SERIOUS NEED

To understand the importance of this bill, we have to stop and think about the plight of the individuals it is intended to help. These are people who have a terminal illness, whose physicians have tried every treatment they can find. Cancer patients, for example, have probably had several rounds of chemotherapy, which has left them debilitated, virtually lifeless. These patients cling to slim hopes. They are desperate to try anything. But step one is finding out what is available.

One survey found that a majority of patients and families are willing to use investigational drugs—drugs being researched but not approved—but find it difficult to locate information on research projects. A similar survey of physicians found that 42 percent of physicians are unable to find printed information about rare illnesses.

HELP FOR PHYSICIANS

Physicians, no matter how competent and well trained, also do not necessarily know about experimental treatments currently being researched. And most Americans do not have sophisticated computer hookups that provide them instant access to the latest information through commercial, government, or medical databases. Our witness, Nancy Evans, testified that she can find out more about a company's clinical trials by calling her stockbroker than by calling existing services.

I have had many desperate families call me, their U.S. Senator, seeking help. Others have lodged their pleas at the White House. Others call lawyers, 911, the local medical society, the local chamber of commerce, anything they can think of. Getting information on health research projects should not require a fishing expedition of futile calls, good connections, or the involvement of elected officials.

In 1988, Congress directed HHS to establish an AIDS Clinical Trials Information Service. It is now operational, 1–800–TRIALS–A, so that patients, providers, and their families can find out more about AIDS clinical trials. All calls are confidential and experienced professionals at the service can tell people about research trials underway which are evaluating experimental drugs and other therapies at all stages of HIV infection.

IMPROVING HEALTH, RESEARCH

Facilitating access to information can also strengthen our health research effort. With a national database enabling people to find research trials, more people could be available to participate in research. This can help researchers broaden their pool of research participants.

MODEST HELP FOR THE ILL

The bill we introduce does not guarantee that anyone can participate in a clinical research trial. Researchers would still control who participates and set the requirements for the research. But for people who cling to hopes for a cure, for people who want to live longer, for people who want to feel better, this database can offer a little help.

It should not take political or other connections, computer sophistication or access to top-flight university medical schools to find out about research on treatments of disease when you have a life-threatening illness.

Mr. President, I hope this bill will offer some hope to the millions who are suffering today and I hope Congress will act on the bill promptly.

By Mr. FEINGOLD:

S. 2025. A bill to amend the Communications Act of 1934 to authorize the States to regulate interference with radio frequencies; to the Committee on Commerce, Science, and Transportation.

CB RADIO FREQUENCY INTERFERENCE LEGISLATION

Mr. FEINGOLD. Mr. President, I rise today to introduce legislation which creates a commonsense solution to a growing problem in U.S. cities and towns—the Federal preemption of State and municipal regulation of citizens band [CB] radio frequency interference with residential home electronic or telephone equipment. This problem can be extremely distressing for residents who cannot have a telephone conversation or watch television without being interrupted by a neighbor's citizen band radio [CB] conversation. Under the current law, those residents have little recourse.

Interference of CB radio signals with household electronic equipment such as telephones, radios, and televisions has been regulated by the Federal Communications Commission [FCC] for nearly 30 years. Up until recently, the FCC has enforced rules outlining what equipment may or may not be used for CB radio transmissions, what content may or may not be transmitted, how long transmissions may be broadcast, what channels may be used, as well as many other technical details. FCC also investigated complaints that a personal radio enthusiast's transmissions interfered with a neighbor's use of home electronic and telephone equipment. FCC receives nearly 45,000 such complaints annually.

Mr. President, for the past 3 years I have worked with constituents who have been bothered by persistent interference of nearby CB radio transmissions. In each case, the constituents have sought my help in securing an FCC investigation of the complaint. In each case, Mr. President, the FCC indicated that due to a lack of resources, the Commission no longer investigates radio frequency interference complaints. Instead of investigation and enforcement, the FCC is able to provide only a packet of self-help information for the consumer to limit the interference on their own.

Municipal residents, after being denied investigative or enforcement assistance from the FCC, frequently contact their city or town government and ask them to police the interference. However, the Communications Act of 1934 provides exclusive authority to the Federal Government for the regulation of radio, preempting municipal ordinances or State laws regulating radio frequency interference. This has created an interesting dilemma for municipal governments. They can neither pass their own ordinances to control CB radio interference, nor can they rely on the agency with exclusive jurisdiction over interference to enforce the very Federal law which preempts them.

In Beloit, WI, as in many Wisconsin communities, this dilemma has been extremely frustrating for local residents who have been powerless to prevent the transmissions of a neighboring CB enthusiast from interfering with their home electronic equipment. One Beloit resident, after having adopted every form of filtering technology for her telephone and other electronic equipment, still experienced persistent interference. Her answering machine picks up calls for which there is no audible ring, and at times records ghost messages. Often, she cannot get a dial tone when she or her family members wish to place an outgoing call. During telephone conversations, the content of the nearby CB transmission can frequently be heard and on occasion, her phone conversations are inexplicably cur off. Her neighbors have experienced similar problems and have complained to the Beloit City Council.

Last month, the Beloit City Council, exasperated by FCC inaction on this matter, passed an ordinance allowing the city to enforce FCC regulations on this type of inference. While the council knew that, if challenged under current law, their ordinance would likely not be upheld by the courts, they felt they had little choice if they wished to address their constituents concerns.

Mr. President, it is not fair that municipalities and their residents should be hamstrung by an outdated Federal preemption of laws the Federal Government no longer has the resources to enforce.

The legislation I am introducing today will help the city of Beloit, and many other municipalities like it, to regulate CB radio transmissions and to enforce those regulations. My bill provides a limited exception to the Federal preemption of State or local laws on radio frequency interference. It simply allows State and local governments

to regulate CB radio interference when that interference results from a violation of FCC rules. Thus, States and municipalities can use their enforcement resources to investigate and enforce Federal law thereby protecting the rights of their residents. Even the FCC recognizes that States and localities need to be able to protect their citizens.

Mr. President, this bill simply allows common sense to prevail. If Federal regulators cannot enforce the rules over which they have exclusive jurisdiction, States and localities should be given the authority to investigate and enforce those regulations for them. I hope my colleagues will support this important legislation.

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

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

S. 2025

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

SECTION 1. AUTHORITY OF STATES TO REGULATE RADIO FREQUENCY INTERFERENCE.

Section 302 of the Communications Act of 1934 (47 U.S.C. 302) is amended by adding at the end the following:

(e) Where radio frequency interference to home electronic equipment is caused by a CB Radio Station through the use of a transmitter or amplifier that is not authorized for use by a CB Radio Station pursuant to Commission rules, the state, county, municipal, or other local government shall not be preempted from exercising its police powers to resolve the interference by prohibiting the use of such unauthorized equipment or by imposing fines or other monetary sanctions. For purposes of this subsection, home electronic equipment includes, but is not limited to, television receivers, radio receivers, stereo components or systems, video cassette recorders, audio recorders, loud speakers, telephone equipment, and other electronic devices normally used in the home. Any action taken by the state, county, municipal, or local government shall not preclude concurrent action by the Commission. Nothing in this subsection shall be construed to diminish the Commission's exclusive jurisdiction over radio frequency interference in any matter outside the scope of this subsection.

By Mr. FAIRCLOTH (for himself, Mrs. KASSEBAUM, Mr. COATS, Mr. ASHCROFT, Mr. DEWINE, Mr. FRIST, and Mr. GORTON):

S. 2026. A bill to amend the Fair Labor Standards Act of 1938 to make uniform the application of the overtime exemption for inside sales personnel, and for other purposes; to the Committee on Labor and Human Resources.

OVERTIME EXEMPTION LEGISLATION

Mr. FAIRCLOTH. Mr. President, in 1961, Congress amended the Fair Labor Standards Act to provide a narrow overtime exemption for commissioned employees in retail and service establishments. Under section 207(i) of the FLSA, outside commissioned sales employees are treated as professional employees and are thus exempt from the act. In contrast, most commissioned inside sales employees are not treated as professionals regardless of the similarly of their duties with regard to outside sales employees.

Despite dramatic changes in the workplace since 1961, the FLSA continues to subject professional commissioned sales employees to an outdated, static view of the economy. Therefore, today I am introducing legislation to extend the limited FLSA exemption to all commissioned inside sales personnel. This bill is identical to H.R. 1226 which was introduced by Representative HARRIS FAWELL.

By Mr. LAUTENBERG:

S. 2027. A bill to provide for a 5-year extension of Hazardous Substance Superfund, and for other purposes; to the Committee on Finance.

THE SUPERFUND TAXES EXTENSION ACT OF 1996

Mr. LAUTENBERG. Mr. President, I rise today to introduce legislation to extend the Superfund taxes, which have been in place since 1980.

Mr. President, the Superfund program provides for cleaning-up those toxic waste sites that pose the most serious threats to our environment and to our health. The program is largely funded by a chemical and oil feedstock tax and by taxes on corporate environmental entities, such as petrochemical companies.

Mr. President, few of us may be aware of the fact that these taxes expired in December of 1995. Since that time, not one single penny has been assessed to replenish the Superfund, and so protect our ability to cleanup toxic sites in the future.

The failure to extend the Superfund tax is causing us to lose $4 million dollars a day. That is $4 million a day which could be used to expedite the cleanup at existing Superfund sites, or fund the revitalization of additional sites.

It has been argued that we have sufficient monies in the Superfund trust fund to carry us for the next few years, although there is disagreement concerning how long the money will last. However, Superfund monies are used for long-term construction projects. By utilizing these funds for other purposes, we squander our ability to do long range planning and to continue cleanups without interruption.

Mr. President, as someone who spent most of my life as a businessman, I recognize the importance of long term planning. And I understand the real costs associated with stopping and restarting a project; it is never efficient or cost effective.

Mr. President, I and the citizens of New Jersey, lived through the funding crisis of 1984–1985. The subsequent disruption of cleanups caused unnecessary hardships for the citizens of my state. I don't want to go through that again.

We need to ensure that we have sufficient financial resources to plan for, contract and continue Superfund cleanups without interruption. After all, we owe it to our children to do whatever is possible to preserve the environment, to protect the public health and to provide for the future.

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

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

S. 2027

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

SECTION 1. 5-YEAR EXTENSION OF HAZARDOUS SUBSTANCE SUPERFUND.

(a) EXTENSION OF TAXES.—

(1) The following provisions of the Internal Revenue Code of 1986 are each amended by striking ''January 1, 1996'' each place it appears and inserting ''January 1, 2001'':

(A) Section 59A(e)(1) (relating to application of environmental tax).

(B) Paragraphs (1) and (3) of section 4611(e) (relating to application of Hazardous Substance Superfund financing rate).

(2) Paragraph (2) of section 4611(e) of such Code is amended—

(A) by striking ''1993'' and inserting ''1998'',

(B) by striking ''1994'' each place it appears and inserting ''1999'', and

(C) by striking ''1995'' each place it appears and inserting ''2000''.

(b) INCREASE IN AGGREGATE TAX WHICH MAY BE COLLECTED.—Paragraph (3) of section 4611(e) of such Code is amended by striking ''$11,970,000,000'' each place it appears and inserting ''$22,000,000,000'' and by striking ''December 31, 1995'' and inserting ''December 31, 2000''.

(c) EXTENSION OF REPAYMENT DEADLINE FOR SUPERFUND BORROWING.—Subparagraph (B) of section 9507(d)(3) of such Code is amended by striking ''December 31, 1995'' and inserting ''December 31, 2000''.

(d) EXTENSION OF TRUST FUND PURPOSES.—Subparagraph (A) of section 9507(c)(1) of such Code is amended—

(1) by striking clause (i) and inserting the following:

''(i) paragraphs (1), (2), (5), (6), (7), (8), (9), and (10) of section 111(a) of CERCLA as in effect on the date of the enactment of the Superfund Reform Act of 1995,'', and

(2) by striking clause (iii) and inserting the following:

''(iii) subsections (m), (n), (q), (r), (s), and (t) of section 111 of CERCLA (as so in effect), or''.

(e) EXTENSION OF AUTHORIZATION OF APPROPRIATIONS TO TRUST FUND.—Subsection (b) of section 517 of the Superfund Revenue Act of 1986 (26 U.S.C. 9507 note) is amended by striking ''and'' at the end of paragraph (8), by striking the period at the end of paragraph (9) and inserting a comma, and by adding at the end the following new paragraphs:

''(10) 1996, $250,000,000,

''(11) 1997, $250,000,000,

''(12) 1998, $250,000,000, and

''(13) 1999, $250,000,000,''.

(f) COORDINATION WITH OTHER PROVISIONS.—Paragraph (2) of section 9507(e) of the Internal Revenue

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By Mr. LAUTENBERG (for himself, Mr. BAUCUS, Mr. REID, Mr. MOYNIHAN, and Mr. GRAHAM):

S. 2028. A bill to assist the States and local governments in assessing and remediating brownfields and encouraging environmental cleanup programs, and for other purposes; to the Committee on Environment and Public Works.

THE BROWNFIELDS AND ENVIRONMENTAL CLEANUP ACT OF 1996

Mr. LAUTENBERG. Mr. President, today, along with Senators BAUCUS and REID, I am introducing the Brownfields and Environmental Cleanup Act of 1996. This legislation is designed to foster the cleanup and reuse of thousands of lightly contaminated and abandoned properties across the country.

Mr. President, I have long been interested in the issue of abandoned, underutilized and contaminated industrial properties, commonly known as brownfields.

For years, decaying industrial plants have defined the skyline and contaminated the land in many of our urban, suburban, and rural areas.

Their rusting frames, like aging skyscrapers, are a silent reminder of the manufacturers that left, taking jobs—and often hope—with them.

Yet, in these fallow fields may lie the seeds of economic revitalization. I continue to feel, as I did when I introduced similar legislation in 1993, that a brownfields' cleanup program can spur significant economic development and create jobs. Such a cleanup initiative makes good environmental sense, and good business sense.

In fact, if one picture is worth a thousand words, then we need only look at a few of the brownfields' success stories in my State of New Jersey.

In Hackensack, the city's department of public works yard, and an adjacent oil tank farm, have been redeveloped as a Price Club discount store, complete with riverwalk and park area. The site is now estimated to be worth about $15 million dollars, and the project has created 350 jobs.

Near Elizabeth, NJ, a withering brownfield has been converted into a thriving IKEA furniture store.

The story is the same across the country, where unused, unattractive land is being transformed into valuable community assets.

A pilot project in Cleveland resulted in $3.2 million in private investment, a $1 million increase in the local tax base, and more than 170 new jobs. And in Buffalo, NY, a hydroponic tomato farm was built on a former Republic Steel site, bringing 300 new jobs to the area.

In fact, the potential for job creation is enormous. And every revitalized brownfield may represent a field of dreams to an unemployed worker.

Mr. President, while fostering jobs, brownfields' cleanup also means that dangerous contaminants are removed from our environment. The subsequent benefit to our—and our children's—health could be enormous. Furthermore, the scars of decades of neglected industrial waste, which disfigure our cities and suburbs, may finally be allowed to heal.

Brownfield initiatives are important, because the Superfund Program only provides for cleaning-up those abandoned waste sites that pose the most serious threats. However, there are over 100,000 brownfields that don't fall under Superfund, because of lower levels of contamination.

The risks posed by many of these sites may be relatively low. But their full economic use is being stymied, because there's no ready mechanism for fostering and financing cleanups—even when the property owner is ready, willing and eager to do so. In addition, prospective purchasers, developers and bankers are reluctant to invest in brownfields because they could be held liable for cleaning up the contamination.

This is unfortunate because, as I noted these abandoned or underutilized sites have enormous potential for economic development.

To unleash this potential, several States—including New Jersey—have developed expedited procedures to clean-up sites that do not pose a significant threat to public health or the environment.

Under these cleanup programs, owners can volunteer to pay for the costs of remediation and State oversight. In return, they get a letter from the State which assures prospective buyers and lenders that the property has been cleaned up to the Government's satisfaction, and that other parties need not worry about potential liability. This so-called clean bill of health removes a major impediment to economic development, and it can help revitalize stagnant local economies.

In New Jersey, 550 parties signed up for the State's voluntary cleanup program in just the first 18 months of its existence. The economic benefits, in terms of jobs and economic development, are undeniable.

But if we are to move forward, if we are to foster economic revitalization and economic renewal, if we are to continue this public-private partnership for progress, then we must remove all major roadblocks to brownfields' cleanup and reuse.

My legislation addresses the major barriers preventing redevelopment of brownfields sites.

This bill would provide financial assistance, in the form of grants, to local and State governments to evaluate brownfields sites. Consequently, interested parties would know what is required to clean the site, and what reuse would best suit the property.

My bill would also provide grants to State and local governments to establish and capitalize low-interest loan programs for cleanups. These funds could be lent to current owners, prospective purchasers, and municipalities.

The minimal seed money envisioned by this program would leverage substantial economic payoffs, and turn lands which may be of negative worth into assets for the future.

This legislation would also place limits on the potential liability of innocent property buyers. So long as purchasers or landowners made reasonable inquires, they would be exempt from Superfund liability.

The bill also limits the liability of banks and other lending institutions, which hold title merely as a result of their security interest in the property. As long as they did not participate in the management of the site, the institutions could not be held liable.

My bill would make similar reforms in the area of fiduciary liability, and would limit the liability for those who merely act as trustees or executors.

Cleaning up brownfields means a safer environment in the future, and more jobs for places that need them in the present.

Mr. President, the introduction of this bill is not a substitute for a Superfund bill. Throughout this session of Congress, Senators BAUCUS, SMITH, CHAFEE, and I have worked long and hard to try and craft a Superfund bill which we could all agree on and the President could sign into law.

However, I am forced to acknowledge that the calendar is against us at this point. Consequently, I think it is important to use the time remaining to focus on one of the areas where there is general consensus—the desire to facilitate the cleanup and development of blighted areas, and to provide the legislative framework to make this possible.

Interest in fostering the cleanup of brownfields has been bipartisan, and it exists in both in our own body and among our colleagues on the other side of the Capitol. It also has the strong backing of the EPA, and I want to thank Director Carol Browner for her support.

Moreover, this bill is largely based on S. 773, which was unanimously reported by the Environment and Public Works Committee in the 103d Congress, and on the lender, prospective purchaser and innocent landowner provisions in S. 1285 and S. 1834, that was reported by the Environment and Public Works Committee last Congress.

Mr. President, as ranking Democratic member of the Superfund Subcommittee of the Environment and Public Works Committee, I am committed to continuing the quest to reform the Superfund program. But I believe that we should move ahead, now, to cleanup thousands of priority sites not governed by the Superfund.

This is an area where we can—and should—put aside our differences and work for a goal which we all embrace.

Mr. President, our citizens want progress on both the environmental and economic fronts. The Brownfields legislation that I introduce today supports both goals. It creates a vehicle for cleanups which can help keep us onboard for environmental improvement and on-track for economic growth.

Mr. President, I ask unanimous consent to print a copy of the bill in the RECORD.

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

S. 2028

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 ''Brownfields and Environmental Cleanup Act of 1996''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) past uses of land in the United States for industrial and commercial purposes have created many sites throughout the United States that have environmental contamination;

(2) Congress and the governments of States and political subdivisions of States have enacted laws to—

(A) prevent environmental contamination; and

(B) carry out response actions to correct past instances of environmental contamination;

(3) many sites are minimally contaminated, do not pose serious threats to human health or the environment, and can be satisfactorily remediated expeditiously with little government oversight;

(4) promoting the assessment, cleanup and redevelopment of contaminated sites could lead to significant environmental and economic benefits, particularly in any case in which a cleanup can be completed quickly and during a period of time that meets short-term business needs;

(5) the private market demand for sites affected by environmental contamination frequently is reduced, often due to uncertainties regarding liability or potential cleanup costs of innocent landowners, lenders, fiduciaries, and prospective purchasers under Federal law:

(6) the abandonment or underutilization of affected sites impairs the ability of the Federal Government and the governments of States and political subdivisions of States to provide economic opportunities for the people of the United States, particularly the unemployed and economically disadvantaged;

(7) the abandonment or underuse of affected sites also results in the inefficient use of public facilities and services, as well as land and other natural resources, and extends conditions of blight in local communities;

(8) cooperation among Federal agencies, departments and agencies of State and political subdivisions of States, local community development organizations, and current owners and prospective purchasers of affected sites is required to accomplish timely response actions and the redevelopment or reuse of affected sites;

(9) there is a need for a program to—

(A) encourage cleanups of affected sites; and

(B) facilitate the establishment and enhancement of programs by States and local governments to foster cleanups of affected site though capitalization of loan programs; and

(10) there is a need to provide financial incentives and assistance to characterize certain affected sites and facilitate the cleanup of the sites so that the sites may be redeveloped for beneficial uses.

(b) PURPOSE.—The purpose of this Act is to create new business and employment opportunities through the economic redevelopment of affected sites that generally do not pose a serious threat to human health or the environment and to stimulate the assessment and cleanup of affected sites by—

(1) encouraging States and local governments to provide for characterization and cleanup of sites that may not be remediated under other environmental laws (including regulations) in effect on the date of enactment of this Act;

(2) encouraging local governments and private parties, including local community development organizations, to participate in programs, such as State cleanup programs, that facilitate expedited response actions that are consistent with business needs at affected sites;

(3) directing the Administrator to establish programs that provide financial assistance to—

(A) facilitate site assessments of certain affected sites;

(B) encourage cleanup of appropriate sites through capitalization of loan programs; and

(C) encouraging workforce development in areas adversely affected by contaminated properties; and

(4) reducing transaction costs and paperwork, and preventing needless duplication of effort and delay at all levels of government.

SEC. 3. DEFINITIONS.

As used in this Act (unless the context clearly requires otherwise):

(1) ADMINISTRATIVE COSTS.—The term ''administrative costs'' means eligible costs that are not nonadministrative costs.

(2) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(3) AFFECTED SITE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term ''affected site'' means a facility that has or is suspected of having environmental contamination that—

(i) could prevent the timely use, reuse, or redevelopment of the facility; and

(ii) is relatively limited in scope or severity and can be comprehensively characterized and readily analyzed.

(B) EXCEPTIONS.—The term does not include—

(i) any facility that is the subject of a planned or an ongoing response action under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), except that the term includes a facility for which a preliminary assessment, site investigation or removal action has been completed and with respect to which the Administrator has decided not to take further response action, including cost recovery action;

(ii) any facility included, or proposed for inclusion, on the National Priorities List maintained by the Administrator under such Act;

(iii) any facility with respect to which a record of decision, other than a no-action record of decision, has been issued by the President under section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604) with respect to the facility;

(iv) any facility that is subject to corrective action under section 3004(u) or 3008(h) of the Solid Waste Disposal Act (42 U.S.C. 6924(u) or 6928(h)) at the time that an application for loan assistance with respect to the facility is submitted under this title, including any facility with respect to which a corrective action permit or order has been issued or modified to require the implementation of corrective measures;

(v) any land disposal unit with respect to which a closure notification under subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.) has been submitted and closure requirements have been specified in a closure plan or permit;

(vi) any facility at which there has been a release of polychlorinated biphenyls and that is subject to the requirements of the Toxic Substances Control Act (15 U.S.C. 2601 et seq.);

(vii) any facility with respect to which an administrative order on consent or a judicial consent decree requiring cleanup has been entered into by the President and is still in effect under–

(I) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

(II) the Solid Waste Disposal Act (42 U.S.C. 6901, et seq.);

(III) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

(IV) the Toxic Substances Control Act (15 U.S.C. 2601 et seq.); or

(V) title XIV of the Public Health Service Act (commonly known as the ''Safe Drinking Water Act'') (42 U.S.C. 300f et seq.);

(viii) any facility at which assistance for response activities may be obtained pursuant to subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) from the Leaking Underground Storage Tank Trust Fund established by section 9508 of the Internal Revenue Code of 1986; and

(ix) a facility owned or operated by a department, agency or instrumentality of the United States, except for lands held in trust by the United States for Indian tribes.

(4) CONTAMINANT.—The term ''contaminant'' includes any hazardous substance (as defined in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(14)).

(5) CURRENT OWNER.—The term ''current owner'' means, with respect to a voluntary cleanup, an owner of an affected site or facility at the time of the cleanup.

(6) DISPOSAL.—The term ''disposal'' has the meaning provided the term in section 1004(3) of the Solid Waste Disposal Act (42 U.S.C. 6903(3)).

(7) ENVIRONMENT.—The term ''environment'' has the meaning provided the term in section 101(8) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(8)).

(8) ENVIRONMENTAL CONTAMINATION.—The term ''environmental contamination'' means the existence at a facility of 1 or more contaminants that may pose a threat to human health or the environment.

(9) FACILITY.—The term ''facility'' has the meaning provided the term in section 101(9) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(9)).

(10) GRANT.—The term ''grant'' includes a cooperative agreement.

(11) GROUND WATER.—The term ''ground water'' has the meaning provided the term in section 101(12) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(12)).

(12) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning provided the term in section 101(36) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(36)).

(13) LOCAL GOVERNMENT.—The term ''local government'' has the meaning provided the term ''unit of general local government'' in the first sentence of section 102(a)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(1)), except that the term includes Indian tribe.

(14) NATURAL RESOURCES.—The term ''natural resources'' has the meaning provided the term in section 101(16) of the Comprehensive Environmental Response, Compensation, Liability Act of 1980 (42 U.S.C. 9601(16)).

(15) NONADMINISTRATIVE COSTS.—The term ''nonadministrative costs'' includes the cost of—

(A) inventorying and classifying properties with probable contamination;

(B) oversight for a cleanup at an affected site by a contractor, current owner, or prospective purchaser;

(C) identifying the probable extent and nature of environmental contamination at the

affected site, and the preferred manner of carrying out a cleanup at the affected site;

(D) the cleanup, including onsite and offsite treatment of contaminants; and

(E) monitoring ground water or other natural resources at the affected site.

(16) OWNER.—The term ''owner'' has the meaning provided the term in section 101(20) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(20)).

(17) PERSON.—The term ''person'' has the meaning provided the term in section 101(21) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(21)).

(18) PROSPECTIVE PURCHASER.—The term ''prospective purchaser'' means a prospective purchaser of an affected site.

(19) RELEASE—The term ''release'' has the meaning provided the term in section 101(22) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(22)).

(20) RESPONSE ACTION.—The term ''response action'' has the meaning provided the term ''response'' in section 102(25) of such Act (42 U.S.C. 9601(25)).

(21) SITE CHARACTERIZATION.—

(A) IN GENERAL.—The term ''site characterization'' means an investigation that determines the nature and extent of a release or potential release of a hazardous substance at a site and meets the requirements referred to in subparagraph (B).

(B) INVESTIGATION.—For the purposes of this paragraph, an investigation that meets the requirements of this subparagraph—

(i) shall include—

(I) an onsite evaluation; and

(II) sufficient testing, sampling, and other field data gathering activities to accurately determine whether the site is contaminated and the threats to human health and the environment posed by the release of contaminants at the site; and

(ii) may also include—

(I) review of existing information regarding the site and previous uses (available at the time of the review); and

(II) an offsite evaluation, if appropriate.

(22) STATE.—The term ''State'' has the meaning provided the term under section 101(27) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(27)).

TITLE I—BROWNFIELD REMEDIATION AND ENVIRONMENTAL CLEANUP

SEC. 101. SITE CHARACTERIZATION GRANT PROGRAM.

(a) IN GENERAL.—The Administrator shall establish a program to provide grants to local governments to inventory brownfield sites and to conduct site characterizations of affected sites at which cleanups are being conducted or are proposed to be conducted under a State voluntary cleanup program, State superfund program, or other State cleanup program.

(b) SCOPE OF PROGRAM.—

(1) GRANT AWARDS.—In carrying out the program establish under subsection (a), the Administrator may award a grant to the head of each local government that submits to the Administrator an application (that is approved by the Administrator) to conduct an inventory of sites and a site characterization at an affected site or sites within the jurisdiction of the local government.

(2) GRANT APPLICATION.—An application for a grant under this section shall include, at a minimum, each of the following:

(A) An identification of the brownfield areas for which assistance is sought and a description of the effect of the brownfields on the community, including a description of the nature and extent of any known or suspected environmental contamination within the areas.

(B) The need for Federal support.

(C) A demonstration of the potential of the assistance to stimulate economic development, including the extent to which the assistance will stimulate the availability of other funds for site characterization, site identification, or environmental remediation and subsequent redevelopment of the areas in which eligible brownfields sites are situated.

(D) The existing local commitment, which shall include a community involvement plan that demonstrates meaningful community involvement.

(E) A plan that shows how the site characterization, site identification, or environmental remediation and subsequent development shall be implemented, including an environmental plan that ensures the use of sound environmental procedures, an explanation of the existing appropriate government authority and support for the project, proposed funding mechanisms for any additional work, and the proposed land ownership plan.

(F) A statement on the long-term benefits and the sustainability of the proposed project that includes the national replicability and measures of success of the project and, to the extent known, the potential of the plan for the areas in which eligible brownfields sites are situated to stimulate economic development of the area on completion of the environmental remediation.

(G) A statement that describes how the proposed site inventory and characterization program will analyze the extent to which the project or projects will reduce potential health and environmental threats caused by the presence of or potential releases of contaminants at or from the site or sites.

(H) A plan for the distribution of the grant monies among sites within the jurisdiction of the State or local government, including mechanisms to ensure a fair distribution of the grant monies.

(I) Such other factors as the Administrator considers relevant to carry out the purposes of this title.

(3) APPROVAL OF APPLICATION.—

(A) IN GENERAL.—In making a decision whether to approve an application submitted under paragraph (1) the Administrator shall consider the criteria in the application, and—

(i) the financial need of the State or local government for funds to conduct a characterization of the site or sites;

(ii) the demonstrable potential of the affected site or sites for stimulating economic development on completion of the cleanup of the affected site if the cleanup is necessary;

(iii) to the extent information is available, the estimated fair market value of the site or sites (4) after cleanup;

(iv) to the extent information is available, other economically viable, commercial activity on real property—

(I) located within the immediate vicinity of the affected site at the time of consideration of the application; or

(II) projected to be located within the immediate vicinity of the affected site by the date that is 5 years after the date of the consideration of the application;

(v) the potential of the affected site for creating new business and employment opportunities on completion of the cleanup of the site;

(vi) whether the affected site is located in an economically distressed community; and

(vii) such other factors as the Administrator considers relevant to carry out the purposes of the grant program under this section.

(B) GRANT CONDITIONS.—As a condition for awarding a grant under this section, the Administrator may, on the basis of the criteria considered under subparagraph (A), attach such conditions to the grant award as the Administrator determines appropriate.

(4) GRANT AMOUNT.—The amount of a grant awarded to any local government under subsection (a) for characterization of an affected site or sites shall not exceed $200,000.

(5) TERMINATION OF GRANTS.—If the Administrator determines that a local government that receives a grant under this subsection is in violation of a condition of a grant award referred to in paragraph (3), the Administrator may terminate the grant made to the local government and require full or partial repayment of the grant award.

SEC. 102. ECONOMIC REDEVELOPMENT ASSISTANCE GRANTS FOR LOAN PROGRAMS.

(a) ESTABLISHMENT OF PROGRAM.—The Administrator shall establish a program to provide grants to be used by State or local governments to capitalize loan programs for the cleanup of affected sites. These loans may be provided by the State or local government to finance cleanups of affected sites by the State or local government, or by an owner or a prospective purchaser of an affected site (including a local government) at which a cleanup is being conducted or is proposed to be conducted under Federal or State authority, including a State voluntary clean-up program.

(b) SCOPE OF PROGRAM.—

(1) IN GENERAL.—

(A) GRANTS.—The Administrator may award a grant to a local or State government that is an eligible applicant described in subsection (a)(1) that submits an application to the Administrator that is approved by the Administrator. The grant monies shall be used by the local or State government to capitalize a loan fund to be used for cleanup of an affected site or affected sites.

(B) GRANT APPLICATION.—An application for a grant under this section shall be in such form as the Administrator determines appropriate. At a minimum, the application submitted by the State or local government to establish a revolving loan program shall include the following:

(i) Insofar as the sites within their jurisdiction have been identified and information as to the contaminated sites is known, a description of the affected site or sites, including the nature and extent of any known or suspected environmental contamination at the affected site or sites.

(ii) Identification of the criteria to be used by the local or State government in providing for loans under the program. This criteria shall include the financial standing of the applicants for the loans, the use to which the loans will be put, and the provisions to be used to ensure repayment of the funds. These criteria shall also include:

(I) A complete description of the financial standing of the applicant that includes a description of the assets, cash flow, and liabilities of the applicant.

(II) A written certification that attests that the applicant has attempted, and has been unable, to secure financing from a private lending institution for the cleanup action that is the subject of the loan application.

(III) The proposed method, and anticipated period of time required, to clean up the environmental contamination at the affected site.

(IV) An estimate of the proposed total cost of the cleanup to be conducted at the site.

(V) An analysis that demonstrates the potential of the affected site for stimulating economic development on completion of the cleanup of the site.

(2) GRANT APPROVAL.—In determining whether to award a grant under this section, the administrator shall consider—

(A) the need of the local or State government for financial assistance to clean up the affected site or sites that are the subject of the application, taking into consideration the financial resources available to the local or State government;

(B) the ability of the local or State government to ensure that the applicants repay the loans in a timely manner;

(C) the extent to which the cleanup of the affected site or sites would reduce health and environmental risks caused by the release of contaminants at, or from, the affected site or sites;

(D) the demonstrable potential of the affected site or sites for stimulating economic development on completion of the cleanup;

(E) the demonstrated ability of the local or State. Government to administer such a loan program;

(F) the demonstrated experience of the local or State government regarding brownfields and the reuse of contaminated land, including whether or not the government has received grant monies under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) to characterize brownfields sites provided however that applicants who have not previously received such grant monies may also be considered for awards under this section;

(G) the efficiency of having the loan administered by the applicant entity level of government;

(H) the experience of administering any loan programs by the entity, including the loan repayment rates;

(I) the demonstrations made regarding the ability of the local or State government to ensure a fair distribution of grant monies among sites within their jurisdiction; and

(J) such other factors as the Administrator considers relevant to carry out the purposes of the loan program established under this section.

(3) GRANT AMOUNT—The amount of a grant made to a local or State applicant under this section shall not exceed $500,000.

(4) STATE APPROVAL.—Each application for a grant under this section shall, as a condition for approval by the Administrator, include a written statement by the local or State government that cleanups to be funded under their loan programs shall be conducted under the auspices of and compliant with the State voluntary cleanup program or State Superfund program or Federal authority, and that—

(A) the cleanup or proposed voluntary cleanup is cost-effective; and

(B) the estimated total cost of the cleanup is reasonable.

(c) GRANT AGREEMENTS.—Each grant under this section shall be made pursuant to a grant agreement. At a minimum, the grant agreement shall include provisions that ensure the following:

(1) The grant recipient shall include in all loan agreements a requirement that the loan recipient shall comply with all applicable Federal and State laws applicable to the cleanup and shall ensure that the cleanup is protective of human health and the environment.

(2) The local or State government shall require and ensure repayment of the loan consistent with this title.

(3) The State or local government shall use the funds solely for the purposes of establishing and capitalizing a loan program pursuant to the provisions of this title and of cleaning up the environmental contamination at the affected site or sites.

(4) The State or local government shall require in each loan agreement, and take necessary steps to ensure, that the loan recipient shall use the loan funds solely for the purposes stated in paragraph (3), and shall require the return any excess funds immediately on a determination by the appropriate State or local official that the cleanup has been completed.

(5) The funds shall not be transferable, unless the Administrator agrees to the transfer in writing.

(6) LIEN.—

(A) IN GENERAL.—A lien in favor of the State shall arise on the contaminated property subject to a loan under this section. The lien shall cover all real property included in the legal description of the property at the time the loan agreement provided for in this section is signed, and all rights to the property, and shall continue until the terms and conditions of the loan agreement have been fully satisfied. The lien shall arise at the time a security interest is appropriately recorded in the real property records of the appropriate office of the State, county, or other governmental subdivision, as designated by State law, in which the real property subject to the lien is located, and shall be subject to the rights of any purchaser, holder of a security interest, or judgment lien creditor whose interest is or has been perfected under applicable State law before the notice has been filed in the appropriate office within the State, county, or other governmental subdivision, as designated by State law, in which the real property subject to the lien is located.

(B) DEFINITIONS.—In this paragraph, the terms ''security interest'' and ''purchaser'' have the meanings provided in section 6323(h) of the Internal Revenue Code of 1986.

(7) Such other terms and conditions that the Administrator determines to be necessary to protect the financial interests of the United States or to protect human health and the environment.

(e) AUDITS.—The Inspector General of the Environmental Protection Agency shall audit a portion of the grants awarded under this section to ensure that all funds are used for the purposes set forth in this section. The result of the audit shall be taken into account in awarding any future grant monies to the entity of State or local government.

SEC. 103. REGULATIONS.

The Administrator may promulgate such regulations as are necessary to carry out this Act. The regulations shall include the procedures and standards that the Administrator considers necessary, including procedures and standards for evaluating an application for a grant or loan submitted under this Act.

SEC. 104. ECONOMIC REDEVELOPMENT GRANTS.

(a) EXPENDITURES FROM THE SUPERFUND.—Amounts in the Superfund shall be made available, consistent with and for the purposes of carrying out the grant program established under sections 101 and 102.

(b) AUTHORITY TO AWARD GRANTS.—There are authorized to be appropriated from the Superfund, as grants to local and State governments as provided for in sections 101 and 102, an amount equal to $25,000,000 for each of fiscal years 1997, 1998, 1999, 2000, and 2001.

SEC. 105. AUTHORIZATION OF APPROPRIATIONS

(a) SITE CHARACTERIZATION PROGRAM.—There are authorized to be appropriated to the Environmental Protection Agency to carry out section 101, an amount not to exceed $10,000,000 for each of fiscal years 1997 through 2001.

(b) ECONOMIC REDEVELOPMENT ASSISTANCE PROGRAM.—There are authorized to be appropriated to the Environmental Protection Agency to carry out section 102 an amount not to exceed $15,000,000 for each of fiscal years 1997 through 2001.

(c) AVAILABILITY OF FUNDS.—The amounts appropriated pursuant to this section shall remain available until expended.

SEC. 106. REPORTS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and not later than January 31 of each of the 3 calendar years thereafter, the Administrator shall prepare and submit a report describing the achievements of each program established under this title to—

(1) the Committee on Environment and Public Works of the Senate; and

(2) the Committee on Energy and Commerce of the House of Representatives.

(b) CONTENTS OF REPORT.—Each report shall, with respect to each of the programs established under this title, include a description of—

(1) the number of applications received by the Administrator during the preceding calendar year;

(2) the number of applications approved by the Administrator during the preceding calendar year; and

(3) the allocation of assistance under sections 101 and 102 among the States and local governments for assistance under this title.

SEC. 107. FUNDING.

(a) ADMINISTRATIVE COST LIMITATION.—Not more than 15 percent of the amount of a grant made pursuant to this title may be used for administrative costs. No grant made pursuant to this title may be used to pay for fines or penalties owed to a State or the Federal Government, or for Federal cost-sharing requirements.

(b) OTHER LIMITATIONS.—Funds made available to a State or local government pursuant to the grant programs established under sections 101 and 102 shall be used only for inventorying, assessing, and characterizing sites as authorized by this Act, and for capitalizing a loan program as authorized by this Act. Funds made available under this title may not be used to relieve a local government or State of the commitment or responsibilities of the local government or State under State law to assist or carry out cleanup actions at affected sites.

SEC. 108. STATUTORY CONSTRUCTION.

Nothing in this title is intended to affect the liability or response authorities for environmental contamination of any other law (including any regulation), including—

(1) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

(2) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.);

(3) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

(4) the Toxic Substances Control Act (15 U.S.C. 2601 et seq.); and

(5) title XIV of the Public Health Service Act (commonly known as the ''Safe Drinking Water Act'') (42 U.S.C. 300f et seq.).

TITLE II—PROSPECTIVE PURCHASERS

SEC. 201. LIMITATIONS ON LIABILITY FOR RESPONSE COSTS FOR PROSPECTIVE PURCHASERS.

(a) LIMITATIONS ON LIABILITY.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) is amended by adding at the end the following new subsection:

''(n) LIMITATIONS ON LIABILITY FOR PROSPECTIVE PURCHASERS.—Notwithstanding paragraphs (1) through (4) of subsection (a), a person who does not impede the performance of response actions or natural resource restoration at a facility shall not be liable under this Act, to the extent liability is based solely on subsection (a)(1) for a release or threat of release from a facility, and the person is a bona fide prospective purchaser of the facility.

(b) PROSPECTIVE PURCHASER AND WINDFALL LIEN.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as amended by subsection (a)) is further amended by inserting after subsection (n) the following new subsection:

''(o) PROSPECTIVE PURCHASER AND WINDFALL LIEN.—

''(1) LIEN.—In any case in which there are unrecovered response costs at a facility for which an owner of the facility is not liable by reason of subsection (n), and the conditions described in paragraph (2) are met, the United States shall have a lien upon such facility, or may obtain from the appropriate responsible party or parties, a lien on other property or other assurances of payment satisfactory to the Administrator, for such unrecovered costs. Such lien—

''(A) shall not exceed the increase in fair market value of the property attributable to the response action at the time of a subsequent sale or other disposition of the property;

''(B) shall arise at the time costs are first incurred by the United States with respect to a response action at the facility;

''(C) shall be subject to the requirements for notice and validity established in paragraph (3) of subsection (l); and

''(D) shall continue until the earlier of satisfaction of the lien or recovery of all response costs incurred at the facility.

''(2) CONDITIONS.—The conditions referred to in paragraph (1) are the following:

''(A) RESPONSE ACTION.—A response action for which there are unrecovered costs is carried out at the facility.

''(B) FAIR MARKET VALUE.—Such response action increases the fair market value of the facility above the fair market value of the facility that existed 180 days before the response action was taken.''.

(c) Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601) is amended by adding at the end the following new paragraph:

''(39) BONA FIDE PROSPECTIVE PURCHASER.—The term 'bona fide prospective purchaser' means a person who acquires ownership of a facility after the date of enactment of the Brownfields and Environmental Cleanup Act of 1996, or a tenant of such a person, who can establish each of the following by a preponderance of the evidence:

''(A) DISPOSAL PRIOR TO ACQUISITION.—All active disposal of hazardous substances at the facility occurred before that person acquired the facility.

''(B) INQUIRY.—The person made all appropriate inquiry into the previous ownership and uses of the facility and its real property in accordance with generally accepted good commercial and customary standards and practices. The standards and practices issued by the Administrator pursuant to paragraph (35)(B)(ii) shall satisfy the requirements of this subparagraph. In the case of property for residential or other similar use purchased by a nongovernmental or noncommercial entity, a site inspection and title search that reveal no basis for further investigation satisfy the requirements of this subparagraph.

''(C) NOTICES.—The person provided all legally required notices with respect to the discovery or release of any hazardous substances at the facility.

''(D) CARE.—The person exercised appropriate care with respect to hazardous substances found at the facility by taking reasonable steps to stop on-going releases, prevent threatened future releases of hazardous substances, and prevent or limit human or natural resource exposure to hazardous substances previously released into the environment.

''(E) COOPERATION, ASSISTANCE, AND ACCESS.—The person provides full cooperation, assistance, and facility access to those persons that are responsible for response actions at the facility, including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial response action at the facility.

''(F) RELATIONSHIP.—The person is not liable, or is not affiliated with any other person that is potentially liable, for response costs at the facility, through any direct or indirect familial relationship, or any contractual, corporate, or financial relationship other than that created by the instruments by which title to the facility is conveyed or financed.''.

TITLE III—FIDUCIARY AND LENDER LIABILITY

SEC. 301. FIDUCIARY LIABILITY.

(a) DEFINITIONS.—Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601) (as amended by section 201(c)) is amended by adding at the end the following:

''(40) FIDUCIARY.—The term 'fiduciary'—

''(A) means a person acting for the benefit of another party as a bona fide—

''(i) trustee;

''(ii) executor;

''(iii) administrator of an estate;

''(iv) custodian;

''(v) guardian of estates or guardian ad litem;

''(vi) court-appointed receiver;

''(vii) conservator;

''(viii) committee of estates of incapacitated persons or other incapacitated persons;

''(ix) personal representative; or

''(x) representative in any other capacity that the Administrator, pursuant to public notice, determines to be similar to those listed in clauses (i) through (ix); and

''(B) does not include any person who—

''(i) had a role in establishing a trust, estate, or fiduciary relationship if such trust, estate, or fiduciary relationship has no objectively reasonable or substantial purpose apart from the avoidance or limitation of liability under this Act; or

''(ii) is acting as a fiduciary with respect to a trust or other fiduciary estate that—

''(I) was not created as part of, or to facilitate, 1 or more estate plans or pursuant to the incapacity of a natural person; and

''(II) was organized for the primary purpose of, or is engaged in, activity carrying on a trade or business for profit.

''(41) FIDUCIARY CAPACITY.—The term ''fiduciary capacity'', in reference to an act of a person with respect to a vessel or facility, means a capacity in which the person holds title to a vessel or facility, or otherwise has control of or an interest in a vessel or facility, pursuant to the exercise of the responsibilities of the person as a fiduciary.''.

(b) LIABILITY OF FIDUCIARIES.—Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) is amended by adding at the end the following new section:

''SEC. 127. LIABILITY OF FIDUCIARIES.

''(a) IN GENERAL—The liability of a fiduciary that is liable under any other provision of this Act for the release or threatened release of a hazardous substance at, from, or in connection with a vessel or facility held in a fiduciary capacity, may not exceed the assets held in such fiduciary capacity that are available to indemnify the fiduciary.

''(b) EXCLUSION.—Subsection (a) does not apply to the extent that a person is liable under this Act independent of such person's ownership or actions taken in a fiduciary capacity.

''(c) LIMITATION—Subsections (a) and (d) shall not limit the liability of a fiduciary whose failure to exercise due care caused or contributed to the release of a hazardous substance.

''(d) SAFE HARBOR.—A fiduciary shall not be liable in its personal capacity under this Act for—

''(1) undertaking or directing another to undertake a response action under section 107(d)(1) or under the direction of an on-scene coordinator;

''(2) undertaking or directing another to undertake any other lawful means of addressing hazardous substances in connection with the vessel or facility;

''(3) terminating the fiduciary relationship;

''(4) including in the terms of a fiduciary agreement covenant, warranty, or other terms of conditions that relate to compliance with environmental laws, or monitoring or enforcing such terms;

''(5) monitoring or undertaking 1 or more inspections of the vessel or facility;

''(6) providing financial or other advice or counseling to any other party to the fiduciary relationship, including the settler or beneficiary;

''(7) restructuring, renegotiating, or otherwise altering a term or condition of the fiduciary relationship;

''(8) acting in a fiduciary capacity with respect to a vessel or facility that was contaminated before the fiduciary's period of service; or

''(9) declining to take any of the actions described in paragraphs (2) through (8).

''(e) SAVINGS CLAUSE.—Nothing in this section shall affect the rights or immunities or other defenses that are available under this Act or other applicable law to any person subject to the provisions of this section. Nothing in this section shall create any liability for any party. Nothing in this section shall create a private right of action against a fiduciary or any other party.

''(f) NO EFFECT ON CERTAIN PERSONS.—Nothing in this section shall be construed to affect the liability, if any, of a person who—

''(1)(A) acts in a capacity other than a fiduciary capacity; and

''(B) directly or indirectly benefits from a trust or fiduciary relationship; or

''(2) who—

''(A) is a beneficiary and a fiduciary with respect to the same fiduciary estate; and

''(B) as a fiduciary, receives benefits that exceed customary or reasonable compensation, and incidental benefits, permitted under other applicable law.

''(g) REGULATORY AUTHORITY.—

''(1) IN GENERAL.—The Administrator may—

''(A) issue such regulations as the Administrator deems necessary to carry out this section; and

''(B) delegate and assign any duties or powers imposed upon or assigned to the Administrator by this section, including the authority to issue regulations.

''(2) AUTHORITY TO CLARIFY.—The authority under paragraph (1) includes authority to clarify or interpret all terms, including those used in this section, and to implement any provision of this section.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any claim that has not been fully adjudicated as of the date of enactment of this Act.

SEC. 302. LIABILITY OF LENDERS.

(a) DEFINITION OF PARTICIPATION IN MANAGEMENT.—Section 101(20) of the Comprehensive Environmental Response, Liability, and Compensation Act of 1980 (42 U.S.C. 9601(20)) is amended—

(1) in subparagraph (A), by striking the second sentence;

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

''(iii) any person who owned, operated or otherwise controlled activities at a vessel or facility immediately before the United States (including any department, agency or instrumentality), a unit of State or local government, or their agents or appointees, acquired title or control of such vessel or facility in any of the following ways:

''(I) through bankruptcy, tax delinquency, abandonment, or escheat;

''(II) through foreclosure that is connected with the provision of loans, discounts, advances, guarantees, insurance, or other financial assistance, if the United States or unit of State or local government meets the requirements of paragraph (F)(ii) (I) and (II) of this section;

''(III) through the exercise of statutory receivership or conservatorship authority, including any liquidating or winding up the affairs of any person or any subsidiary thereof, if the governmental entity did not participate in management of the vessel or facility prior to acquiring title or control and meets the requirements of paragraph (F)(ii)(II) of this section;

''(IV) through the exercise of any seizure or forfeiture authority;

''(V) in any civil, criminal, or administrative enforcement proceeding, whether by order or settlement, in which an interest in a vessel or facility is conveyed to satisfy a claim of the governmental entity, and the governmental entity meets the requirements of this section; and

''(VI) temporarily in connection with a law enforcement operation.'';

(3) by amending paragraph (D) to read as follows:

''(D)(i) The term 'owner or operator' does not include the United States (including any department, agency, or instrumentality) or a unit of State or local government that acquires title or control of a vessel or facility in a manner described in paragraph (A)(iii), or in any other circumstances in which the government involuntary acquires title by virtue of its function as sovereign.

''(ii) Notwithstanding subparagraph (i), if the United States or a unit of State or a unit of State or local government caused or contributed to the release or threatened release of a hazardous substance from the facility, this Act (including section 107) shall apply in the same manner and to the same extent, procedurally and substantively, as the Act does to any non-governmental entity.''; and

(4) by adding at the end the following:

''(E) EXCLUSION OF PERSONS NOT PARTICIPANTS IN MANAGEMENT.—

''(i) INDICIA OF OWNERSHIP TO PROTECT SECURITY INTEREST.—The term 'owner or operator' does not include—

''(I) a person, including a successor or assign of such person, who, without participating in the management of a vessel or facility, holds indicia of ownership primarily to protect such person's security interest in the vessel or facility; or

''(II) a successor or assign of a person described in subclause (I).

''(ii) NONPARTICIPATION IN MANAGEMENT PRIOR TO FORECLOSURE.—The term 'owner or operator' does not include a person that forecloses on a vessel or a facility even if such person forecloses on such vessel or facility, sells, re-leases (in the case of a lease finance transaction), or liquidates the vessel or facility, maintains business activities, winds up operations, or undertakes any response action under section 107(d)(1) or under the direction of an on-scene coordinator, with respect to the vessel or facility, or takes other measures to preserve, protect, or prepare the vessel or facility prior to sale or disposition, if—

''(I) the person did not participate in management prior to foreclosure; and

''(II) such person seeks to sell, re-lease (in the case of a lease finance transaction), or otherwise divest such vessel or facility at the earliest practical, commercially reasonable time, on commercially reasonable terms, taking into account market conditions and legal and regulatory requirements.

''(F) PARTICIPATION IN MANAGEMENT.—For purposes of subparagraph (E)—

''(i) the term 'participate in management' means actually participating in the management or operational affairs of the vessel or facility, and does not include merely having the capacity to influence, or the unexercised right to control, vessel or facility operations;

(ii) a person shall be considered to 'participate in management' only if, while the borrower is still in possession of the vessel or facility encumbered by the security interest, such person—

''(I) exercises decisionmaking control over the environmental compliance of a borrower, such that the person has undertaken responsibility for the hazardous substance handling or disposal practices of the borrower; or

''(II) exercises control at a level comparable to that of a manager of the enterprise of the borrower, such that the person has assumed or manifested responsibility for the overall management of the enterprise encompassing day-to-day decisionmaking with respect to environmental compliance, or with respect to all or substantially all of the operational aspects (as distinguished from financial or administrative aspects) of the enterprise, other than environmental compliance;

''(iii) the term 'participate in management' does not include conducting an act or failing to act prior to the time that a security interest is created in a vessel or facility; and

''(iv) the term 'participate in management' does not include–

''(I) holding such a security interest or, prior to foreclosure, abandoning or releasing such a security interest;

''(II) including in the terms of an extension of credit, or in a contract or security agreement relating to such an extension, covenant, warranty, or any other term or condition that relates to environmental compliance;

''(III) monitoring or enforcing the term or condition of the extension of credit or security interest;

''(IV) monitoring or undertaking 1 or more inspections of the vessel or facility;

''(V) requiring the borrower to undertake response action or other lawful means of addressing the release or threatened release of a hazardous substance in connection with the vessel or facility prior to, during, or upon the expiration of the term of the extension of credit;

''(VI) providing financial or other advice or counseling in an effort to mitigate, prevent, or cure default or diminution in the value of the vessel or facility;

''(VII) restructuring, renegotiating, or otherwise agreeing to alter a term or condition of the extension of credit or security interest;

''(VIII) exercising other remedies that may be available under applicable law for the breach of any term or condition of the extension of credit or security agreement; or

''(IX) conducting a response action under section 107(d)(1) or under the direction of an on-scene coordinator,

if such actions do not rise to the level of participation in management, as defined in clauses (i) and (ii).

''(G) OTHER TERMS.—As used in subparagraph (E), subparagraph (F), and this subparagraph, the following definitions shall apply:

''(i) BORROWER.—The term ''borrower'' means a person whose vessel or facility is encumbered by a security interest.

''(ii) EXTENSION OF CREDIT.—The term 'extension of credit' includes a lease finance transaction—

''(I) in which the lessor does not initially select the leased vessel or facility and does not during the lease term control the daily operation or maintenance of the vessel or facility; or

''(II) that conforms with regulations issued by the appropriate Federal banking agency or the appropriate State bank supervisor (as those terms are defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)) or with regulations issued by the National Credit Union Administration Board, as appropriate.

''(iii) FINANCIAL OR ADMINISTRATIVE ASPECT.—The term 'financial or administrative aspect' includes a function such as a function of a credit manager, accounts payable officer, accounts receivable officer, personnel manager, comptroller, or chief financial officer, or any similar function.

''(iv) FORECLOSURE; FORECLOSE.—The term 'foreclosure' and 'foreclose' mean, respectively, acquiring, and to acquire from a nonaffiliated party for subsequent disposition, a vessel or facility through—

''(I) purchase at sale under a judgment or decree, a power of sale, a nonjudicial foreclosure sale, or from a trustee, deed in lieu of foreclosure, or similar conveyance, or through repossession, if such vessel or facility was security for an extension of credit previously contracted;

''(II) conveyance pursuant to an extension of credit previously contracted, including the termination of a lease agreement; or

''(III) any other formal or informal manner by which the person acquires, for subsequent disposition, possession of collateral in order to protect the security interest of the person.

''(v) OPERATIONAL ASPECT.—The term 'operational aspect' includes a function such as a function of a facility or plant manager, operations manager, chief operating officer, or chief executive officer.

''(vi) SECURITY INTEREST.—The term 'security interest' includes a right under a mortgage, deed of trust, assignment, judgment lien, pledge, security agreement, factoring agreement, or lease, or any other right accruing to a person to secure the repayment of money, the performance of a duty, or some other obligation.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall be applicable with respect to any claim that has not been finally adjudicated as of the date of enactment of this Act.

(c) LENDER LIABILITY RULE.—(1) Effective on the date of enactment of this section, the final rule issued by the Administrator of the Environmental Protection Agency on April 29, 1992 (57 Stat. Fed. Reg. 18344), shall be deemed to have been validly issued pursuant to the authority of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and to have been effective according to the final rule's terms. No additional administrative or judicial proceedings shall be necessary with respect to such final rule.

(2) Notwithstanding section 113(a) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, no court shall have jurisdiction to review the final rule issued by the Administrator of the Environmental Protection Agency on April 29, 1992 (57 Fed. Reg. 18344).

(3) Nothing in this subsection shall be construed to limit the authority of the President or his delegate to amend the final rule issued by the Administrator of the Environmental Protection Agency on April 29, 1992

(57 Fed. Reg. 18344), in accordance with applicable provisions of law.

(d) REGULATORY AUTHORITY.—

(1) IN GENERAL.—The Administrator may—

(A) issue such regulations as the Administrator deems necessary to carry out the amendments made by this section; and

(B) delegate and assign any duties or powers imposed upon or assigned to the Administrator by the amendments made by this section, including the authority to issue regulations.

(2) AUTHORITY TO CLARIFY.—The authority under paragraph (1) includes authority to clarify or interpret all terms, including those used in this section, and to implement any provision of the amendments made by this section.

TITLE IV—INNOCENT LANDOWNERS

SEC. 401. INNOCENT LANDOWNERS.

(a) ENVIRONMENTAL SITE ASSESSMENT.—Section 107 (as amended by section 201(b)) is amended by adding at the end the following new subsection:

''(p) INNOCENT LANDOWNERS.—

''(1) CONDUCT OF ENVIRONMENTAL ASSESSMENT.—A person who has acquired real property shall have made all appropriate inquiry within the meaning of subparagraph (B) of section 101(35) if the person establishes that, within 180 days prior to the time of acquisition, an environmental site assessment of the real property was conducted which meets the requirements of paragraph (2).

''(2) DEFINITION OF ENVIRONMENTAL SITE ASSESSMENT.—For purposes of this subsection, the term 'environmental site assessment' means an assessment conducted in accordance with the standards set forth in the American Society for Testing and Materials (ASTM) Standard E1527–94, titled 'Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process' or with alternative standards issued by rule by the President or promulgated or developed by others and designated by rule by the President. Before issuing or designating alternative standards, the President shall first conduct a study of commercial and industrial practices concerning environmental site assessments in the transfer of real property in the United States. Any such standards issued or designated by the President shall also be deemed to constitute commercially reasonable and generally accepted standards and practices for purposes of this paragraph. In issuing or designating any such standards, the President shall consider requirements governing each of the following:

''(A) Interviews or owners, operators, and occupants of the property to determine information regarding the potential for contamination.

''(B) Review of historical sources as necessary to determine previous uses and occupancies of the property since the property was first developed. For purposes of this subclause, the term 'historical sources' means any of the following, if they are reasonably ascertainable: recorded chain of title documents regarding the real property, including all deeds, easements, leases, restrictions, and covenants, aerial photographs, fire insurance maps, property tax files, USGS 7.5 minutes topographic maps, local street directories, building department records, zoning/land use records, and any other sources that identify past uses and occupancies of the property.

''(C) Determination of the existence of recorded environmental cleanup liens against the real property which have arisen pursuant to Federal, State, or local statutes.

''(D) Review of reasonably ascertainable Federal, State, and local government records of sites or facilities that are likely to cause or contribute to contamination at the real property, including, as appropriate, investigation reports for such sites or facilities; records of activities likely to cause or contribute to contamination at the real property, including landfill and other disposal location records, underground storage tank records, hazardous waste handler and generator records and spill reporting records; and such other reasonably ascertainable Federal, State, and local government environmental records which could reflect incidents or activities which are likely to cause or contribute to contamination at the real property.

''(E) A visual site inspection of the real property and all facilities and improvements on the real property and a visual inspection of immediately adjacent properties, including an investigation of any hazardous substance use, storage, treatment, and disposal practices on the property.

''(F) Any specialized knowledge or experience on the part of the defendant.

''(G) The relationship of the purchase price to the value of the property if uncontaminated.

''(H) Commonly known or reasonably ascertainable information about the property.

''(I) The obviousness of the presence or likely presence of contamination at the property, and the ability to detect such contamination by appropriate investigation.

A record shall be considered to be 'reasonably ascertainable' for purposes of this paragraph if a copy or reasonable facsimile of the record is publicly available by request (within reasonable time and cost constraints) and the record is practically reviewable.

''(3) APPROPRIATE INQUIRY.—A person shall not be treated as having made all appropriate inquiry under paragraph (1) unless—

''(A) the person has maintained a compilation of the information reviewed and gathered in the course of the environmental site assessment;

''(B) the person exercised appropriate care with respect to hazardous substances found at the facility by taking reasonable steps to stop on-going releases, prevent threatened future releases of hazardous substances, and prevent or limit human or natural resource exposure to hazardous substances previously released into the environment; and

''(C) the person provides full cooperation, assistance, and facility access to persons authorized to conduct response actions at the facility, including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial response action at the facility.

''(4) DEFINITION OF CONTAMINATION.—For the purposes of this subsection and section 101(35), the term 'contamination' means an existing release, a past release, or the threat of a release of a hazardous substance.''.

(b) Section 101(35) of the Comprehensive Environmental Response, Compensation, and Liability act of 1980 (42 U.S.C. 9601(35)) is by striking subparagraph (B) and inserting the following new subparagraph:

''(B) KNOWLEDGE OF INQUIRY REQUIREMENT.—

''(i) IN GENERAL.—To establish that the defendant had no reason to know, as provided in subparagraph (A)(i), the defendant must have undertaken, at the time of the acquisition, all appropriate inquiry (in accordance with section 107(p)) into the previous ownership and uses of the facility and its real property in accordance with generally accepted good commercial and customary standards and practices. For the purposes of the preceding sentence and until the Administrator issues or designates standards and practices as provided in clause (ii), the court shall take into account any specialized knowledge or experience on the part of the defendant, the relationship of the purchase price to the value of the property if uncontaminated, commonly known or reasonably ascertainable information about the property, the obviousness of the presence or likely presence of contamination at the property, and the ability to detect such contamination by appropriate investigation.

''(ii) RULE.—Within 1 year after the date of enactment of this Act, the Administrator shall, by rule, issue standards and practices or designate standards and practices promulgated or developed by others, that satisfy the requirements of this subparagraph. In issuing or designating such standards and practices, the Administrator shall consider each of the following:

''(I) Conduct of an inquiry by an environmental professional.

''(II) Inclusion of interviews with past and present owners, operators, and occupants of the facility and its real property for the purpose of gathering information regarding the potential for contamination at the facility and its real property.

''(III) Inclusion of a review of historical sources, such as chain of title documents, aerial photographs, building department records, and land use records, to determine previous uses and occupancies of the real property since it was first developed.

''(IV) Inclusion of a search for recorded environmental cleanup liens, filed under Federal, State, or local law, against the facility or its real property.

''(V) Inclusion of a review of Federal, State, and local government records (such as waste disposal records), underground storage tank records, and hazardous waste handling, generation, treatment, disposal, and spill records, concerning contamination at or near the facility or its real property.

''(VI) Inclusion of a visual inspection of the facility and its real property and of adjoining properties.

''(VII) Any specialized knowledge or experience on the part of the defendant.

''(VIII) The relationship of the purchase price to the value of the property if uncontaminated.

''(IX) Commonly known or reasonably ascertainable information about the property.

''(X) The obviousness of the presence or likely presence of contamination at the property, and the ability to detect such contamination by appropriate investigation.

''(iii) SITE INSPECTION AND TITLE SEARCH.—In the case of property for residential use or other similar use purchased by a nongovernmental or noncommercial entity, a site inspection and title search that reveal no basis for further investigation satisfy the requirements of this subparagraph.''; and

(c) REGULATORY AUTHORITY.—

(1) IN GENERAL.—The Administrator may—

(A) issue such regulations as the Administrator deems necessary to carry out the amendments made by this section; and

(B) delegate and assign any duties or powers imposed upon or assigned to the Administrator by the amendments made by this section, including the authority to issue regulations.

(2) AUTHORITY TO CLARIFY.—The authority under paragraph (1) includes authority to clarify or interpret all terms, including those used in this section, and to implement any provision of the amendments made by this section.

By Mr. WYDEN (for himself and Mr. D'AMATO):

S. 2029. A bill to make permanent certain authority relating to self-employment assistance programs; to the Committee on Finance.

THE SELF-EMPLOYMENT REAUTHORIZATION ACT

Mr. WYDEN. Mr. President, I rise today to introduce legislation with

Senator D'AMATO to reauthorize the Self-Employment Act. As waves of economic change turn our economy into a high-wire act, the Self-Employment Act has helped turn the unemployment safety net into a trampoline of opportunity for the unemployed. The Self-Employment Assistance Program takes an innovative and cost-effective approach to helping eligible dislocated workers become self-sufficient; it enables them to use their weekly unemployment checks to start their own businesses.

Harvard Business School reported earlier this year that from 1978 to the present, 22 percent of the work force, or 3 million workers, at the country's top 100 companies had been laid off, and that 77 percent of all the layoffs involved white-collar workers. Many of these highly skilled workers will never be able to return to their former positions, but some are highly motivated to start their own firms. In 40 out of 50 States, however, those who start their own businesses are forced to give up their weekly unemployment compensation checks as soon as the company starts generating revenue—but before it provides enough income to support the worker. It is exactly this problem the Self-Employment Assistance Program is designed to correct.

In a few short years, the Self-Employment Act (Public Law 103–182; title V) has already enabled thousands of unemployed Americans to use their unemployment compensation to establish new businesses. Two experimental programs, in Massachusetts and Washington, have already shown that self-employment programs can create jobs at no cost to the taxpayer. Using existing funds, the Massachusetts program created dozens of new businesses but actually paid $1,400 less unemployment per worker than the State average. The Washington program created more than 600 new jobs and the firms were paying an average of $10.50 an hour to workers they had hired.

The legislation we introduce today reauthorize a program that allows—but does not require—State to establish self-employment assistance [SEA] programs as part of their unemployment insurance [UI] programs. It permits States to provide income support payments to the unemployed in the same weekly amount as the worker's regular unemployment insurance [UI] benefits would otherwise be, so that they may work full time on starting their own business instead of searching for traditional wage and salary jobs. In effect, this legislation removes a high hurdle facing those who have the ingenuity, motivation, and energy to start their own businesses. It eliminates a barrier in the law that has forced workers interested in self-employment to choose between receiving UI benefits and starting a new business.

Self-employment assistance has not only proved to be a viable reemployment option for unemployed workers; its benefits have exceeded its costs as well. While the law is not a panacea for all of our Nation's unemployed, it's an opportunity for many skilled workers to get back to work faster and helps create new jobs as well.

In a recent tour around Oregon, my State SEA officials found tremendous enthusiasm for this program. They reported to me: "* * * the SEA Program in Oregon is meeting the goal of providing Oregon dislocated workers—as identified through worker profiling—with access to entrepreneurial training and financial assistance while pursuing self-employment and the establishment of a business." Among the examples of businesses developed under the Oregon SEA Program this year are a marine maintenance and repair company, drop-in day care centers at shopping malls and a handmade hats, quilts, and bags business working to develop a mail-order firm.

The 1993 SEA law is based upon self-employment programs that have worked well in 17 other industrialized nations. As the author of two laws, in 1987 and 1993, that have promoted self-employment, I can attest to the dramatic success of the self-employment concept. According to a June 1995 Department of Labor [DOL] evaluation of the Washington State and Massachusetts pilot programs, the two projects "clearly demonstrate that self-employment is a viable reemployment option for some unemployed workers . . . about one-half of those interested actually do start a business and an average of two-thirds were still in business 3 years later." In addition, the DOL report found that self-employment assistance programs increased business starts among project participants, reduced the length of their unemployment periods and increased their total time in employment. Both the Washington and Massachusetts models proved to be cost effective for the participants as well as for taxpayers.

Over the past 2½ years, 10 States used the 1993 legislation to create self-employment programs: California, Connecticut, Delaware, Maine, Maryland, Minnesota, New Jersey, New York, Oregon, and Rhode Island. To date, DOL has approved six State plans—California, Delaware, Maine, New Jersey, New York, and Oregon—and four of these—Delaware, Maine, New York and Oregon—have actually implemented their SEA programs.

Let me briefly describe how the program works. The law directs the DOL to review and approve State SEA Program plans. In States that operate SEA programs, new UI claimants identified through worker profiling—automated systems that use a set of criteria to identify those claimants who are likely to exhaust their UI benefits and need reemployment assistance—will be eligible for self-employment assistance. State SEA programs provide participants with periodic—weekly or biweekly—self-employment allowances while they are getting their businesses off the ground. These support payments are the same weekly amount as the worker's regular UI benefits. The SEA participants are required to participate in technical assistance programs—entrepreneurial training—accounting, cash flow, finances, taxes, etc.—business counseling—business plans, marketing, legal requirements, insurance, etc.—and finance—to ensure they have the skills necessary to operate a business. Finally, SEA programs are required to operate at no additional cost to the unemployment trust fund: The law stipulates that the payment of SEA allowances may not result in any additional benefits charges to the unemployment trust fund. Individuals may choose at any time to opt out of the SEA Program; they may resume collection of regular unemployment compensation until the total amount of regular unemployment compensation paid and the SEA paid equals the maximum benefit amount. States are responsible for the costs of providing basic SEA Program services, like business counseling and technical assistance, but may allow participants to pay for more intensive counseling and technical assistance.

Mr. President, as we move into the global economy of the 21st century, it is imperative that the Government adopt fresh strategies so that our many skilled buy unemployed workers can start anew in the private sector. Congress should extend the Self-Employment Assistance Program so that States will have the continued flexibility to help unemployed workers create their own businesses. Our bipartisan bill promotes the spirit of entrepreneurship. It carries forward a reasonable, and sensible reform of the unemployment insurance system that bears no cost to the taxpayer.

I would like to thank Senator D'AMATO for joining me as an original cosponsor of this bill. New York has a very active and successful Self Employment Assistance Program, and I look forward to working closely with him to see this important program reauthorized.

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

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

S. 2029

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

SECTION 1. SELF-EMPLOYMENT ASSISTANCE PROGRAMS.

(a) IN GENERAL.—Paragraph (2) of section 507(e) of the North American Free Trade Agreement Implementation Act (26 U.S.C. 3306 note) is hereby repealed.

(b) CONFORMING AMENDMENTS.—Subsection (e) of section 507 of such Act is further amended—

(1) by amending the heading after the subsection designation to read "EFFECTIVE DATE.—"; and

(2) by striking "(1) EFFECTIVE DATE.—" and by running in the remaining text of subsection (e) immediately after the heading therefor, as amended by paragraph (1).

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

S. 2030. A bill to establish nationally uniform requirements regarding the titling and registration of salvage, nonrepairable, and rebuilt vehicles, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE NATIONAL MOTOR VEHICLE SAFETY, ANTITHEFT, TITLE REFORM, AND CONSUMER PROTECTION ACT OF 1996

Mr. LOTT. Mr. President, I rise today to introduce legislation to establish national requirements regarding the titling and registration of salvage, nonrepairable and rebuilt vehicles. I am proud to have Senator EXON as my principle cosponsor on this bipartisan bill. Senator EXON has done yeoman's work in previous Congresses to address this issue.

Several years ago, Congress formed a group to study this issue. My bill responds to the recommendations made by that Federal task force regarding the disclosure of vehicle conditions. This consumer safety bill will protect used car consumers from unknowingly purchasing rebuilt automobiles that have not been restored to safe operating conditions. The legislation requires the vehicle title to be branded to show that it has been totaled.

This legislation would create a uniform national policy concerning the disclosure of vehicle conditions. Forty-eight States require some sort of disclosure on the vehicle title. Insistency among these States, however, permits those unscrupulous few to take advantage of unsuspecting consumers.

I hope my colleagues in the Senate will join me as cosponsors of this legislation, which addresses this consumer safety issue in a direct and straightforward manner.

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

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

S. 2030

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 ''National Motor Vehicle Safety, Antitheft, Title Reform, and Consumer Protection Act of 1996''.

SEC. 2. FINDINGS.

The Congress finds that—

(1) many States do not have specific requirements regarding the disclosure of the salvage history of a motor vehicle and some States never require that the title to a motor vehicle be stamped or branded to indicate that the motor vehicle is, or has been, a salvage vehicle;

(2) as of the date of enactment of this Act, State disclosure requirements regarding the salvage history of a motor vehicle—

(A) are inconsistent in scope and content;

(B) require the use of different forms and administrative procedures;

(C) will undercut the effectiveness of the National Automobile Title Information System created by the Anti Car Theft Act of 1992;

(D) are burdensome on interstate commerce; and

(E) do not provide a significant deterrent to unscrupulous sellers of rebuilt vehicles who mislead potential wholesale and retail buyers concerning the condition and value of such vehicles;

(3) the fact that a motor vehicle is salvage, nonrepairable, water damaged, or rebuilt after incurring substantial damage is material in any subsequent purchase or sale of that motor vehicle;

(4) some salvage and nonrepairable vehicles become involved in illegal commerce in stolen vehicles and parts;

(5) in some jurisdictions, the lack of theft inspections prior to allowing a rebuilt motor vehicle back on the road provides an opportunity for an unscrupulous person to use stolen parts in the rebuilding of motor vehicles;

(6) according to the National Highway Traffic Safety Administration, rebuilt motor vehicles—

(A) may not have passed any safety inspection; and

(B) may pose a public safety risk and consumers who unknowingly buy rebuilt motor vehicles face an increased risk of death or serious injury;

(7) statistics prepared by the American Association of Motor Vehicle Administrators indicate that 71 percent of the States require some form of safety inspection before a rebuilt salvage vehicle may be registered for use on the road;

(8) the promulgation of a safety inspection program by the Secretary of Transportation may assist the States in expanding and standardizing their inspection programs for rebuilt vehicles;

(9) duplicate or replacement titles play an important role in many vehicle thefts and various types of vehicle fraud;

(10) State controls on the issuance of such titles must therefore be strengthened and made uniform across the United States;

(11) large quantities of motor vehicles are exported from United States ports to foreign countries without proper documentation of ownership in violation of applicable law; and

(12) in view of the threats to public safety and consumer interests described in paragraphs (1) through (10), the Motor Vehicle Titling, Registration and Salvage Advisory Committee, which was convened by the Secretary of Transportation under section 140(a) of the Anti Car Theft Act of 1992 (15 U.S.C. 2041 note), recommended that—

(A) Federal laws be enacted to require certain definitions to be used nationwide to describe seriously damaged vehicles; and

(B) all States be required to—

(i) use the definitions referred to in subparagraph (A) in determining appropriate title designations;

(ii) use certain motor vehicle titling and control methods; and

(iii) take certain other measures to protect the integrity of the titling process.

SEC. 3. MOTOR VEHICLE TITLING AND DISCLOSURE REQUIREMENTS.

(a) IN GENERAL.—Subtitle VI of title 49, United States Code, is amended by adding at the end the following new chapter:

''CHAPTER 333—AUTOMOBILE SAFETY, ANTITHEFT, AND TITLE DISCLOSURE REQUIREMENTS

''Sec.
''33301. Definitions.
''33302. Passenger motor vehicle titling.
''33303. Petitions for extensions of time.
''33304. Effect on State law.
''33305. Civil and criminal penalties.

''§ 33301. Definitions

''For the purposes of this chapter the following definitions and requirements shall apply:

''(1) PASSENGER MOTOR VEHICLE.—

''(A) IN GENERAL.—The term 'passenger motor vehicle' means any vehicle driven or drawn by mechanical power manufactured primarily for use on the public streets, roads, and highways.

''(B) PASSENGER MOTOR VEHICLES AND LIGHT TRUCKS INCLUDED.—Such term includes a multipurpose passenger vehicle or light duty truck if the vehicle or truck is rated at not more than 7,500 pounds gross vehicle weight.

''(C) MOTORCYCLES NOT INCLUDED.—Such term does not include a motorcycle.

''(2) SALVAGE VEHICLE.—

''(A) IN GENERAL.—Subject to subparagraph (E), the term 'salvage vehicle' means any passenger motor vehicle that has been wrecked, destroyed, or damaged to the extent that the total estimated or actual cost of parts and labor to rebuild or reconstruct the passenger motor vehicle to its preaccident condition for legal operation on the roads or highways exceeds 75 percent of the retail value of the passenger motor vehicle, as set forth in the most recent edition of any nationally recognized compilation (including automated databases) of current retail values that is approved by the Secretary.

''(B) VEHICLES EXCLUDED.—Such term does not include any passenger motor vehicle that has a model year designation of a calendar year that precedes that calendar year in which the vehicle was wrecked, destroyed, or damaged by 5 or more years.

''(C) DETERMINATION OF VALUE OF REPAIR PARTS.—For purposes of subparagraph (B), the value of repair parts shall be determined by using—

''(i) the published retail cost of the original equipment manufacturer parts; or

''(ii) the actual retail cost of the repair parts to be used in the repair.

''(D) DETERMINATION OF LABOR COSTS.—For purposes of subparagraph (B), the labor cost of repairs shall be computed by using the hourly labor rate and time allocations that are reasonable and customary in the automobile repair industry in the community in which the repairs are performed.

''(E) CERTAIN VEHICLES INCLUDED.—The term 'passenger vehicle' includes, without regard to whether the passenger motor vehicle meets the 75 percent threshold specified in subparagraph (B)—

''(i) any passenger motor vehicle with respect to which an insurance company acquires ownership under a damage settlement (except for a settlement in connection with a recovered theft vehicle that did not sustain a sufficient degree of damage to meet the 75 percent threshold specified in subparagraph (B)); or

''(ii) any passenger motor vehicle that an owner may wish to designate as a salvage vehicle by obtaining a salvage title, without regard to the extent of the damage and repairs.

''(F) SPECIAL RULE.—A designation of a passenger motor vehicle by an owner under subparagraph (E)(ii) shall not impose any obligation on—

''(i) the insurer of the passenger motor vehicle; or

''(ii) an insurer processing a claim made by or on behalf of the owner of the passenger motor vehicle.

''(3) SALVAGE TITLE.—

''(A) IN GENERAL.—The term 'salvage title' means a passenger motor vehicle ownership document issued by a State to the owner of a salvage vehicle.

''(B) TRANSFER OF OWNERSHIP.—Ownership of a salvage vehicle may be transferred on a salvage title.

''(C) PROHIBITION.—The salvage vehicle may not be registered for use on the roads or

highways unless the salvage vehicle has been issued a rebuilt salvage title.

''(D) REQUIREMENT FOR A REBUILT SALVAGE TITLE.—A salvage title shall be conspicuously labeled with the word 'salvage' across the front of the document.

''(4) REBUILT SALVAGE VEHICLE.—The term 'rebuilt salvage vehicle' means—

''(A) for passenger motor vehicles subject to a safety inspection in a State that requires such an inspection under section 33302(b)(2)(H), any passenger motor vehicle that has—

''(i) been issued previously a salvage title;

''(ii) passed applicable State antitheft inspection;

''(iii) been issued a certificate indicating that the passenger motor vehicle has—

''(I) passed the antitheft inspection referred to in clause (ii); and

''(II) been issued a certificate indicating that the passenger motor vehicle has passed a required safety inspection under section 33302(b)(2)(H); and

''(iv) affixed to the door jamb adjacent to the driver's seat a decal stating 'Rebuilt Salvage Vehicle—Antitheft and Safety Inspections Passed'; or

''(B) for passenger motor vehicles in a State other than a State referred to in subparagraph (A), any passenger motor vehicle that has—

''(i) been issued previously a salvage title;

''(ii) passed an applicable State antitheft inspection;

''(iii) been issued a certificate indicating that the passenger motor vehicle has passed the required antitheft inspection referred to in clause (ii); and

''(iv) affixed to the door jamb adjacent to the driver's seat, a decal stating 'Rebuilt Salvage Vehicle—Antitheft Inspection Passed/No Safety Inspection Pursuant to National Criteria'.

''(5) REBUILT SALVAGE TITLE.—

''(A) IN GENERAL.—The term 'rebuilt salvage title' means the passenger motor vehicle ownership document issued by a State to the owner of a rebuilt salvage vehicle.

''(B) TRANSFER OF OWNERSHIP.—Ownership of a rebuilt salvage vehicle may be transferred on a rebuilt salvage title.

''(C) REGISTRATION FOR USE.—A passenger motor vehicle for which a rebuilt salvage title has been issued may be registered for use on the roads and highways.

''(D) REQUIREMENT FOR SALVAGE TITLE.—A rebuilt salvage title shall be conspicuously labeled, either with 'Rebuilt Salvage Vehicle—Antitheft and Safety Inspections Passed' or 'Rebuilt Salvage Vehicle—Antitheft Inspection Passed/No Safety Inspection Pursuant to National Criteria', as appropriate, across the front of the document.

''(6) NONREPAIRABLE VEHICLE.—

''(A) IN GENERAL.—The term 'nonrepairable vehicle' means any passenger motor vehicle that—

''(i)(I) is incapable of safe operation for use on roads or highways; and

''(II) has no resale value, except as a source of parts or scrap only; or

''(ii) the owner irreversibly designates as a source of parts or scrap.

''(B) CERTIFICATE.—Each nonrepairable vehicle shall be issued a nonrepairable vehicle certificate.

''(7) NONREPAIRABLE VEHICLE CERTIFICATE.—

''(A) IN GENERAL.—The term 'nonrepairable vehicle certificate' means a passenger motor vehicle ownership document issued by the State to the owner of a nonrepairable vehicle.

''(B) TRANSFER OF OWNERSHIP.—Ownership of the passenger motor vehicle may be transferred not more than 2 times on a nonrepairable vehicle certificate.

''(C) PROHIBITION.—A nonrepairable vehicle that is issued a nonrepairable vehicle certificate may not be titled or registered for use on roads or highways at any time after the issuance of the certificate.

''(D) REQUIREMENT FOR NONREPAIRABLE VEHICLE CERTIFICATE.—A nonrepairable vehicle certificate shall be conspicuously labeled with the term 'Nonrepairable' across the front of the document.

''(8) FLOOD VEHICLE.—

''(A) IN GENERAL.—The term 'flood vehicle' means any passenger motor vehicle that has been submerged in water to the point that rising water has reached over the door sill of the motor vehicle and has entered the passenger or trunk compartment.

''(B) REQUIREMENT FOR DISCLOSURE.—Disclosure that a passenger motor vehicle has become a flood vehicle shall be made by the person transferring ownership at the time of transfer of ownership. After such transfer is completed, the certificate of title shall be conspicuously labeled with the term 'flood' across the front of the document.

''(9) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

''§ 33302. Passenger motor vehicle titling

''(a) CARRYFORWARD OF CERTAIN TITLE INFORMATION IF A PREVIOUS TITLE WAS NOT ISSUED IN ACCORDANCE WITH CERTAIN NATIONALLY UNIFORM STANDARDS.—

''(1) IN GENERAL.—If—

''(A) records that are readily accessible to a State indicate that a passenger motor vehicle with respect to which the ownership is transferred on or after the date that is 1 year after the date of enactment of the National Motor Vehicle Safety, Antitheft, Title Reform, and Consumer Protection Act of 1996, has been issued previously a title that bore a term or symbol described in paragraph (2); and

''(B) the State licenses that vehicle for use, the State shall disclose that fact on a certificate of title issued by the State.

''(2) TERMS AND SYMBOLS.—

''(A) IN GENERAL.—A State shall be subject to the requirements of paragraph (1) with respect to the following terms on a title that has been issued previously to a passenger motor vehicle (or symbols indicating the meanings of those terms):

''(i) 'Salvage'.

''(ii) 'Unrebuildable'.

''(iii) 'Parts only'.

''(iv) 'Scrap'.

''(v) 'Junk'.

''(vi) 'Nonrepairable'.

''(vii) 'Reconstructed'.

''(viii) 'Rebuilt'.

''(ix) Any other similar term, as determined by the Secretary.

''(B) FLOOD DAMAGE.—A State shall be subject to the requirements of paragraph (1) if a term or symbol on a title issued previously for a passenger vehicle indicates that the vehicle has been damaged by flood.

''(b) NATIONALLY UNIFORM TITLE STANDARDS AND CONTROL METHODS.—

''(1) IN GENERAL.—Not later than 18 months after the date of the enactment of the National Motor Vehicle Safety, Antitheft, Title Reform, and Consumer Protection Act of 1996, the Secretary shall issue regulations that require each State that licenses passenger motor vehicles with respect to which the ownership is transferred on or after the date that is 2 years after the issuance of final regulations, to apply with respect to the issuance of the title for any such motor vehicle uniform standards, procedures, and methods for—

''(A) the issuance and control of that title; and

''(B) information to be contained on such title.

''(2) CONTENTS OF REGULATIONS.—The titling standards, control procedures, methods, and information covered under the regulations issued under this subsection shall include the following:

''(A) INDICATION OF STATUS.—Each State shall indicate on the face of a title or certificate for a passenger motor vehicle, as applicable, if the passenger motor vehicle is a salvage vehicle, a nonrepairable vehicle, a rebuilt salvage vehicle, or a flood vehicle.

''(B) SUBSEQUENT TITLES.—The information referred to in subparagraph (A) concerning the status of the passenger vehicle shall be conveyed on any subsequent title, including a duplicate or replacement title, for the passenger motor vehicle issued by the original titling State or any other State.

''(C) SECURITY STANDARDS.—The title documents, the certificates and decals required by section 33301(4), and the system for issuing those documents, certificates, and decals shall meet security standards that minimize opportunities for fraud.

''(D) IDENTIFYING INFORMATION.—Each certificate of title referred to in subparagraph (A) shall include the passenger motor vehicle make, model, body type, year, odometer disclosure, and vehicle identification number.

''(E) UNIFORM LAYOUT.—The title documents covered under the regulations shall maintain a uniform layout, that shall be established by the Secretary, in consultation with each State or an organization that represents States.

''(F) NONREPAIRABLE VEHICLES.—A passenger motor vehicle designated as nonrepairable—

''(i) shall be issued a nonrepairable vehicle certificate; and

''(ii) may not be retitled.

''(G) REBUILT SALVAGE TITLE.—No rebuilt salvage title may be issued to a salvage vehicle unless, after the salvage vehicle is repaired or rebuilt, the salvage vehicle complies with the requirements for a rebuilt salvage vehicle under section 33301(4).

''(H) INSPECTION PROGRAMS.—Each State inspection program shall be designed to comply with the requirements of this subparagraph and shall be subject to approval and periodic review by the Secretary. Each such inspection program shall include the following:

''(i) Each owner of a passenger motor vehicle that submits a vehicle for an antitheft inspection shall be required to provide—

''(I) a completed document identifying the damage that occurred to the vehicle before being repaired;

''(II) a list of replacement parts used to repair the vehicle;

''(III) proof of ownership of the replacement parts referred to in subclause (II) (as evidenced by bills of sale, invoices or, if such documents are not available, other proof of ownership for the replacement parts); and

''(IV) an affirmation by the owner that—

''(aa) the information required to be submitted under this subparagraph is complete and accurate; and

''(bb) to the knowledge of the declarant, no stolen parts were used during the rebuilding of the repaired vehicle.

''(ii) Any passenger motor vehicle or any major part or major replacement part required to be marked under this section or the regulations issued under this section that—

''(I) has a mark or vehicle identification number that has been illegally altered, defaced, or falsified; or

''(II) cannot be identified as having been legally obtained (through evidence described in clause (i)(III)),

shall be contraband and subject to seizure.

''(iii) To avoid confiscation of parts that have been legally rebuilt or manufactured, the regulations issued under this subsection shall include procedures that the Secretary, in consultation with the Attorney General of the United States, shall establish—

''(I) for dealing with parts with a mark or vehicle identification number that is normally removed during remanufacturing or rebuilding practices that are considered acceptable by the automotive industry; and

''(II) deeming any part referred to in clause (i) to meet the identification requirements under the regulations if the part bears a conspicuous mark of such type, and is applied in such manner, as may be determined by the Secretary to indicate that the part has been rebuilt or remanufactured.

''(iv) With respect to any vehicle part, the regulations issued under this subsection shall—

''(I) acknowledge that a mark or vehicle identification number on such part may be legally removed or altered, as provided under section 511 of title 18, United States Code; and

''(II) direct inspectors to adopt such procedures as may be necessary to prevent the seizure of a part from which the mark or vehicle identification number has been legally removed or altered.

''(v) The Secretary shall establish nationally uniform safety inspection criteria to be used in States that require such a safety inspection. A State may determine whether to conduct such safety inspection, contract with a third party, or permit self-inspection. Any inspection conducted under this clause shall be subject to criteria established by the Secretary. A State that requires a safety inspection under this clause may require the payment of a fee for such inspection or the processing of such inspection.

''(I) DUPLICATE TITLES.—No duplicate or replacement title may be issued by a State unless—

''(i) the term 'duplicate' is clearly marked on the face of the duplicate or replacement title; and

''(ii) the procedures issued are substantially consistent with the recommendation designated as recommendation 3 in the report issued on February 10, 1994, under section 140 of the Anti Car Theft Act of 1992 (15 U.S.C. 2041 note) by the task force established under such section.

''(J) TITLING AND CONTROL METHODS.—Each State shall employ the following titling and control methods:

''(i) If an insurance company is not involved in a damage settlement involving a salvage vehicle or a nonrepairable vehicle, the passenger motor vehicle owner shall be required to apply for a salvage title or nonrepairable vehicle certificate, whichever is applicable, before the earlier of the date—

''(I) on which the passenger motor vehicle is repaired or the ownership of the passenger motor vehicle is transferred; or

''(II) that is 30 days after the passenger motor vehicle is damaged.

''(ii) If an insurance company, under a damage settlement, acquires ownership of a passenger motor vehicle that has incurred damage requiring the vehicle to be titled as a salvage vehicle or nonrepairable vehicle, the insurance company shall be required to apply for a salvage title or nonrepairable vehicle certificate not later than 15 days after the title to the motor vehicle is—

''(I) properly assigned by the owner to the insurance company; and

''(II) delivered to the insurance company with all liens released.

''(iii) If an insurance company does not assume ownership of a passenger motor vehicle of an insured person or claimant that has incurred damage requiring the vehicle to be titled as a salvage vehicle or nonrepairable vehicle, the insurance company shall, as required by the applicable State—

''(I) notify—

''(aa) the owner of the owner's obligation to apply for a salvage title or nonrepairable vehicle certificate for the passenger motor vehicle; and

''(bb) the State passenger motor vehicle titling office that a salvage title or nonrepairable vehicle certificate should be issued for the vehicle; or

''(II) withhold payment of the claim until the owner applies for a salvage title or nonrepairable vehicle certificate.

''(iv) If a leased passenger motor vehicle incurs damage requiring the vehicle to be titled as a salvage vehicle or nonrepairable vehicle, the lessor shall be required to apply for a salvage title or nonrepairable vehicle certificate not later than 21 days after being notified by the lessee that the vehicle has been so damaged, except in any case in which an insurance company, under a damage settlement, acquires ownership of the vehicle. The lessee of such vehicle shall be required to inform the lessor that the leased vehicle has been so damaged not later than 30 days after the occurrence of the damage.

''(v)(I) Any person who acquires ownership of a damaged passenger motor vehicle that meets the definition of a salvage or nonrepairable vehicle for which a salvage title or nonrepairable vehicle certificate has not been issued, shall be required to apply for a salvage title or nonrepairable vehicle certificate, whichever is applicable.

''(II) An application under subclause (I) shall be made the earlier of—

''(aa) the date on which the vehicle is further transferred; or

''(bb) 30 days after ownership is acquired.

''(III) The requirements of this clause shall not apply to any scrap metal processor that—

''(aa) acquires a passenger motor vehicle for the sole purpose of processing the motor vehicle into prepared grades of scrap; and

''(bb) carries out that processing.

''(vi) State records shall note when a nonrepairable vehicle certificate is issued. No State shall issue a nonrepairable vehicle certificate after 2 transfers of ownership in violation of section 33301(b)(7)(B).

''(vii)(I) In any case in which a passenger motor vehicle has been flattened, baled, or shredded, whichever occurs first, the title or nonrepairable vehicle certificate for the vehicle shall be surrendered to the State not later than 30 days after that occurrence.

''(II) If the second transferee on a nonrepairable vehicle certificate is unequipped to flatten, bale, or shred the vehicle, such transferee shall be required, at the time of final disposal of the vehicle, to use the services of a professional automotive recycler or professional scrap processor. That recycler or reprocessor shall have the authority to—

''(aa) flatten, bale, or shred the vehicle; and

''(bb) effect the surrender of the nonrepairable vehicle certificate to the State on behalf of the second transferee.

''(III) State records shall be updated to indicate the destruction of a vehicle under this clause and no further ownership transactions for the vehicle shall be permitted after the vehicle is so destroyed.

''(IV) If different from the State of origin of the title or nonrepairable vehicle certificate, the State of surrender shall notify the State of origin of the surrender of the title or nonrepairable vehicle certificate and of the destruction of such vehicle.

''(viii)(I) In any case in which a salvage title is issued, the State records shall note that issuance. No State may permit the retitling for registration purposes or issuance of a rebuilt salvage title for a passenger motor vehicle with a salvage title without a certificate of inspection that—

''(aa) complies with the security and guideline standards established by the Secretary under subparagraphs (C) and (G), as applicable; and

''(bb) indicates that the vehicle has passed the inspections required by the State under subparagraph (H).

''(II) Nothing in this clause shall preclude the issuance of a new salvage title for a salvage vehicle after a transfer of ownership.

''(ix) After a passenger motor vehicle titled with a salvage title has passed the inspections required by the State, the inspection official shall—

''(I) affix a secure decal required under section 33301(4) (that meets permanency requirements that the Secretary shall establish by regulation) to the door jamb on the driver's side of the vehicle; and

''(II) issue to the owner of the vehicle a certificate indicating that the passenger motor vehicle has passed the inspections required by the State.

''(x)(I) The owner of a passenger motor vehicle titled with a salvage title may obtain a rebuilt salvage title and vehicle registration by presenting to the State the salvage title, properly assigned, if applicable, along with the certificate that the vehicle has passed the inspections required by the State.

''(II) If the owner of a rebuilt salvage vehicle submits the documentation referred to in subclause (I), the State shall issue upon the request of the owner a rebuilt salvage title and registration to the owner. When a rebuilt salvage title is issued, the State records shall so note.

''(K) FLOOD VEHICLES.—

''(i) IN GENERAL.—A seller of a passenger motor vehicle that becomes a flood vehicle shall, at or before the time of transfer of ownership, provide a written notice to the purchaser that the vehicle is a flood vehicle. At the time of the next title application for the vehicle—

''(I) the applicant shall disclose the flood status to the applicable State with the properly assigned title; and

''(II) the term 'Flood' shall be conspicuously labeled across the front of the new title document.

''(ii) LEASED VEHICLES.—In the case of a leased passenger motor vehicle, the lessee, within 15 days after the occurrence of the event that caused the vehicle to become a flood vehicle, shall give the lessor written disclosure that the vehicle is a flood vehicle.

''(c) ELECTRONIC PROCEDURES.—A State may employ electronic procedures in lieu of paper documents in any case in which such electronic procedures provide levels of information, function, and security required by this section that are at least equivalent to the levels otherwise provided by paper documents.

''§ 33303. Petitions for extensions of time

''(a) IN GENERAL.—Subject to subsection (b), if a State demonstrates to the satisfaction of the Secretary, a valid reason for needing an extension of a deadline for compliance with requirements under section 33302(a), the Secretary may extend, for a period determined by the Secretary, an otherwise applicable deadline with respect to that State.

''(b) LIMITATION.—No extension made under subsection (a) shall remain in effect on or after the applicable compliance date established under section 33302(b).

''§ 33304. Effect on State law

''(a) IN GENERAL.—Beginning on the effective date of the regulations issued under section 33302, this chapter shall preempt any

State law, to the extent that State law is inconsistent with this chapter or the regulations issued under this chapter (including the regulations issued under section 33302), that—

''(1) establish the form of the passenger motor vehicle title;

''(2)(A) define, in connection with a passenger motor vehicle (but not in connection with a passenger motor vehicle part or part assembly separate from a passenger motor vehicle)—

''(i) any term defined in section 33301;

''(ii) the term 'salvage', 'junk', 'reconstructed', 'nonrepairable', 'unrebuildable', 'scrap', 'parts only', 'rebuilt', 'flood', or any other similar symbol or term; or

''(B) apply any of the terms referred to in subparagraph (A) to any passenger motor vehicle (but not in connection with a passenger motor vehicle part or part assembly separate from a passenger motor vehicle); and

''(3) establish titling, recordkeeping, antitheft inspection, or control procedures in connection with any salvage vehicle, rebuilt salvage vehicle, nonrepairable vehicle, or flood vehicle.

''(b) RULE OF CONSTRUCTION.—

''(1) ADDITIONAL DISCLOSURES.—Additional disclosures of the title status or history of a motor vehicle, in addition to disclosures made concerning the applicability of terms defined in section 33301, may not be considered to be inconsistent with this chapter.

''(2) INCONSISTENT TERMS.—When used in connection with a passenger motor vehicle (but not in connection with a passenger motor vehicle part or part assembly separate from a passenger motor vehicle), any definition under Federal or State law of a term defined in section 33301 that is different from the definition provided for in that section or any use of any other term listed in subsection (a), shall be considered to be inconsistent with this chapter.

''(3) RULE OF CONSTRUCTION.—Nothing in this chapter shall preclude a State from disclosing on a rebuilt salvage title that a rebuilt salvage vehicle has passed a State safety inspection that differed from the nationally uniform criteria promulgated under section 33302(b)(2)(H)(v).

''§ 33305. Civil and criminal penalties

''(a) PROHIBITED ACTS.—It shall be unlawful for any person knowingly and willfully to—

''(1) make or cause to be made any false statement on an application for a title (or duplicate title) for a passenger motor vehicle;

''(2) fail to apply for a salvage title in any case in which such an application is required;

''(3) alter, forge, or counterfeit—

''(A) a certificate of title (or an assignment thereof);

''(B) a nonrepairable vehicle certificate;

''(C) a certificate verifying an antitheft inspection or an antitheft and safety inspection; or

''(D) a decal affixed to a passenger motor vehicle under section 33302(b)(2)(J)(ix);

''(4) falsify the results of, or provide false information in the course of, an inspection conducted under section 33302(b)(2)(H);

''(5) offer to sell any salvage vehicle or nonrepairable vehicle as a rebuilt salvage vehicle; or

''(6) conspire to commit any act under paragraph (1), (2), (3), (4), or (5).

''(b) CIVIL PENALTY.—Any person who commits an unlawful act under subsection (a) shall be subject to a civil penalty in an amount not to exceed $2,000.

''(c) CRIMINAL PENALTY.—Any person who knowingly commits an unlawful act under subsection (a) shall, upon conviction, be—

''(1) subject to a fine in an amount not to exceed $50,000;

''(2) imprisoned for a term not to exceed 3 years; or

''(3) subject to both fine under paragraph (1) and imprisonment under paragraph (2).''.

(b) CONFORMING AMENDMENT.—The analysis for subtitle VI of title 49, United States Code, is amended by adding at the end the following new item:

''333. Automobile Safety, Antitheft, and Title Disclosure Requirements ..... 33301''.

By Mr. KERRY (for himself and Mr. KENNEDY):

S. 2032. A bill to designate a portion of the Sudbury, Assabet, and Concord Rivers as a component of the National Wild And Scenic Rivers System; to the Committee on Energy and Natural Resources.

THE SUDBURY, ASSABET, AND CONCORD WILD AND SCENIC RIVERS ACT

Mr. KERRY.

Mr. President, I am pleased to join my distinguished colleague from Massachusetts, Senator KENNEDY, in introducing the Sudbury, Assabet, and Concord [SuAsCo] Wild and Scenic Rivers Act. This is the companion bill to H.R. 3405, sponsored by Representatives MEEHAN, MARKEY, and TORKILDSEN.

The Sudbury, Assabet, and Concord river area is rich in history and literary significance. It has been the location of many historical events, most notably the Battle of Concord in the Revolutionary War, that gave our great Nation its independence. The Concord River flows under the North Bridge in Concord, MA, where, on April 18, 1775, colonial farmers fired the legendary ''shot heard around the world'' which signaled the start of the Revolutionary War.

In later years, this scenic area was also home to many of our literary heroes including, Ralph Waldo Emerson, Henry David Thoreau, and Louisa May Alcott. Their writing often focused on the bucolic rivers. Thoreau spent most of his life in Concord, MA, where he passed his days immersed in his writing and enjoying the natural surroundings. He spoke of the Concord River when he wrote ''the wild river valley and the woods were bathed in so pure and bright a light as would have waked the dead, if they had been slumbering in their graves, as some suppose. There needs no strong proof of immortality.'' This area was held close to many an author's heart. It was a place of relaxation and inspiration for many.

The Sudbury, Assabet, and Concord Wild Rivers Act would amend the Wild and Scenic Rivers Act to include a 29 mile segment of the Assabet, Concord, and Sudbury Rivers. Based on a report authorized by Congress in 1990 and issued by the National Park Service in 1995, these river segments were determined worthy of inclusion in the Wild and Scenic Rivers Program. In its report, the SuAsCo Wild and Scenic Study Committee showed that this area has not only the necessary scenic, recreational, and ecological value, but also the historical and literary value to merit the Wild and Scenic River designation. All eight communities in the area traversed by these river segments are supporting his important legislation.

Our legislation is of minimal cost to the Federal Government but by using limited Federal resources we can leverage significant local and State effort. Provisions in the bill limit the Federal Government's contribution to just $100,000 annually, with no more than a 50 percent share of any given activity. This is a concept that merits the support of Congress. Should our bill become law, the SuAsCo River stewardship council, in cooperation with Federal, State, and local governments would manage the land.

We now have the opportunity to protect the precious 29-mile section of the Assabet, Sudbury, and Concord Rivers. This area is not only rich in ecological value but also in historical and literary value. I urge my colleagues to support this bill and through it to preserve this wild river valley for the enjoyment and instruction of all who live and work there, for visitors from throughout the nation and, perhaps most importantly, for generations yet to come.

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

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

S. 2032

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 ''Sudbury, Assabet and Concord Wild and Scenic Rivers Act''.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Title VII of Public Law 101–628—

(A) designated segments of the Sudbury, Assabet, and Concord Rivers in the Commonwealth of Massachusetts, totaling 29 river miles, for study of potential addition to the National Wild and Scenic Rivers System, and

(B) directed the Secretary of the Interior to establish the Sudbury, Assabet, and Concord River Study Committee (in this Act referred to as the ''Study Committee'') to advise the Secretary of the Interior in conducting the study and concerning management alternatives should the river be included in the National Wild and Scenic Rivers System.

(2) The study determined that:

—the 16.6 mile segment of the Sudbury River beginning at the Danforth Street Bridge in the Town of Framingham, to its confluence with the Assabet River

—the 4.4 mile segment of the Assabet River from 1000 feet downstream from the Damon Mill Dam in the Town of Concord to the confluence with the Sudbury River at Egg Rock in Concord, and

—the 8 mile segment of the Concord River from Egg Rock at the confluence of the Sudbury and Assabet Rivers to the Route 3 Bridge in the Town of Billerica

are eligible for inclusion in the National Wild and Scenic Rivers System based upon their free-flowing condition and outstanding scenic, recreation, wildlife, literary, and historic values.

(3) The towns that directly abut the segments, including Framingham, Sudbury, Wayland, Lincoln, Concord, Bedford, Carlisle, and Billerica, Massachusetts, have each

demonstrated their desire for National Wild and Scenic River Designation through town meeting votes endorsing designation.

(4) During the study, the Study Committee and the National Park Service prepared a comprehensive management plan for the segments, entitled ''Sudbury, Assabet and Concord wild and Scenic River Study, River Management Plan'', dated March 16, 1995, which establishes objectives, standards, and action programs that will ensure long-term protection of the rivers' outstanding values and compatible management of their land and water resources.

(5) The river management plan does not call for federal land acquisition for Wild and Scenic River purposes and relies upon state, local and private entities to have the primary responsibility for ownership and management of the Sudbury, Assabet and Concord Wild and Scenic River resources.

(6) The Study Committee voted unanimously on February 23, 1995, to recommend that the Congress include these segments in the National Wild and Scenic Rivers System for management in accordance with the River Conservation Plan.

SEC. 3. WILD, SCENIC, AND RECREATIONAL RIVER DESIGNATION.

Section 3(a) of the *Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding at the end the following new paragraph:

''( ) SUDBURY, ASSABET AND CONCORD RIVERS, MASSACHUSETTS.—

''(A) IN GENERAL.—The 29 miles of river segments in Massachusetts consisting of the Sudbury River from the Danforth Street Bridge in Framingham downstream to its confluence with the Assabet River at Egg Rock; the Assabet River from a point 1,000 feet downstream of the Damondale Dam in Concord to its confluence with the Sudbury River at Egg Rock; and the Concord River from its origin at Egg Rock in Concord downstream to the route 3 bridge in Billerica (in this paragraph referred to as 'segments'), as scenic and recreational river segments. The segments shall be administered by the Secretary of the Interior through cooperative agreements between the Secretary of the Interior and the Commonwealth of Massachusetts and its relevant political subdivisions (including the Towns of Framingham, Wayland, Sudbury, Lincoln, Concord Carlisle, Bedford, and Billerica) pursuant to Section 10(e) of this Act. The segments shall be managed in accordance with the plan entitled ''Sudbury, Assabet and Concord Wild and Scenic River Study, River Conservation Plan'' dated March 16, 1995 (in this paragraph referred to as the 'Plan'). The Plan is deemed to satisfy the requirement for a comprehensive management plan under section 3(d) of this Act.''

SEC. 4. MANAGEMENT.

(a) COMMITTEE.—The Director of the National Park Service (in this paragraph referred to as the 'Director'), or his or her designee, shall represent the Secretary of the Interior on the SUASCO River Stewardship Council provided for in the ''Sudbury, Assabet and Concord Wild and Scenic River Study, River Management Plan'' (the 'Plan').

(b) FEDERAL ROLE.—(i) The Director represent the Secretary of the Interior in the implementation of the Plan and the provisions of the Wild and Scenic Rivers Act with respect to the segments, including the review of proposed federally assisted water resources projects which could have a direct and adverse effect on the values for which the segments are established, as authorized under section 7(a) of the Wild and Scenic Rivers Act.

(ii) Pursuant to section 10(e) and section 11(b)(1), the Director shall offer to enter into cooperative agreements with the Commonwealth of Massachusetts, its relevant political subdivisions, the Sudbury Valley Trustees, and the Organizations for the Assabet River. Such cooperative agreements shall be consistent with the Plan and may include provisions for financial or other assistance from the United States to facilitate the long-term protection, conservation and enhancement of the segments.

(iii) The Director may provide technical assistance, staff support, and funding to assist in the implementation of the Plan, except that the total cost to the Federal Government of activities to implement the Plan may not exceed $100,000 each fiscal year.

(iv) Notwithstanding the provisions of 19(c) of the Wild and Scenic Rivers Act, any portion of the segments not already within the National Park System shall not under this Act)

(I) become a part of the National Park System;

(II) be managed by the National Park Service; or

(III) be subject to regulations which govern the National Park System.

(c) WATER RESOURCES PROJECTS.—(i) In determining whether a proposed water resources project would have a direct and adverse effect on the values for which the segments were included in the National Wild and Scenic Rivers System, the Secretary shall specifically consider the extent to which the project is consistent with the Plan.

(ii) The Plan, including the detailed Water Resources Study incorporated by reference therein and such additional analysis as may be incorporated in the future, shall serve as the primary source of information regarding the flows needed to maintain instream resources and potential compatibility between resource protection and possible additional water withdrawals.

(d) LAND MANAGEMENT.—(i) The zoning bylaws of the towns of Framingham, Sudbury, Wayland, Lincoln, Concord, Carlisle, Bedford, and Billerica, Massachusetts, as in effect on the date of enactment of this paragraph, are deemed to satisfy the standards and requirements under section 6(c) of the Wild and Scenic Rivers Act. For the purpose of section 6(c) of the Wild and Scenic Rivers Act, the towns are deemed to be 'villages' and the provisions of that section which prohibit Federal acquisition of lands shall apply.

(ii) the United States Government shall not acquire by any means title to land, easements, or other interests in land along the segments for the purposes of designation of the segments under this Act or the Wild and Scenic Rivers Act. Nothing in this Act or the Wild and Scenic Rivers Act shall prohibit federal acquisition of interests in land along the segments under other laws for other purposes.

SEC. 5. FUNDING AUTHORIZATION.

There are authorized to be appropriated to the Secretary of the Interior to carry out the purposes of this Act no more than $100,000 for each fiscal year.

Mr. KENNEDY. Mr. President, it is a privilege to join Senator KERRY today in sponsoring legislation to designate a 29-mile segment of the Sudbury, Assabet, and Concord Rivers in Massachusetts as a component of the National Wild and Scenic Rivers system. Our proposal has the bipartisan support of Congressmen MARTIN T. MEEHAN, PETER G. TORKILDSEN, and EDWARD J. MARKEY, who introduced an identical bill in the House of Representatives on May 7, 1996.

The Sudbury, Assabet, and Concord Rivers have witnessed many important events in the Nation's history. Stone's Bridge and Four Arched Bridge over the Sudbury River date from the pre-Revolutionary War days. On Old North Bridge over the Concord River, the ''shot heard 'round the world'' was fired on April 19, 1775, to begin the Revolutionary War. At Lexington and Concord, the Colonists began their armed resistance against British rule, and the first American Revolutionary War soldiers fell in battle.

In the 19 century, the Sudbury, Assabet, and Concord Rivers earned their lasting fame in the works of Ralph Waldo Emerson, Nathaniel Hawthorne, and Henry David Thoreau, all of whom lived in this area and spent a great deal of time on the rivers. Emerson cherished the Concord River as a place to leave ''the world of villages and personalities behind, and pass into a delicate realm of sunset and moonlight.''

Hawthorne wrote ''The Scarlet Letter'' and ''Mosses from an Old Manse'' in an upstairs study overlooking the Concord River. He also enjoyed boating on the Assabet River, of which he said that ''a more lovely stream than this, for a mile above its junction with the Concord, has never flowed on earth.''

Thoreau delighted in long, solitary walks along the banks of the rivers amidst the ''straggling pines, shrub oaks, grape vines, ivy, bats, fireflies, and alders,'' contemplating humanity's relationship to nature. His journals describing his detailed observations of the flora and fauna in the area have inspired poets and naturalists to the present day, and helped to give birth to the modern environmental movement. By protecting the rivers, a future Thoreau, Emerson, or Hawthorne may one day walk along their shores and gain new inspiration from these priceless natural resources.

In 1990, Congress authorized the National Park Service to issue a report to determine whether the three rivers are eligible for designation as Wild and Scenic Rivers. Under the National Park Service's guidelines, a river is considered eligible for the designation if it possesses at least one ''outstandingly remarkable resource value.'' In fact, the three rivers were found to possess five outstanding resource values—scenic, recreational, ecological, historical, and literary. The report also concluded that the rivers are suitable for designation based upon the existing local protection of their resources and the strong local support for their preservation.

Our bill will protect a 29-mile segment of the Sudbury, Assabet, and Concord Rivers that runs through or along the borders of eight Massachusetts towns—Framingham, Sudbury, Wayland, Concord, Lincoln, Bedford, Carlisle, and Billerica. A River Stewardship Council will be established to coordinate the efforts of all levels of government to strengthen protections for the river and address future threats to the environment. The legislation

also requires at least a one-to-one non-Federal match for any Federal expenditures, and contains provisions which preclude federal takings of private lands.

Thoreau wrote in 1847 that rivers ''are the constant lure, when they flow by our doors, to distant enterprise and adventure. . . . They are the natural highways of all nations, not only leveling the ground and removing obstacles, from the path of the traveler, but conducting him through the most interesting scenery.'' Standing on the banks of the Sudbury, Assabet, and Concord Rivers, as Thoreau often did, citizens today gain a greater sense of the ebb and flow of the nation's history and enjoy the benefit of some of the most beautiful scenery in all of America. I urge my colleagues to support this legislation, so that these three proud rivers will be protected for the enjoyment and contemplation of future generations.

By Mr. DOMENICI (for himself, Mr. WELLSTONE, Mr. SIMPSON, Mr. CONRAD, Mr. WARNER, Mr. SPECTER, Mr. REID, Mr. DODD, Mr. GRASSLEY, Mrs. KASSEBAUM, Mr. KENNEDY, Mr. BURNS, Mr. HARKIN, Mr. CHAFEE, and Mr. MOYNIHAN):

S. 2031. A bill to provide health plan protections for individuals with a mental illness; to the Committee on Labor and Human Resources.

THE MENTAL HEALTH PARITY ACT OF 1996

Mr. DOMENICI. Mr. President, I regret that it was not possible to retain this eminently fair and simple compromise in the conference agreement on health insurance reform.

Though this attempt to create fundamental fairness for the mentally ill was not completed, this issue will not go away.

The Americans who would have been helped by our compromise will not go away.

Nor will I.

As long as I am in this body, I will continue to fight to end discrimination against Americans with a mental illness.

I am therefore introducing the compromise I offered the conference committee as a free-standing bill.

The measure I am introducing today with the support and cosponsorship of Senators WELLSTONE, WARNER, SPECTER, REID, SIMPSON, and CONRAD, is a vast departure from what the Senate originally passed during consideration of health insurance reform legislation.

The Senate passed full parity for mental illness—full parity means that mental illnesses are treated as equals to physical illnesses in all respects of health coverage—copays, deductibles, inpatient hospital days, outpatient visits, out-of-pocket protections, and overall lifetime and annual expenditure limits.

The measure I present today, however, covers parity only for lifetime and annual caps.

I would very much like to introduce the Senate-passed measure providing full parity, or perhaps even something more than I am now.

But in the interests of time, simplicity, and underlying, basic fairness, I believe this measure is a necessary step toward making health coverage equitable for all Americans, regardless of the nature of their illness.

I believe this measure provides the fundamentals upon which better understanding and treatment can be built, and I believe the Senate should not miss this opportunity to do the right thing and end discrimination against Americans suffering from a mental illness.

WHAT IT IS

Let me again tell you what this bill will and will not do.

This bill simply states that health plans wishing to offer a mental health benefit—this is their option, there is nothing in this provisions saying that they must offer any mental health benefits at all—if they choose to offer a mental health benefit, they must provide the same overall financial protection to people with a mental illness that they provide to people with a physical illness.

If they have a $1 million lifetime limit for someone with cancer, or diabetes, or heart disease, they cannot have a lifetime limit of $50,000 for someone with schizophrenia or manic depression—they must provide $1 million for the person with a mental illness.

They do not have to create another, separate $1 million for mental illness—they can include these treatments in their overall cap if they like.

But they cannot impost a separate, lower overall limit for mental illness.

This same arrangement applies to annual financial caps, as well.

Since this compromise provides equal catastrophic protections, it protects Americans with the most severe and debilitating forms of mental illness.

It does not apply to the constellation of disorders and problems that concern some of my colleagues such as marital problems, or behavioral problems, or maladjustments.

WHAT IT IS NOT

It should be made clear what this bill does not do.

This bill does not mandate mental health benefits;

It does not include substance abuse or chemical dependency;

It does not dictate what a plan can or must charge for services—whether they be copays, deductibles, out-of-pocket limits, and so forth;

It does not set or dictate how many inpatient hospital days or outpatient visits must be provided or covered.

It does not, in any way, restrict a health plan's ability to manage care, such as preadmission screening, preauthorization of services, limiting coverage based on medical necessity, and so forth.

It does not apply to employers of 25 or less.

WHAT IT WILL COST

According to the CBO, this bill will not cost much. Frankly, I believe that even their cost estimates, even though practically inconsequential, are too high.

CBO says this bill will cause a 0.4-percent increase in overall premiums, ultimately resulting in a 0.16-percent increase in employer contributions to employee health plans.

Even though these costs are small—in a typical plan, a $0.60 to $0.67 increase per member per month—these projections are based on an assumption of increased utilization.

This estimate does not even factor in the effects of managed care.

We all know how managed care arrangements affect utilization and overall health care spending.

Of the 99 percent of ERISA plans offering mental health benefits, 75 percent already provide this care through a managed care arrangement—this number is growing each day.

If managed care were included in these assumptions, this provision would not likely cost anything at all.

And the percentage of Americans ever reaching these new limits will be incredibly small—less than 5 percent of beneficiaries.

So you can see why I do not believe this bill will cost even the small amount predicted by CBO.

EXPERIENCES OF STATES THAT HAVE ALREADY IMPLEMENTED PARITY

Some of my colleagues might be skeptical of these claims

Let me just outline the experiences of a few States that have already implemented parity.

Texas—Full parity and chemical dependency benefits for State and local government employees, including all school districts and university employees (over 230,000 lives)—a 47.9-percent reduction in overall yearly mental health expenditures.

Maryland—Full parity for all State-regulated plans—(over 400,000 covered lives)—an increase in cost of 0.6 percent per member per month [PMPM].

Rhode Island—Full parity for severe illnesses and chemical dependency—an increase in cost of 0.33 percent PMPM.

Massachusetts—Full parity for severe illnesses—a 5-percent increase in utilization, but a 22-percent reduction in mental health expenditures.

These numbers are for parity in the general sense, not the very limited balance included in the measure I am introducing today.

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

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

S. 2031

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 ''Mental Health Parity Act of 1996''.

SEC. 2. PLAN PROTECTIONS FOR INDIVIDUALS WITH A MENTAL ILLNESS.

(a) PERMISSIBLE COVERAGE LIMITS UNDER A GROUP HEALTH PLAN.—

(1) AGGREGATE LIFETIME LIMITS.—

(A) IN GENERAL.—With respect to a group health plan offered by a health insurance issuer, that applies an aggregate lifetime limit to plan payments for medical or surgical services covered under the plan, if such plan also provides a mental health benefit such plan shall—

(i) include plan payments made for mental health services under the plan in such aggregate lifetime limit; or

(ii) establish a separate aggregate lifetime limit applicable to plan payments for mental health services under which the dollar amount of such limit (with respect to mental health services) is equal to or greater than the dollar amount of the aggregate lifetime limit on plan payments for medical or surgical services.

(B) NO LIFETIME LIMIT.—With respect to a group health plan offered by a health insurance issuer, that does not apply an aggregate lifetime limit to plan payments for medical or surgical services covered under the plan, such plan may not apply an aggregate lifetime limit to plan payments for mental health services covered under the plan.

(2) ANNUAL LIMITS.—

(A) IN GENERAL.—With respect to a group health plan offered by a health insurance issuer, that applies an annual limit to plan payments for medical or surgical services covered under the plan, if such plan also provides a mental health benefit such plan shall—

(i) include plan payments made for mental health services under the plan in such annual limit; or

(ii) establish a separate annual limit applicable to plan payments for mental health services under which the dollar amount of such limit (with respect to mental health services) is equal to or greater than the dollar amount of the annual limit on plan payments for medical or surgical services.

(B) NO ANNUAL LIMIT.—With respect to a group health plan offered by a health insurance issuer, that does not apply an annual limit to plan payments for medical or surgical services covered under the plan, such plan may not apply an annual limit to plan payments for mental health services covered under the plan.

(b) RULE OF CONSTRUCTION.—

(1) IN GENERAL.—Nothing in this section shall be construed as prohibiting a group health plan offered by a health insurance issuer, from—

(A) utilizing other forms of cost containment not prohibited under subsection (a); or

(B) applying requirements that make distinctions between acute care and chronic care.

(2) NONAPPLICABILITY.—This section shall not apply to—

(A) substance abuse or chemical dependency benefits; or

(B) health benefits or health plans paid for under title XVIII or XIX of the Social Security Act.

(c) SMALL EMPLOYER EXEMPTION.—

(1) IN GENERAL.—This section shall not apply to plans maintained by employers that employ less than 26 employees.

(2) APPLICATION OF CERTAIN RULES IN DETERMINATION OF EMPLOYER SIZE.—For purposes of this subsection—

(A) APPLICATION OF AGGREGATION RULE FOR EMPLOYERS.—all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986 shall be treated as 1 employer.

(B) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the preceding calendar year, the determination of whether such employer is a small employer shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current calendar year.

(C) PREDECESSORS.—Any reference in this subsection to an employer shall include a reference to any predecessor of such employer.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) GROUP HEALTH PLAN.—

(A) IN GENERAL.—The term ''group health plan'' means an employee welfare benefit plan (as defined in section 3(1) of the Employee Retirement Income Security Act of 1974) to the extent that the plan provides medical care (as defined in paragraph (2)) and including items and services paid for as medical care) to employees or their dependents (as defined under the terms of the plan) directly or through insurance, reimbursement, or otherwise.

(B) MEDICAL CARE.—The term ''medical care'' means amounts paid for—

(i) the diagnosis, cure, mitigation, treatment, or prevention of disease, or amounts paid for the purpose of affecting any structure or function of the body,

(ii) amounts paid for transportation primarily for and essential to medical care referred to in clause (i), and

(iii) amounts paid for insurance covering medical care referred to in clauses (i) and (ii).

(2) HEALTH INSURANCE COVERAGE.—The term ''health insurance coverage'' means benefits consisting of medical care (provided directly, through insurance or reimbursement, or otherwise and including items and services paid for as medical care) under any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization contract offered by a health insurance issuer.

(3) HEALTH INSURANCE ISSUER.—The term ''health insurance issuer'' means an insurance company, insurance service, or insurance organization (including a health maintenance organization, as defined in paragraph (4)) which is licensed to engage in the business of insurance in a State and which is subject to State law which regulates insurance (within the meaning of section 514(b)(2) of the Employee Retirement Income Security Act of 1974). Such term does not include a group health plan.

(4) HEALTH MAINTENANCE ORGANIZATION.—The term ''health maintenance organization'' means—

(A) a Federally qualified health maintenance organization (as defined in section 1301(a) of the Public Health Service Act),

(B) an organization recognized under State law as a health maintenance organization, or

(C) a similar organization regulated under State law for solvency in the same manner and to the same extent as such a health maintenance organization.

(5) STATE.—The term ''State'' means each of the several States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

By Mr. JOHNSTON:

S. 2033. A bill to repeal requirements for unnecessary or obsolete reports from the Department of Energy, and for other purposes; to the Committee on Energy and Natural Resources.

THE DOE REPORTS ELIMINATION AND STREAMLINING ACT OF 1996

Mr. JOHNSTON. Mr. President, today I am introducing the DOE Reports Elimination and Streamlining Act of 1996, to implement a number of recommendations that have been received from the administration for the repeal of requirements for unnecessary or obsolete reports to Congress from the Department of Energy. A number of my colleagues, particularly Senators LEVIN, MCCAIN, and COHEN, have devoted considerable effort over the past few years to relieving executive branch agencies from the unnecessary burden of reporting requirements that have outlived their usefulness. It has been a difficult task, and these colleagues and their staff deserve our thanks for what they have been able to accomplish in terms of crafting a long-term solution to the problem. I believe that it remains incumbent, though, on authorizing committees to review statutory reports required of agencies within their jurisdiction and to act to modify or repeal such requirements, where needed. That is what the present bill does. This bill also repeals legislative authorization for two now-defunct offices in the Department of Energy.

Mr. President, I would now like to briefly describe the rationale behind the specific provisions of the bill. Section 1 is the short title. Section 2 is composed of 12 subsections relating to reports and one subsection relating to two obsolete offices in the Department.

Subsection (a) eliminates the need for ongoing reports on the topics of process-oriented industrial energy efficiency and industrial insulation and audit guidelines. The DOE Office of Industrial Technology has worked with seven process-oriented industries to develop industry visions, which include identification of technology needs for industrial energy efficiency and technology barriers. The resulting individual technology road maps, with their associated implementation plans, make these ongoing reports redundant.

Subsection (b) repeals a requirement for a study and report on vibration reduction technologies. Vibration reduction is only tenuously related to energy conservation. It is not a prime DOE mission, and work in this area has not been funded by any appropriations bill. Given the many constraints on the DOE energy conservation budget, initiating work in this area is a low priority.

Subsection (c) repeals a requirement for a study to determine the means by which electric utilities may invest in, own, lease, service, or recharge batteries used to power electric vehicles. The electric utility companies have been working cooperatively with the automobile manufacturers, component industry, and standards setting organizations for several years to determine the infrastructure requirements necessary for recharging and servicing electric vehicle batteries. Another

study would not add meaningful information to the body of knowledge that already exists.

Subsection (d) eliminates biennial reports on the status of actions identified under the initial one-time reporting requirements of section 1301 of the Energy Policy Act of 1992. Development of these technologies is not fast paced. Significant reportable change is not likely to occur in 2-year increments. In addition, the program has sustained a significant decrease in funding, and will likely receive less in the future. Under these circumstances it is appropriate to change this requirement to a one-time report, to be submitted upon completion of the entire project.

Subsection (e) changes the frequency with which a comprehensive 5-year program plan for electric motor vehicles must be updated. Currently, this comprehensive plan must be updated annually for a period of not less than 10 years after the date of enactment of the Energy Policy Act of 1992. The first plan was prepared and submitted to the Congress in March 1994. Because programs do not change significantly on an annual basis, and because the cost of preparing and approving new plans for congressional submittal is extensive, annual updates are not justified. Changing the frequency of updates to every 2 years is a cost-savings measure.

Subsection (f) strikes the requirement for biennial updates to a 5-year program plan for a National Advanced Materials Initiative. This program plan was prepared and submitted to Congress as required, but the program was never funded. With no funding, there are no Department-supported programs or projects, and, thus, no need to update the initial program plan.

Subsection (g) eliminates a biennial report on the implementation of the Alaska SWAP Act. The purpose of the act was to take advantage of oil conservation opportunities by expanding the use of coal-fired plants and realizing economies of scale in several remote communities. These opportunities were not numerous and all have been taken advantage of for some time. No need exists for further reports.

Subsection (h) repeals a report that triggered a legislative veto provision governing DOE shipments of special nuclear materials to foreign countries. This legislative veto was exercised by a concurrent resolution and thus would be unconstitutional under the Supreme Court's ruling in INS *v.* Chadha, 1983, 103 S. Ct. 2764, 462 U.S. 919. The report requirement and the related legislative veto should be repealed.

Subsection (i) converts an annual report requirement in the Continental Scientific Drilling and Exploration Act to a periodic report. DOE's role in this multiagency program has become less prominent, and there is no longer a need for a separate DOE report.

Subsection (j) converts a free-standing report requirement on steel and aluminum research and development activities into a requirement that such activities be described in the annual budget submission of the Department.

Subsection (k) converts a free-standing report requirement on metal casting research and development activities into a requirement that such activities be described in the annual budget submission of the Department.

Subsection (l) converts the National Energy Policy Plan from a biennial report to a quadrennial report. The timing called for this report in the DOE Act requires that a new Presidential Administration submit a National Energy Policy Plan less than 3 months after taking office. This is unrealistic. In recent years, an Assistant Secretary of Energy for Policy has often not even been confirmed by that point in time. The biennial requirement also does not make sense from the point of view of requiring any given administration to generate such a report twice during each term of office. It would be more sensible to make this requirement a quadrennial one, in which case each new administration would have two full years to conduct its analysis and policy development process. The resulting energy policy plan would be released in April of the third year of its term.

Subsection (m) repeals the authorization for two offices that no longer exist in the Department of Energy.

The Office of Subseabed Disposal Research was established in 1982 to conduct research on subseabed disposal of nuclear waste. Such disposal is not ever likely to occur, and no such research has ever been proposed by the Department or funded through appropriations acts.

The Office of Alcohol Fuels was established by subtitle A of title II of the Energy Security Act (P.L. 96–294), and during the early 1980's it played a vital role in support of the emerging alcohol fuels industry. In 1985, the last of three loans made to subsidize the construction of grain-based ethanol plants was guaranteed by the Department of Energy, and on June 30, 1987, the Department's loan guarantee authority expired. Only one of the loan guarantee recipients, the New Energy Co. of Indiana, continues to produce alcohol fuels. Other than this plant, all other commercial ethanol plants in operation were built without government financial assistance. A statutory office within the DOE, headed by an Executive Level IV Presidential appointee, is no longer needed simply to manage one loan guarantee. Indeed, the functions of the Office of Alcohol Fuels have already been transferred within the Department to the Assistant Secretary for Energy Efficiency and Renewable Energy, and the Office itself has been closed. Under this proposed amendment to the Energy Security Act, which is essentially technical in nature, the DOE would continue to manage the New Energy Company loan guarantee until the loan is repaid.

Mr. President, there is nothing controversial about this bill. It is simply good government. I look forward to receiving comments on the bill from the Department of Energy and to its speedy passage.

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

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

S. 2033

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 ''DOE Reports Elimination and Streamlining Act of 1996''.

SEC. 2. REPEALS AND MODIFICATIONS.

(a) REPORTS ON INDUSTRIAL ENERGY EFFICIENCY PROGRAMS.—

(1) Section 132(d) of the Energy Policy Act of 1992 (42 U.S.C. 6349(d)) is amended by striking ''and annually thereafter,''.

(2) Section 133(c) of the Energy Policy Act of 1992 (42 U.S.C. 6350(c)) is amended by striking ''and biennially thereafter,''.

(b) STUDY AND REPORT ON VIBRATION REDUCTION TECHNOLOGIES.—Section 173 of the Energy Policy Act of 1992 (42 U.S.C. 13451 note) is repealed.

(c) REPORT ON POTENTIAL FINANCIAL INVESTMENTS BY ELECTRIC UTILITIES IN ELECTRIC BATTERIES FOR MOTOR VEHICLES.—Section 825 of the Energy Policy Act of 1992 (42 U.S.C. 13295) is repealed.

(d) BIENNIAL REPORTS ON COAL RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROJECTS.—Section 1301(d) of the Energy Policy Act of 1992 (42 U.S.C. 13331(d)) is amended by striking ''every two years thereafter for a period of 6 years'' and inserting ''not later than 6 years thereafter''.

(e) CHANGE OF UPDATES TO FIVE-YEAR PROGRAM PLAN FOR ELECTRIC MOTOR VEHICLES TO A BIENNIAL BASIS.—Section 2025(b)(4) of the Energy Policy Act of 1992 (42 U.S.C. 13435(b)(4)) is amended by striking ''Annual'' and inserting ''Biennial''.

(f) BIENNIAL UPDATE TO NATIONAL ADVANCED MATERIALS INITIATIVE FIVE-YEAR PROGRAM PLAN.—Section 2201(b) of the Energy Policy Act of 1992 (42 U.S.C. 13501(b)) is amended by striking the last sentence.

(g) BIENNIAL REPORT ON IMPLANTATION OF THE ALASKA SWAP ACT.—Section 6(a) of the Alaska Federal-Civilian Energy Efficiency Swap Act of 1980 (40 U.S.C. 795d) is repealed.

(h) REPEAL OF UNCONSTITUTIONAL LEGISLATIVE VETO AND RELATED REPORT.—Section 54(a) of the Atomic Energy Act of 1954 (42 U.S.C. 2074(a)) is amended—

(1) by striking the colon at the end of the first proviso and inserting a period; and

(2) by striking the second, third, and fourth provisos.

(i) CONVERSION OF ANNUAL REPORT ON SCIENTIFIC DRILLING PROGRAM TO PERIODIC JOINT REPORT.—Section 4(6) of the Continental Scientific Drilling and Exploration Act (P.L. 100–441; 102 Stat. 1762) is amended to read as follows:

''(6) submitting to the Congress periodic joint reports on significant accomplishments of, and plans for, the drilling program.''

(j) INCORPORATION OF ANNUAL REPORT ON STEEL AND ALUMINUM RESEARCH AND DEVELOPMENT ACTIVITIES INTO THE PRESIDENT'S BUDGET.—Section 8 of the Steel and Aluminum Conservation and Technology Competitiveness Act of 1988 (15 U.S.C. 5107) is amended to read as follows:

''SEC. 8. REPORTS.

''As part of the annual budget submission of the President under section 1105 of title 31, United States Code, the Secretary shall provide to Congress a description of research

and development activities to be carried out under this Act during the fiscal year involved, together with such legislative recommendations as the Secretary may consider appropriate.''

(k) INCORPORATION OF ANNUAL REPORT ON METAL CASTING RESEARCH AND DEVELOPMENT ACTIVITIES, INTO THE PRESIDENT'S BUDGET.—Section 10 of the DOE Metal Casting Competitiveness Research Act of 1990 (15 U.S.C. 5309) is amended to read as follows:

''SEC. 10. REPORTS.

''As part of the annual budget submission of the President under section 1105 of title 31, United States Code, the Secretary shall provide to Congress a description of research and development activities to be carried out under this Act during the fiscal year involved, together with such legislative recommendations as the Secretary may consider appropriate.''

(*l*) CONVERSION OF NATIONAL ENERGY POLICY PLAN FROM BIENNIAL REPORT TO QUADRENNIAL REPORT.—Section 801(b) of the Department of Energy Organization Act (42 U.S.C. 7321(b)) is amended by striking ''biennially'' and inserting ''every 4 years''.

(m) REPEAL OF AUTHORIZATIONS FOR DOE OFFICES NO LONGER IN EXISTENCE.—

(1) OFFICE OF SUBSEABED DISPOSAL RESEARCH.—Section 224 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10204 is repealed.

(2) OFFICE OF ALCOHOL FUELS.—(A) Subtitle A of title II of the Energy Security Act (42 U.S.C. 8811 through 8821) is repealed.

(B) Any existing loan guarantee under section 214 of the Energy Security Act shall remain in effect until the loan is repaid; and the Department of Energy shall continue to administer an existing loan guarantee under section 214 as if subtitle A had not been repealed.

(C) The table of contents for the Energy Security Act is amended by striking the item relating to subtitle A of title II and the matters relating to sections 211 through 221.

By Mr. BREAUX (for himself, Mr. MACK, Mr. GRAHAM, and Mr. COHEN):

S. 2034. A bill to amend title XVIII of the Social Security Act to make certain changes to hospice care under the Medicare program; to the Committee on Finance.

THE MEDICARE HOSPICE BENEFIT AMENDMENTS OF 1996

Mr. BREAUX. Mr. President, I rise today to introduce legislation to make technical changes to the Medicare hospice benefit which will ensure that high quality hospice services will be available to all terminally ill Medicare beneficiaries. Senators MACK, GRAHAM, and COHEN join me in sponsoring this legislation, which is identical to H.R. 3714 introduced last month. This legislation is endorsed by both the National Hospice Organization and the National Association for Home Care, and I urge my colleagues to support it.

Hospices help care for and comfort terminally ill patients at home or in home-like settings. There are more than 2,450 operational or planned hospice programs in all 50 States. In 1994, approximately 1 out of every 10 people in America who died were tended to by a hospice program, and 1 out of every 3 people who died from cancer or AIDS were cared for by hospice. Services provided under the Medicare hospice benefit include physician services, nursing care, drugs for symptom management and pain relief, short term inpatient and respite care, and counseling both for the terminally ill and their families. Terminally ill patients who elect hospice opt-out of most other Medicare services related to their terminal illness.

Hospice services permit terminally ill people to die with dignity, usually in the comforting surroundings of their own homes with their loved ones nearby. Hospice is also a cost-effective form of care. At a time when Medicare is pushing to enroll more beneficiaries in managed care plans, hospice is already managed care. Hospices provide patients with whatever palliative services are needed to manage their terminal illness, and they are reimbursed a standard per diem rate, based on the intensity of care needed and whether the patient is an inpatient or at home.

With 28 percent of all Medicare costs now going toward the care of people in their last year of life, and almost 50 percent of those costs spent during the last 2 months of life, cost-effective alternatives are needed. Studies show hospices do reduce Medicare spending. A study released last year by Lewin-VHI showed that for every dollar Medicare spent on hospice, it saved $1.52 in Medicare part A and part B expenditures. Similarly, a 1989 study commissioned by the Health Care Financing Administration showed savings of $1.26 for every Medicare dollar spent on hospice. I would ask unanimous consent that a summary of these studies be inserted in the RECORD at the conclusion of my remarks.

Since 1982, when the hospice benefit was added to the Medicare statute, more and more Americans have chosen to spend their final months of life in this humane and cost-effective setting. Yet in recent years it has become clear that certain technical changes are needed in the Medicare hospice benefit both to protect beneficiaries and to ensure that a full range of cost-effective hospice services continues to be available. The bill I am introducing today makes six necessary technical changes.

First, the Medicare Hospice Benefits Amendments of 1996 restructures the hospice benefit periods. The basic eligibility criteria do not change. Under this bill, as in current law, a person is eligible for the Medicare hospice benefit only if two physicians have certified that he is terminally ill with a life expectancy of 6 months or less. Patients who elect to receive hospice benefits give up most other Medicare benefits unless and until they withdraw from the hospice program.

While this bill does not change hospice eligibility criteria, it does change how the benefit periods are structured. Currently, the Medicare benefit consists of four benefit periods. At the end of each of the first three periods, the patient must be recertified as being terminally ill. The fourth benefit period is of unlimited duration. However, a patient who withdraws from hospice during the fourth hospice period forfeits his ability to elect hospice services in the future. Thus, a patient who goes into remission, and is thus no longer eligible for hospice because his life expectancy exceeds 6 months, is not be able to return to hospice when his condition worsens.

This bill restructures the hospice benefit periods to eliminate the existing open-ended fourth benefit period and to provide that after the first two 90 day periods, patients are reevaluated every 60 days to ensure that they still qualify for hospice services. This restructuring ensures that those receiving Medicare benefits are able to receive hospice services at the time they need them and can be discharged from hospice care with no penalty if their prognosis changes.

Second, the bill clarifies that ambulance services, diagnostic tests, radiation, and chemotherapy are covered under the hospice benefit when they are included in the patient s plan of care. No separate payment will be made for these services, but hospices will have to provide them when they are found to be necessary as a palliative measure. This change conforms the statute to current Medicare regulatory policy.

Third, the bill also permits hospices to have independent contractor relationships with physicians. Under current law, hospices must directly employ their medical directors and other staff physicians. This creates a legal problem in some States which prohibit the corporate practice of medicine, and the requirement has made it increasingly difficult to recruit part-time hospice physicians.

Fourth, the bill creates a mechanism to allow waiver of certain staffing requirements for rural hospices, which often have difficulty becoming Medicare-certified because of shortages of certain health professionals. Currently, about 80 percent of hospices are Medicare-certified or pending certification.

Fifth, the bill reinstates an expired provision regarding liability for certain denials. As made clear by an article published on July 18 of last month in the prestigious New England Journal of Medicine, most patients are referred to hospice very late in the course of their terminal illnesses, but some live longer than 6 months. Predicting when an individual will die will never be an exact science, and we should not expect it to be. Therefore, the bill reinstates the expired statutory presumption that hospices with very low error rates on their Medicare claims did not know that denied benefits were not covered, and it expands the bases for waiver of liability to include cases where a prognosis of 6 months life expectancy is found to have been in error.

Finally, this bill provides some administrative flexibility regarding certification of terminal illness. Currently, the statute requires that paperwork documenting physician certification of a patient s terminal illness be

completed within a certain number of days of the patient s admission to hospice. This bill will eliminate the strict statutory requirements and give the Health Care Financing Administration the discretion, as it currently has with home health certifications, to require hospice certifications to be on file before a Medicare claim is submitted.

The Medicare Hospice Benefit Amendments of 1996 are noncontroversial and should not affect Medicare spending, but they will make important and necessary changes to the Medicare hospice benefit, to enable hospices to provide high quality, cost effective care to the terminally ill, and to protect beneficiaries who depend on these services. I urge my colleagues to support this bill.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

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

S. 2034

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 ''Medicare Hospice Benefit Amendments of 1996''.

SEC. 2. HOSPICE CARE BENEFIT PERIODS.

(a) RESTRUCTURING OF BENEFIT PERIOD.—Section 1812 of the Social Security Act (42 U.S.C. 1395d) is amended in subsections (a)(4) and (d)(1), by striking '', a subsequent period of 30 days, and a subsequent extension period'' and inserting ''and an unlimited number of subsequent periods of 60 days each''.

(b) CONFORMING AMENDMENTS.—(1) Section 1812(d)(2)(B) of such Act (42 U.S.C. 1395d(d)(2)(B)) is amended by striking ''90- or 30-day period or a subsequent extension period'' and inserting ''90-day period or a subsequent 60-day period''.

(2) Section 1814(a)(7)(A) of such Act (42 U.S.C. 1395f(a)(7)(A)) is amended—

(A) in clause (i), by inserting ''and'' at the end;

(B) in clause (ii)—

(i) by striking ''30-day'' and inserting ''60-day''; and

(ii) by striking ''and'' at the end and inserting a period; and

(C) by striking clause (iii).

SEC. 3. AMBULANCE SERVICES, DIAGNOSTIC TESTS, CHEMOTHERAPY SERVICES, AND RADIATION THERAPY SERVICES INCLUDED IN HOSPICE CARE.

Section 1861(dd)(1) of the Social Security Act (42 U.S.C. 1395x(dd)(1)) is amended—

(1) in subparagraph (E), by inserting ''anticancer chemotherapeutic agents and other'' before ''drugs'';

(2) in subparagraph (G), by striking ''and'' at the end;

(3) in subparagraph (H), by striking the period at the end and inserting a comma; and

(4) by inserting after subparagraph (H) the following:

''(I) ambulance services,

''(J) diagnostic tests, and

''(K) radiation therapy services.''.

SEC. 4. CONTRACTING WITH INDEPENDENT PHYSICIANS OR PHYSICIAN GROUPS FOR HOSPICE CARE SERVICES PERMITTED.

Section 1861(dd)(2) of the Social Security Act (42 U.S.C. 1395x(dd)(2)) is amended—

(1) in subparagraph (A)(ii)(I), by striking ''(F),''; and

(2) in subparagraph (B)(i), by inserting ''or under contract with'' after ''employed by''.

SEC. 5. WAIVER OF CERTAIN STAFFING REQUIREMENTS FOR HOSPICE CARE PROGRAMS IN NON-URBANIZED AREAS.

Section 1861(dd)(5) of the Social Security Act (42 U.S.C. 1395x(dd)(5)) is amended—

(1) in subparagraph (B), by inserting ''or (C)'' after ''subparagraph (A)'' each place it appears; and

(2) by adding at the end the following:

''(C) The Secretary may waive the requirements of paragraphs (2)(A)(i) and (2)(A)(ii) for an agency or organization with respect to the services described in paragraph (1)(B) and, with respect to dietary counseling, paragraph (1)(H), if such agency or organization—

''(i) is located in an area which is not an urbanized area (as defined by the Bureau of Census), and

''(ii) demonstrates to the satisfaction of the Secretary that the agency or organization has been unable, despite diligent efforts, to recruit appropriate personnel.''.

SEC. 6. LIMITATION ON LIABILITY OF BENEFICIARIES AND PROVIDERS FOR CERTAIN HOSPICE COVERAGE DENIALS.

(a) IN GENERAL.—Section 1879(g) of the Social Security Act (42 U.S.C. 1395pp(g)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and moving such subparagraphs 2 ems to the right;

(2) by striking ''is,'' and inserting ''is—'';

(3) by making the remaining text of subsection (g), as amended, that follows ''is—'' a new paragraph (1) and indenting such paragraph 2 ems to the right;

(4) by striking the period at the end and inserting ''; and''; and

(5) by adding at the end the following new paragraph:

''(2) with respect to the provision of hospice care to an individual, a determination that the individual is not terminally ill.''.

(b) WAIVER PERIOD EXTENDED.—Section 9305(f)(2) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking ''and before December 31, 1995.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on December 31, 1995.

SEC. 7. EXTENDING THE PERIOD FOR PHYSICIAN CERTIFICATION OF AN INDIVIDUAL'S TERMINAL ILLNESS.

Section 1814(a)(7)(A)(i)(II) of the Social Security Act (42 U.S.C. 1395f(a)(7)(A)(i)(II)) is amended by striking '', not later than 2 days after hospice care is initiated (or, if each certify verbally not later than 2 days after hospice care is initiated, not later than 8 days after such care is initiated),'' and inserting ''at the beginning of the period''.

SEC. 8. EFFECTIVE DATE.

Except as provided in section 6(c), the amendments made by this Act shall apply to benefits provided on or after the date of the enactment of this Act, regardless of whether or not an individual has made an election under section 1812(d) of the Social Security Act before such date.

SUMMARY OF STUDIES REGARDING COST-EFFECTIVENESS OF HOSPICE

Lewin-VHI's 1995 report, An Analysis of the Cost Savings of the Medicare Hospice Benefit, prepared for The National Hospice Organization, updates a previous study prepared in 1989 by Abt Associates for the Health Care Financing Administration entitled Medicare Hospice Benefit Program Evaluation.

The 1989 Abt study found that:

(1) Medicare saved $1.26 for every $1.00 spent on hospice care.

(2) Much of these savings were realized during the last month of life of the patient and were largely a result of the substitution of home hospice care for in-hospital care.

The 1995 Lewin-VHI study was based on data generated from a group of Medicare recipients who died of cancer during the period between July 1 and December 31, 1992. This group was further divided into those who had one or more hospices claim during the aforementioned period and those who had none. (Additional analysis was done to ensure no selection bias.)

The Lewin-VHI report concluded:

(1) Medicare saved $1.52 for every $1.00 spent on hospice.

(2) While savings were highest for the last month of life, there were also net savings over the last year of life for those who enrolled in hospice.

(3) While the greatest savings were found in Part A Medicare expenditures, savings were also found in Part B expenditures.

Mr. GRAHAM. Mr. President, I rise today to join in support of the ''Medicare Hospice Benefit Amendments of 1996'' to be introduced by Senator BREAUX.

The number of terminally ill patients choosing hospice care over conventional Medicare has increased from 11,000 Medicare admission in 1985 to more than 220,000 Medicare beneficiaries last year.

During the current session of Congress, much has been made about the problems with the Medicare Trust Fund. Congress should act as soon as possible to reduce Medicare costs and protect the Medicare Trust Fund. However, radical cuts to the program are not the solution.

Instead, we should emphasize prevention, fraud reduction, and successful programs such as hospice care—all proven efforts at reducing spending while maintaining current Medicare quality and beneficiary protections.

The goal of hospice is to provide comprehensive health care at home to terminally ill patients in a manner that improves the quality of life for the patients and their families. This approach places a high value of personal choice, family support, and community involvement.

Patients covered by Medicare and Medicaid waiver their eligibility for all other public program benefits when choosing hospice care. By doing so, hospice patients are cared for at home with their families and avoid costly hospitalizations. Hospice makes sense from a health care, quality of life, and economic perspective.

The number of terminally ill patients choosing hospice care over conventional Medicare has increased from 11,000 Medicare admission in 1985 to more than 220,000 Medicare beneficiaries last year.

Clearly, hospice is an idea that is rapidly gaining acceptance and acclaim in modern times. Florida has been a pioneer in the modern hospice movement. In 1979, while I was the Governor in Florida, my State became the first to set standards for hospices and recognize hospice as an option for the terminally ill. The Florida law served as a model for national legislation. As a result, inpatient and at-home hospice care has been covered by Medicare since 1982.

The goal of hospice is to make the last months of a person's life as comfortable and meaningful as possible. Hospice does not use artificial life-support systems or surgery when there is no reasonable hope of remission. Hospice offers dignity for the dying and avoids costly—often traumatic—acute-care hospitalization.

For example, according to Lewin-VHI in their 1994 study entitled Hospice Care: An Introduction and Review of the Evidence, Medicare beneficiaries in their last year of life constituted 5 percent of beneficiaries in 1988 but more than 27 percent of Medicare payments. Lewin-VHI adds that ''during the last month of life, hospice users cost, on average, $3,069, while those using conventional care cost $4,071.'' Overall, that study indicates the use of the hospice benefit saved Medicare $1.26 for every $1.00 spent.

However, an updated 1995 Lewin-VHI study shows even better results through the use of hospice. The study, entitled An Analysis of the Cost Savings of the Medicare Hospice Benefit, found that Medicare saves $1.52 for every $1.00 spent on hospice.

According to Lewin-VHI, ''First, hospices effectively substitute relatively inexpensive care at home for costly inpatient hospital days during the period in which expenditures are typically the greatest and in which most hospice users enroll in the benefit, in the last month of life. Second, the financial incentives of the current Medicare Hospice Benefit reinforce the organizational incentives of most hospice programs to provide quality care at a lower cost.''

In another study entitled ''Survival of Medicare Patients After Enrollment in Hospice Programs'' in the New England Journal of Medicine on July 18, 1996, authors Nicholas Christakis and Jose Escarce establish that the benefits of hospice should be expanded. They write, ''Enrolling patients [in hospice] earlier . . . might enhance the quality of end-of-life care and also prove cost effective.''

Again, hospice has been a Medicare benefit since passage of the 1982 law and its implementation in 1983. Hospice care has grown dramatically since the benefit's inception, but few changes have been made to the 1982 law. As the bill's House sponsors—Congressmen BEN CARDIN and ROB PORTMAN—have said, ''As more and more patients choose the hospice benefit, it has become clear that certain provisions of the law need to be clarified in order to protect Medicare beneficiaries and to ensure that Medicare hospice patients can continue to receive excellent, cost-effective hospice care.''

We should do what we can to encourage hospice care in the Medicare program and through the health care system generally. This bill makes technical amendments to Medicare's hospice program. Specifically, the bill would:

Restructure the benefit periods to require more frequent certifications after 180 days to facilitate appropriate discharge with no penalty to the patient; clarify that ambulances, diagnostic tests, radiation and chemotherapy are covered hospice services when included in the plan of care; amend the ''core services'' requirement to allow hospices to contract for physician services with independent contractor physicians or physician groups; allow waiver of certain staffing requirements of rural hospices; extend the expired favorable presumption of waiver of liability provisions and include waiver protection where prognosis of terminal illness is found to have been in error; and, allow the Health Care Financing Administration to set documentation requirements of physician certifications.

Finally, I would like to commend Congressman CARDIN from Maryland for his hard work on this legislation on the House side. The Congressman is a great thinker on the topic of how to improve Medicare and his legislation—H.R. 3714—once again serves that purpose.

By Mr. BIDEN:

S. 2035. A bill to invest in the future American work force and to ensure that all Americans have access to higher education by providing tax relief for investment in a college education and by encouraging savings for college costs, and for other purposes; to the Committee on Finance.

THE GET AHEAD ACT

Mr. BIDEN. Mr. President, I have spoken in the Senate before about how the rising cost of a college education is putting a higher education—the American dream—out of reach for many middle-class American families.

When I went to college, middle-class families could pay for the public college tuition and fees of their children for less than 5 percent of their income. It stayed that way until 1980. Since then, however, college costs have skyrocketed and middle-class incomes have stagnated. The result is that today it takes almost 9 percent of the average family's income to send one—just one—child to a public college. And, if you go to a private college or university, tuition and fees will eat up 35 percent of your income.

Who can afford that? Not many middle-class families that I know. Many young people today must choose between going heavily into debt or not going to college at all. And, as the debt burden gets heavier and heavier, more and more middle-class kids will not even have that choice. They simply will not be able to go to college.

And, this is happening at a time when we as a Nation can least afford it.

Educating our work force is one of the best investments we as a society can make, and it is one of the best measurements of future economic well-being. According to one study, a more educated population has been responsible for nearly one-third of America's economic growth since the Great Depression. As we prepare to enter the 21st century and as the world economy is increasingly internationally competitive, we must ensure that no American is denied a higher education solely because of the cost.

In fact, this has been a goal of the Federal Government for over a century. From the establishment of the land-grant university system in the late 1800's to the GI bill at the end of World War II to the creation of the Pell Grant and Guaranteed Student Loan Programs in the 1960's, the Federal Government has been committed to seeing a college education within reach of every American. It is time to renew that commitment.

So, today, Mr. President, I am introducing comprehensive legislation to make college more affordable for American families, so that middle-class parents can afford to send their kids to college and middle-class kids can afford to go.

My bill, titled ''Growing the Economy for Tomorrow: Assuring Higher Education is Affordable and Dependable''—Get Ahead, for short—combines numerous proposals to give tax cuts for the cost of college, to encourage families to save for a college education, and to award college scholarships to high school students in the top of their class academically.

For the sake of time, Mr. President, I will not go through all of specific proposals now. Instead, I refer my colleagues to a summary of the legislation.

Mr. President, a college education is the dream of every American family. When I travel around my State of Delaware, I meet with wealthy businessmen, poor welfare mothers, and hundreds of middle-class families. And, they all want the same thing for their kids: a chance to go to college.

They do not need us in Washington to tell them it is becoming harder and harder to get there. They know that. They need us to make it easier for them. I urge my colleagues to cosponsor this important legislation to make sure that the American dream of a college education remains within reach of every American.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

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

THE GET AHEAD ACT—SUMMARY

TITLE I—TAX INCENTIVES FOR HIGHER EDUCATION

Subtitle A—Tax Relief for Higher Education Costs

Section 101—Deduction for Higher Education Expenses

An above-the-line tax deduction (available even to those who do not itemize deductions) would be allowed for the costs of college tuition and fees as well as interest on college loans.

In the case of tuition costs, beginning in tax year 1999, the maximum annual deduction would be $10,000 per year; a maximum deduction of $5,000 would be available in tax years 1996, 1997, and 1998. The full deduction

would be available to single taxpayers with incomes under $70,000 and married couples with incomes under $100,000; a reduced (phased-out) deduction would be available to those with incomes up to $90,000 (singles) and $120,000 (couples). The income thresholds would be indexed annually for inflation.

Interest on student loans would be deductible beginning with interest payments made in tax year 1996. Interest payments could be deducted on top of the $10,000 deduction for payment of college tuition and fees. There would be no annual maximum and no income limits with regard to the deductibility of interest on student loans.

Language is included to coordinate this tax deduction with other education provisions of the tax code—to ensure that individuals do not receive a double benefit for the same payments. Specifically, qualified higher education expenses that could be tax deductible would be reduced by any payments made from Series EE savings bonds (and excluded from taxable income), any veterans educational assistance provided by the federal government, and any other payments from tax-exempt sources (e.g. employer-provided educational assistance). Also, tax-free scholarships and tax-excluded funds from Education Savings Accounts (see section 112) would first be attributed to room and board costs; the remainder, if any, would count against tuition and fees and would reduce the amount that would be tax deductible. However, if tuition and fees still exceeded $10,000 even after the reductions, the full tax deduction would be available.

Section 102—Exclusion for Scholarships and Fellowships

College scholarships and fellowship grants would not be considered income for the purposes of federal income taxes. This returns the tax treatment of scholarships and fellowships to their treatment prior to the 1986 Tax Reform Act (which limited the exclusion of scholarships and fellowships to that used for tuition and fees).

Scholarships and fellowship grants would be fully excludable for degree candidates. In the case of non-degree candidates, individuals would be eligible for a lifetime exclusion of $10,800—$300 per month for a maximum 36 months.

Language is included to clarify that federal grants for higher education that are conditioned on future service (such as National Health Service Corps grants for medical students) would still be eligible for tax exclusion.

This section would be effective beginning with scholarships and fellowship grants used in tax year 1996.

Section 103—Permanent Exclusion for Educational Assistance

The tax exclusion for employer-provided educational assistance would be reinstated retroactively to January 1, 1995. And, the tax exclusion would be made a permanent part of the tax code.

Subtitle B—Encouraging Savings for Higher Education Costs

Section 111—IRA Distributions Used Without Penalty for Higher Education Expenses

Funds could be withdrawn from Individual Retirement Accounts (IRAs) before age 59½ without being subject to the 10 percent penalty tax if the funds were used for higher education tuition and fees. (However, withdrawn funds, if deductible when contributed to the IRA, would be considered gross income for the purposes of federal income taxes.)

This section would be effective upon enactment.

Section 112—Education Savings Accounts

This section would create IRA-like accounts—known as Education Savings Accounts (ESA's)—for the purpose of encouraging savings for a college education.

Each year, a family could invest up to $2000 per child under the age of 19 in an ESA. For single taxpayers with incomes under $70,000 (phased out up to $90,000) and married couples with incomes under $100,000 (phased out up to $120,000), the contributions would be tax deductible. (These income thresholds would be indexed annually for inflation.) For all taxpayers, the interest in an ESA would accumulate tax free; the contributions would not be subject to the federal gift tax; and, the balance in an ESA would not be treated as an asset or income for the purposes of determining eligibility for federal means-tested programs.

ESA funds could be withdrawn to meet the higher education expenses—tuition, fees, books, supplies, equipment, and room and board—of the beneficiary. Funds withdrawn for other purposes would be subject to a 10 percent penalty tax and would be considered income for the purposes of federal income taxes (to the extent that the funds were tax deductible when contributed). The penalty tax would not apply in cases of death or disability of the beneficiary of the ESA and in cases of unemployment of the contributors.

In addition, when the beneficiary of the account turns age 30 and is not enrolled in college at least half time, any funds remaining in the ESA would be (1) transferred to another ESA; (2) donated to an educational institution; or (3) refunded to the contributors. In the first two cases, there would be no penalty tax and the money would not be considered taxable income. In the third case, the penalty tax would not apply, but the funds would be counted as income to the extent that the funds were tax deductible when contributed.

Finally, parents could roll over funds from one child's ESA to another child's ESA without regard to any taxes, without regard to the $2000 annual maximum contribution to an ESA, and without regard to the age 30 requirement noted above. Funds rolled over would also not be subject to the federal gift tax.

Language is also included to allow individuals to designate contributions to an ESA as nondeductible even if such contributions could be tax deductible. This gives families the option to build up the principal in an ESA while at a lower tax rate, rather than having to pay taxes on unspent ESA funds when the contributors are older and likely in a higher tax bracket.

Tax deductible contributions to ESAs would be allowed beginning in tax year 1996.

Section 113—Increase in Income Limits for Savings Bond Exclusion

For taxpayers with incomes below certain thresholds, the interest earned on Series EE U.S. Savings Bonds are not considered taxable income if the withdrawn funds are used to pay for higher education tuition and fees. This section increases the income thresholds to allow more Americans to use the Series EE Savings Bonds for education expenses.

Effective with tax year 1996, the income thresholds would be the same as the income thresholds for the higher education tax deduction (see section 101): $70,000 for single taxpayers (phased out up to $90,000), and $100,000 for couples (phased out up to $120,000). As with the higher education tax deduction, these income thresholds would be indexed annually for inflation.

Section 114—Tax Treatment of State Prepaid Tuition Plans

Several states have established prepaid tuition plans, where individuals can make advance payments for college tuition. However, because of the uncertainty of federal tax law, some states have put their plans on hold and other states have not gone forward at all. This section clarifies federal tax law in two respects.

First, state-established trusts or corporations created exclusively for managing tuition prepayment plans would be exempt from federal taxes on investment earnings. Second, the letter-ruling issued by the IRS to Michigan would be codified: purchasers and beneficiaries of prepaid tuition plans would be liable for federal income taxes on the increased value of the investment only at the time the funds were redeemed, not each year as the ''interest'' accrued.

To be eligible for the tax clarification, a state prepaid tuition plan must guarantee at the time of purchase that a certain percentage of costs would be covered at a participating educational institution, regardless of the performance of the investment fund. And, it must guarantee that funds would be refunded in the event of the death or disability of the beneficiary or in the event the beneficiary failed to enroll in a participating institution.

TITLE II—SCHOLARSHIPS FOR ACADEMIC ACHIEVEMENT

Beginning with the high school graduating class of 1997, the top 5 percent of graduating seniors at each high school in the United States would be eligible for a $1000 merit scholarship. If an individual receiving such a scholarship achieved a 3.0 (''B'') average during his or her first year of college, a second $1000 scholarship would be awarded.

However, the merit scholarships would be available only to those students in families with income under $70,000 (single) and $100,000 (couples). These income thresholds would be increased annually for inflation.

Funds are authorized (and subject to annual appropriations) for five years. The first year authorization (fiscal year 1997) is $130 million. In each of the next four years (FY 1998–FY 2001), because the scholarships could be renewed for a second year, the authorization is $260 million per year. Total five-year authorization: $1.17 billion.

TITLE III—DEFICIT NEUTRALITY

To ensure that the ''GET AHEAD'' Act does not increase the deficit, this title declares it the sense of the Senate that the costs of the bill should be paid by closing corporate tax loopholes.

By Mr. DORGAN (for himself, Mr. BAUCUS, Mrs. MURRAY, Mr. WELLSTONE, Mr. CONRAD, Mr. WYDEN, and Mr. DASCHLE):

S. 2036. A bill to amend the Agricultural Market Transition Act to provide equitable treatment for barley producers so that 1996 contract payments to the producers are not reduced to a greater extent than the average percentage reduction in contract payments for other commodities, while maintaining the level of contract payments for other commodities, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

BARLEY GROWERS LEGISLATION

Mr. DORGAN. Mr. President, last week, I was among a group of Senators who tried to correct an inequitable payment reduction in farm program contract payments faced by barley growers. After considerable time and effort we reluctantly came to an agreement on an amendment to address this problem.

At the time, I said it was not the answer to the problem, but rather a small

step in the journey. Unfortunately that journey ended up being a very short one that quickly got sidetracked.

Despite the fact that the Senate agreed to the amendment to provide some relief to barley growers, the conference report came back this week with no additional funds to deal with this problem. The Senate amendment was deleted.

Instead the conferees referred the issue back to the authorizing committee and then provided an unfunded directive to the Secretary of Agriculture to deal with the problem. At the time we agreed to the Senate amendment, I was concerned that this would be the outcome. Another referral and no real action.

Barley growers deserve more than that. The freedom to farm fixed contract payment system has been violated, and the Government is once again being viewed as not keeping its word. While the freedom to farm bill was not my choice for farm legislation, I believe the promises it made to producers constitutes a public commitment that should be kept.

It appears that the only way that commitment can be met is if legislation is introduced to require that such action be taken. That is why I am introducing legislation today.

My bill will give the authorizing committee, the Senate Agriculture Committee, a clear opportunity to move forward to resolve this issue. It will establish the goal that we had in mind when we sought to solve this problem by amending the appropriations bill.

It would seem to me that the majority leadership of the authorizing committees would be the first ones in line to correct this problem. They were the ones who developed the freedom to farm proposal, and they were the ones who used their projected schedule of fixed payments to sell their farm policy approach to American farmers.

A news release issued November 21, 1995, by House Agriculture Committee Chairman PAT ROBERTS clearly states that the expected market transition payments under the Freedom to Farm Program would be 46 cents per bushel for barley, 27 cents per bushel for corn, and 92 cents per bushel for wheat.

This news release lists the source of these estimates as the Republican staff of the Senate Committee on Agriculture, Nutrition, and Forestry. These payment projections went unchanged throughout the farm bill debate right through the final farm bill conference committee.

How or why these miscalculations occurred is a moot point. My purpose is not to blame anybody. My purpose is to point out that the freedom to farm bill sponsors developed these projections and used them to advance their farm program proposal. These estimates were the basis of the decisions of many farmers and farm organizations in deciding what they would support as the farm bill moved through Congress.

Throughout the farm bill debate, it was clear that these estimated amounts might be a few cents off, but nobody expected any substantial difference between these estimates and the contract payments.

MISCALCULATION RESULTS IN 30-PERCENT CUT

Unfortunately, there was a $39 million miscalculation in the payments projected for barley producers. Rather than the original payment rate of 46 cents per bushel in 1996, barley producers found out later that their payments will be only 32 cents per bushel. That is a full 30 percent less than the original congressional estimates.

Our barley producers based their farm plans and cash flow for this crop year on the projections that were made last fall. They went to their bankers and creditors who made loans based on these projections.

Frankly, I shouldn't be the one that is trying to correct this problem. This problem should have been corrected by those that developed the freedom to farm bill and its payment projections. However, since North Dakota is the largest barley producing State in the Nation, this is of considerable concern to our barley producers.

My amendment would restore $35 of the $39 million to barley producers. This would be about a 10-percent cut from what was originally projected. A 10-percent cut is in line with the reductions that are expected in other payments for the other commodities.

The purpose of this amendment is to provide equitable treatment to barley producers so that contract payments are not reduced to any greater degree than they are for other commodities. No other commodity has been asked to take as deep a reduction as barley.

Wheat producers will be getting 87 cents, rather than 92 cents. That is a 5-percent reduction. Corn producers will be getting 24 cents, rather than 27 cents. That is an 11-percent reduction. Barley producers should not be expected to take a 30-percent cut in their payments.

This is a matter of keeping faith with those family farmers that made their plans on the basis of a farm bill that was very late in getting passed. It is a matter of fairness to our Nation's barley producers.

I am pleased that Senators BAUCUS, MURRAY, WELLSTONE, CONRAD, WYDEN, and DASCHLE have joined me in this effort and will be original cosponsors of this legislation.

Mr. CONRAD. Mr. President, I rise as an original cosponsor of legislation to correct the provisions of the Federal Agriculture Improvement and Reform Act of 1996 which unfairly penalizes barley producers. In one of the most egregious examples of misinformation I've ever seen, actual payments to barley producers under the act are dramatically lower than the original promises made by proponents of the bill. The bill we are introducing today corrects that error and gives barley producers the equal treatment they deserve.

On November 21, 1995, House Agriculture Committee Chairman PAT ROBERTS released a press statement announcing the estimated market transition payments under freedom to farm. The announcement clearly stated that barley payments for 1996 would be 46 cents per bushel. While the press release does state the figures were estimates, it is undeniable that the figures became the basis on which farm group after farm group made farm policy decisions. Producers were told they would receive this level of payment, or something very close to it, and that the payment would be guaranteed. I know this is true in North Dakota because in meeting after meeting I heard producers tell me it was their belief they would receive 46 cents in 1996 if freedom to farm became law.

Later we find out this is not the case, that the payments to barley producers would not be 46 cents, they would be only 32 cents. I understand other commodities received some reductions—approximately 5–10 percent—but none received the 30 percent reduction barley producers have little choice but to accept. Opponents of this bill will argue all producers were treated the same and that barley producers should have been aware the initial figures were subject to change. Well, barley producers did know there might be some change, maybe 1 or 2 cents, but did not know there might be a 30 percent change.

It's time we set the record straight and admit that barley producers were not treated fairly by the 1996 farm bill. I hope my colleagues will join me in correcting this extremely unfair situation.

By Mr. LAUTENBERG:

S. 2037. A bill to provide for aviation security, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE AVIATION SECURITY ACT OF 1996

Mr. LAUTENBERG. Mr. President, I rise today to introduce the Aviation Security Act [ASA]. This legislation is designed to significantly enhance security measures at U.S. airports, to better protect those who fly.

Mr. President, I join with all Americans in expressing my sorrow at the loss of 230 innocent lives in the crash of TWA flight 800. My sympathy and prayers are with the victims' families and friends as they struggle to cope with this tragedy.

At this time, the sea has not yielded its secrets, and we do not have conclusive evidence of why the jet crashed. However, terrorism appears to be the likely cause of the disaster.

Whether or not the cause of the crash was a bomb, this disaster has focused national attention on the fact that America's shores are not immune from terrorism. And this is a threat which I fear will only increase in scope and sophistication over the next few years.

Terrorism is an act of war, not against any specific individual, but against our entire nation. Consequently, protecting ourselves from

this scourge is a matter of national security, and we must act accordingly. We must treat this threat as seriously as any declared war. And we need to adopt measures—and attitudes—to aggressively combat this twentieth century plague.

Mr. President, living in a free society, there is only so much we can do to protect every public building, park and gathering place. However, terrorists usually target a nation where it's most vulnerable. And perhaps nowhere are we more vulnerable than in our air security system.

Mr. President, after the past few agonizing days, it's all too apparent that we must significantly upgrade security measures at U.S. airports. Although it may be impossible to stop every terrorist who is determined to bomb an airline, security can be significantly enhanced to better protect those who fly. And it must be continually improved as threats and technology change.

The 1.5 million people who daily board flights at American airports undergo security measures which were designed decades ago to stop highjackers with metal guns and knives. These measures are inadequate when dealing with terrorists with Semtex and other plastic explosives. Such explosives are so dangerous that less than 2 pounds can shred a jumbo jet into a pile of scrap metal.

The problem of inadequate protection stems from many causes. In most other countries, government is responsible for air security. In the United States, the Government, the airlines and the airports share responsibility. The highly competitive airlines, many of which are experiencing financial difficulties, face an inevitable and difficult conflict of interest. Although the Federal Aviation Administration issues minimum security standards, individual airlines and airports are responsible for implementing them.

There are also multiple loopholes in the present security system. On U.S. domestic flights, bags and passengers are not even required to travel together. And there are many other points of vulnerability, including cargo and mail.

It is true that our safety procedures were upgraded after the Lockerbie disaster. As a member of the President's Commission on Aviation Security and Terrorism, I helped draft the Aviation Security Improvement Act of 1990. Among its 38 provisions were requirements that the FAA accelerate explosives detection research and heighten security checks on airport personnel.

Additionally, on July 25, the President announced new air travel security measures. These improvements, which include increased searches of carry-on luggage and required pre-flight cargo and cabin inspections, will certainly enhance security. However, they do not go far enough.

Over the past few weeks, I have been briefed by some of our nation's best experts in the field of aviation safety. They are concerned that terrorists are outstripping our current procedures, and are breaking through America's cordon of safety. We can do better; we must do better. It will require leadership and decisiveness.

This Senator believes that we must institute a truly comprehensive security system. In order to achieve this, we must do at least three things. We must adequately invest in security technology in proportion to the increasing threat of terrorism. We must ensure that the airlines enforce necessary security measures at the gate. And we must make sure that our security personnel are adequately trained and perform well.

To begin the debate on these matters, I am introducing the Aviation Security Act (ASA). This legislation effectively addresses the problems which have become apparent recently, by charging the Department of Transportation with implementing a comprehensive aviation security system.

To enhance security before travelers reach the airport, and once they are at the gate, my bill mandates increased screening of passengers, luggage, and cargo. It also requires that the Department of Transportation review and upgrade the current procedures for examining cargo on passenger flight.

To identify passengers and cargo that pose a heightened risk—in other words, to stop the bad guys before they board or get a package on board—this legislation requries the Department of Transportation to develop a methodology to profile passengers and cargo. It also requires that air carriers implement this methodology and institute contingency plans for dealing with individuals identified as potential threats. For those individuals and cargo that pose the greatest threat, airports and airlines would be required to develop and utilize additional measures, including bag-match, personal interview, and enhanced bag search.

To complement the additional profiling and security measures, my legislation also mandates expedited installation of explosive detection devices at those airports which the Department of Transportation identifies as facing the greatest risk. These devices will include density evaluators, scanners, trace and vapor detectors.

Mr. President, the importance of installing these detection systems, as soon as possible, cannot be overemphasized. The latest luggage scanners, which can detect the most elusive plastic explosives, are now not generally used in U.S. airports. The most advanced scanning machine, the CTX–5000, works like a CAT Scan, providing a three dimensional image. There are 14 in use in Europe and Israel, and two are being installed in Manila. In our country, they are currently being tested in only Atlanta, which has two, and San Francisco. Another device, the EGIS machine, uses air samples from passengers' luggage to check for vapors emitted by explosives. Various overseas airports utilize the machine, but it's being used on only a limited basis in the United States. This, and other technologies, which can detect liquid explosives and trace chemicals, need to be further developed and deployed.

Just as important as any new machine or measure is hiring well trained security people. Most airlines, to save money, contract with security companies for low-wage workers with minimal education and little experience. Training is cursory and turnover is high. Yet, this person may be the last line of defense between a plane full of innocent people and a suicide bomber. By contrast, European security personnel are usually highly trained, educated, speak several languages and have taken courses in psychology.

This legislation requires that airport personnel who have security duties or who have access to any secure area must meet stringent requirements for training, job performance and security checks.

In conjunction with training, performance measures will be developed to assess how well security personnel are doing their jobs. Also, comprehensive investigations, including criminal history checks, will be required of all personnel in this category.

The importance of the human factor in improving security is probably best evidenced by the case of Ramzi Ahmed Yousef. Yousef is currently on trial in New York for his alleged role in the 1994 bombing of the World Trade Center. Less well known are the details of a plot to join two other men in blowing up a dozen U.S. jumbo jets in 1995.

In a 2-day reign of terror, Yousef and his compatriots planned to bomb 12 planes, with over 4,000 people on board. The motive was to provoke an end to United States support of Israel.

The heart of each bomb was a timer built by rewiring a common Casio digital watch. The timer would then be connected to a liquid nitroglycerin, disguised as contact lens solution. Even the newest screening devices would have extreme difficulty detecting the substance. Only human vigilance may have been able to stop these murderers if they had reached the airport gate. Luckily, the plot was discovered by police in the Philippines before the night's sky was set ablaze.

In addition to security, what became painfully obvious this week is that procedures to notify and counsel the families of airline disaster victims are totally inadequate. Compassion dictates that we need to adopt more efficient and humane procedures.

This legislation establishes, perhaps within the National Transportation Safety Board, the Office of Family Advocate. In consultation with the Department of State, the Department of Transportation, experts in psychology and representatives of victims' families, this Office will develop standards for informing, counseling and supporting grieving families. Providing this assistance is not just common sense, it's common decency.

Additionally, this legislation requires that information, such as full name, phone numbers and contact person, be collected when a passenger purchases a ticket. This information would be provided to the Office of Family Advocate within a specified time period after an air disaster.

Mr. President, a comprehensive security system will be expensive. The FAA has estimated that it could cost up to $6 billion over the next 10 years, to pay for security improvements. We need to decide how to pay the bill—and we need to remember that this legislation is not about spending dollars, it is about saving lives.

ASA proposes that an aviation security fee, or small surcharge of no more than $2 per one way ticket or $4 per round trip ticket, be instituted to pay for needed improvements. I would note that recent polls suggest that Americans are willing to pay as much as an extra $50 per ticket to upgrade security.

An alternative financing mechanism would be to authorize the Department of Defense to transfer such funds as may be necessary to implement the provisions of the Act. In drawing on defense funds, we would recognize that terrorism is a threat to our national security.

Mr. President, a truly comprehensive system should be put in place as soon as possible. Although not a panacea for every airport security problem, it can provide significant protection for travelers.

Of course, to truly enhance security, there is another price we all must pay. We must be willing to submit to some delay, inconvenience and intrusion when traveling by air. In London, travelers are patted down. And in many Arab airports, passengers must negotiate fourteen checkpoints before boarding. Anyone who flies coach on El Al, the Israeli national airline, is required to report to the airport 3 hours ahead of a scheduled flight. The FAA is working on how to minimize disruption while enhancing security. But we must be willing to make some trade-offs, giving up easy and quick experiences on the ground, for added security in the air.

Finally, it would be inappropriate for me to close without discussing the issue of terrorism. As a Nation, we need to better address the overall problem. We need to clamp down on domestic fundraising for Middle East Terrorist organizations. Press reports indicate that approximately $10 million is being sent annually by Americans to the terrorist group Hamas. We also need to encourage our allies in the Middle East to fight terrorist organizations in the region. And we must work with the international community to target the economies of countries that sponsor terrorism. We also cannot rule out the use of force, where necessary.

If the crash of TWA flight 800 was the work of terrorists, then they may think that they have won the battle—but they certainly haven't won the war. We can fight back.

But even if this tragedy was not the result of an evil act, but an unfortunate accident, we should not delay upgrading our security systems. We need to change the way this country approaches security. We need to be more proactive, anticipating and preempting changes in terrorist methods, rather than being reactive—always waiting for something to happen before we act.

To those who would try to deny the seriousness of the threat, and the intensity of anti-American feelings in many parts of the world, I want to again recall Ramzi Yousef's legacy of hatred. When questioned by a Pakistani interrogator as to his real motive, Yousef remarked, ''This is * * * the best thing, I enjoy it.'' He went on to explain that the United States is the first country in the world making trouble for the Muslim people. Consequently, he was willing to send 4,000 innocent people to their deaths.

Many of the scenes which have flickered across our T.V. screens over the past 2 weeks can never be forgotten. But there is one moment, in particular, which will always remain with me. A husband and father, who had lost his wife and two daughters in the disaster, hired a helicopter to fly over the crash site, which I had visited last weekend. Once there, he tossed two red roses on the water for his wife, and three white rosebuds for his little girls. And as I watched the news footage which showed the flowers slowly drifting in all directions, I thought of everything which the sea now held—the future lives of those taken too soon, and the past memories of those left behind.

I can think of no better memorial to those who died, and to those who were left behind to carry on, than to work to ensure that such a tragedy does not happen again. For the living, and in memory of the deceased, we must act now.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

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

S. 2037

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 ''Aviation Security Act of 1996''.

SEC. 2. ENHANCED SECURITY PROGRAMS.

(a) IN GENERAL.—Chapter 449 of title 49, United States Code, is amended by adding at the end of subchapter I the following new sections:

''§ 44916. Enhancement of aviation security

''(a) IN GENERAL.—The Secretary of Transportation (hereafter in this section referred to as the 'Secretary'), in consultation with the Administrator of the Federal Aviation Administration (hereafter in this section referred to as the 'Administrator') and other appropriate officials of the Federal Aviation Administration, shall provide for the enhancement of aviation security programs under the jurisdiction of the Federal Aviation Administration in accordance with this section.

''(b) IMPROVEMENTS IN THE EXAMINATION OF CARGO AND CHECKED BAGGAGE.—The Secretary, in consultation with the Administrator, shall—

''(1) review applicable procedures and requirements relating to the security issues concerning screening and examination of cargo and checked baggage to be placed on flights involving intrastate, interstate, or foreign air transportation that are in effect at the time of the review; and

''(2) on the basis of that review, develop and implement procedures and requirements that are more stringent than those referred to in paragraph (1) for the screening and examination of cargo and checked baggage to be placed on flights referred to in that subparagraph, including procedures that ensure that only personnel with unescorted access privileges have unescorted access at the airport to—

''(A) an aircraft;

''(B) cargo or checked baggage that is loaded onto an aircraft;

''(C) a cargo hold on an aircraft before passengers are loaded and after passengers debark;

''(D) an aircraft servicing area; or

''(E) a secured area of an airport.

''(c) PROFILES FOR RISK ASSESSMENT AND RISK REDUCTION MEASURES.—

''(1) IN GENERAL.—The Secretary, in consultation with the Administrator and appropriate officials of other Federal agencies, shall develop and implement, a methodology to profile the types of passengers, cargo, and air transportation that present, or are most susceptible to, a significant degree of risk with respect to aviation security.

''(2) RISK REDUCTION MEASURES.—In addition to developing the methodology for profiles under paragraph (1), the Secretary, in consultation with the Administrator, shall develop and implement measures to address sources that contribute to a significant degree of risk with respect to aviation security, including improved methods for matching and searching luggage or other cargo.

''(d) EXPLOSIVE DETECTION.—

''(1) IN GENERAL.—The Secretary and the Administrator, in accordance with this section, and section 44913, shall ensure the deployment, by not later than the date specified in subsection (j), of explosive detection equipment that incorporates the best available technology for explosive detection in airports—

''(A) selected by the Secretary on the basis of risk assessments; and

''(B) covered under the plan under paragraph (2).

''(2) PLAN.—The deployment of explosive detection equipment under paragraph (1) shall be carried out in accordance with a plan prepared by the Secretary, in consultation with the Administrator and other appropriate officials of the Federal Government, to expedite the installation and deployment of that equipment.

''(3) REPORT.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of this section, and annually thereafter, the Secretary shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report on the deployment of explosive detection devices pursuant to the plan developed under paragraph (2).

''(B) TREATMENT OF CLASSIFIED INFORMATION.—No officer or employee of the Federal Government (including any Member of Congress) may disclose to any person other than another official of the Federal Government in accordance with applicable Federal law,

any information in the report under subparagraph (A) that is classified.

''(e) ENHANCED SCREENING OF PERSONNEL.—

''(1) IN GENERAL.—The Secretary, in consultation with the Administrator, shall establish a program for enhancing the screening of personnel of air carriers or contractors of air carriers (or subcontractors thereof) who—

''(A) in the course of their employment have—

''(i) unescorted access privileges to—

''(I) an aircraft;

''(II) cargo or checked baggage that is loaded onto an aircraft;

''(III) a cargo hold on an aircraft; or

''(IV) an aircraft servicing area; or

''(ii) security responsibilities that affect the access and passage of passengers or cargo in aircraft referred to in subparagraph (A); and

''(B) any immediate supervisor of an individual referred to in subparagraph (A).

''(2) TRAINING.—

''(A) IN GENERAL.—The Secretary, in consultation with the Administrator, shall—

''(i) review regulations and standards relating to the training of personnel referred to in paragraph (1) that are in effect at the time of the review; and

''(ii) on the basis of that review, prescribe such regulations and standards relating to minimum standards for training and certification as the Secretary determines to be appropriate.

''(B) PROHIBITION.—The fact that an individual received training in accordance with this paragraph may not be used as a defense in any action involving the negligence or intentional wrongdoing of that individual in carrying out airline security or in the conduct of intrastate, interstate, or foreign air transportation.

''(f) PERFORMANCE-BASED MEASURES.—The Secretary, in consultation with the Administrator, shall—

''(1) develop and implement, by the date specified in subsection (j), performance-based measures for all security functions covered under this section that are carried out by personnel referred to in subsection (e)(1); and

''(2) require that air carriers and owners or operators of airports that provide intrastate, interstate, or foreign air transportation ensure that those measures are carried out.

''(g) SECURITY CHECKS.—

''(1) IN GENERAL.—The Secretary, in consultation with the Administrator and other appropriate officers and employees of the Federal Government, shall, require comprehensive employment investigations to be conducted for any individual that is employed, or commences employment, in a position described in subsection (e)(1).

''(2) CRIMINAL HISTORY CHECK.—The employment investigations referred to in paragraph (1) shall include criminal history checks. Notwithstanding any other provision of law, a criminal history check may cover a period longer than the 10-year period immediately preceding—

''(A) the initial date of employment of an individual by an employer; or

''(B) the date on which a criminal history check is conducted for an applicant for employment.

''(h) ADMINISTRATIVE ACTIONS.—

''(1) IN GENERAL.—The Secretary, in consultation with the Administrator, shall, as appropriate, specify appropriate administrative actions or violations of this section or the regulations prescribed under this section.

''(2) ORDERS.—The administrative actions referred to in paragraph (1) may include an order by the Secretary requiring, in accordance with applicable requirements of this subtitle and any other applicable law—

''(A) the closure of an airport gate or area that the Secretary determines, on the basis of a risk assessment or inspection conducted under this section, should be secured in accordance with applicable requirements of this subtitle; or

''(B) the cancellation of a flight in intrastate, interstate, or foreign air transportation.

''(3) NOTIFICATION.—If the Secretary carries out an administrative action under this subsection, the Secretary shall provide public notice of that action, except in any case in which the President determines that the disclosure of that information would not be in the national security or foreign policy interest of the United States.

''(i) AUDITS AND EVALUATIONS.—

''(1) IN GENERAL.—The Secretary shall require each air carrier and airport that provides for intrastate, interstate, or foreign air transportation to conduct periodic audits and evaluations of the security systems of that air carrier or airport.

''(2) REPORTS.—Not later than 1 year after the date of enactment of this section, and annually thereafter, each air carrier and airport referred to in paragraph (1) shall submit to the Secretary a report on the audits and evaluations conducted by the air carrier or airport under this subsection.

''(3) INVESTIGATIONS.—The Secretary, in consultation with the Administrator, shall conduct periodic and unannounced inspections of security systems of airports and air carriers to determine whether the air carriers and airports are in compliance with the performance-based measures developed under subsection (f). To the extent allowable by law, the Secretary may provide for anonymous tests of the security systems referred to in the preceding sentence.

''(j) REGULATIONS.—Not later than 180 days after the date of enactment of this section, the Secretary, in consultation with the Administrator and appropriate officers and employees of other Federal agencies, shall prescribe and implement such regulations as are necessary to carry out this section.

''(k) MODIFICATION OF EXISTING PROGRAMS.—If the Secretary or the Administrator determines that a modification of a program in existence on the date specified in subsection (j) could be accomplished without prescribing regulations to meet the requirements of this section, the Secretary or the Administrator may make that modification in lieu of prescribing a regulation.

''§ 44917. Support for families of victims of transportation disasters

''(a) IN GENERAL.—

''(1) ESTABLISHMENT.—The President shall establish, within an appropriate Federal agency, an office to be known as the Office of Family Advocate.

''(2) STANDARDS OF CONDUCT.—

''(A) IN GENERAL.—The head of the Federal agency specified in paragraph (1) (hereafter in this section referred to as the ''agency head''), acting through the Office of Family Advocate, shall develop standards of conduct for informing and supporting families of victims of accidents in air commerce and other transportation accidents involving any other form of transportation that is subject to the jurisdiction of the Department of Transportation.

''(B) CONSULTATION.—In developing the standards under this paragraph, the agency head shall consult with—

''(i) appropriate officers and employees of other Federal agencies;

''(ii) representatives of families of victims of accidents in air commerce and other transportation accidents referred to in subparagraph (A);

''(iii) individuals who are experts in psychology and trauma counseling; and

''(iv) representatives of air carriers.

''(3) THIRD PARTY INVOLVEMENT.—

''(A) IN GENERAL.—The agency head, acting through the Office of Family Advocate, shall provide for counseling, support, and protection for the families of victims of transportation accidents referred to in paragraph (2)(A) by—

''(i) consulting with a nongovernmental organization that the agency head determines to have appropriate experience and expertise; and

''(ii) if appropriate, entering into an agreement with a nongovernmental organization or the head of another appropriate Federal agency (including the Director of the Federal Emergency Management Agency) to provide those services.

''(b) PASSENGER INFORMATION.—

''(1) IN GENERAL.—The Secretary of Transportation (hereafter in this section referred to as the 'Secretary') shall require each air carrier that provides intrastate, interstate, or foreign air transportation to obtain, at the time of purchase of passage, from each passenger that purchases passage on a flight—

''(A) the full name, address, and daytime and evening telephone numbers of the passenger; and

''(B) the full name and daytime and evening telephone numbers of a contact person designated by the passenger.

''(2) REQUIREMENT FOR AIR CARRIERS.—

''(A) IN GENERAL.—The Secretary shall require each air carrier that provides intrastate, interstate, or foreign air transportation to provide the information obtained for a flight under paragraph (1) only—

''(i) in the event of an accident in air commerce in which a serious injury or crime (as determined by the Secretary) or death occurs; and

''(ii) in accordance with section 552a of title 5, United States Code.

''(B) PROVISION OF INFORMATION.—In the event of an accident in air commerce described in subparagraph (A), if the flight involves—

''(i) intrastate or interstate air transportation, the air carrier shall provide the information required to be submitted under subparagraph (A) not later than 3 hours after the accident occurs; or

''(ii) foreign air transportation, the air carrier shall provide such information not later than 4 hours after the accident occurs.

''§ 44918 Exemption; fees

''(a) EXEMPTION.—The regulations issued under sections 44916 and 44917 shall be exempt from any requirement for a cost-benefit analysis under chapter 8 of title 5, United States Code, or any other provision of Federal law.

''(b) FEES.—

''(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall determine, and adjust on an annual basis, a fee that shall be assessed against each individual who purchases passage on a flight in intrastate, interstate, or foreign air transportation that is based on the estimated cost of carrying out sections 44916 and 44917.

''(2) LIMITATION ON AMOUNT.—The amount of a fee assessed under this subsection shall not exceed $2 per flight, per passenger.

''(3) AVIATION SECURITY ACCOUNT.—

''(A) IN GENERAL.—There shall be established within the Treasury of the United States, an Aviation Security Account. The fees collected under this subsection shall be deposited into that account.

''(B) USE OF FUNDS IN ACCOUNT.—The Secretary of the Treasury shall make the funds in the account available only to—

''(i) the Secretary of Transportation for use by the Secretary in accordance with section 44916; and

''(ii) the agency head specified by the President under section 44917, for use by that agency head in accordance with that section.''.

(b) EMPLOYMENT INVESTIGATIONS AND RESTRICTIONS.—Section 44936(b)(1)(B) of title 49, United States Code, is amended by striking '', in the 10-year period ending on the date of the investigation,''.

(c) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 449 of title 49, United States Code, is amended by adding at the end the following new items:

''44916. Enhancement of aviation security.
''44917. Support for families of victims of transportation disasters.
''44918. Exemption; fees.''.

AVIATION SECURITY PROPOSAL

(1) DOT TO IMPLEMENT AN ENHANCED AVIATION SECURITY SYSTEM

Cargo and checked baggage—The Secretary shall review current procedures for examining cargo and checked baggage on passenger flights and implement a program to reduce all significant security risks. That program shall include, but not be limited to, procedures that restrict access to passenger, cargo, cargo hold and aircraft servicing areas.

Profiling risk assessment—the Secretary shall develop, in consultation with appropriate federal authorities, a methodology to profile passengers, cargo and flights for both pre-airport and airport arrival to identify those passengers and cargo that present a possible risk to aviation security. The Secretary will require that air carriers implement this methodology and develop contingency actions described below with respect to those persons and cargo identified by the methodology. Those measures may include, but not be limited to, bag-match and enhanced bag search.

Explosive Detection Systems—the Secretary shall identify, based on profiles and other information and measures developed in consultation with appropriate federal agencies, all flights that pose the greatest risk to security, and ensure that enhanced, state-of-the-art, explosive detection devices are installed in the appropriate airports to protect against those risks. The Secretary shall, within six months from the enactment of this Act, develop and implement a plan to phase in expedited installation of the devices at priority airports. The Secretary shall submit an annual report to the Speaker of the House of Representatives and the President of the Senate on the progress of the plan. The report may be classified or unclassified at the Secretary's discretion.

(2) INCREASED SCREENING FOR CERTAIN AIRPORT PERSONNEL

Classification of Airport Personnel—the provisions of this section shall apply to those personnel employed by air carriers or their contractors or subcontractors who, through duties and work location, either (a) have unescorted access to all or portions of aircraft that are engaged in the transportation of passengers for hire, or (b) have security responsibilities that affect the access and passage of passengers and/or cargo into the proximity of passenger carrying aircraft.

Training—the Secretary shall review existing standards and, where necessary, impose additional minimum standards for training and certification of security personnel. The fact that the employee passed the minimum standards shall not relieve the air carrier of responsibility if he later is responsible for, or contributes to, an incident or an accident.

Performance Based Measures—the Secretary shall develop performance based measures for all personnel security functions and implement actions to require the air carriers or airports, as appropriate, to accomplish those measures.

Security Checks—the Secretary shall require comprehensive employment investigations on new hires and existing employees, including but not limited to criminal history checks. This provision also lifts the current restriction of ten years on the employee's history.

Penalties—the Secretary shall, within six months from enactment, promulgate regulations that impose penalties for violations that are commensurate with the seriousness of the offense. Such penalties may include temporary suspension of the operating certificate, immediate closure of a gate or secure area, cancellation of flights, public notification of violations or actual revocation of the operating certificate.

(3) MANDATED OPERATIONAL CHECKS OF THE SYSTEM

Self-audits and evaluations—the Secretary shall require air carriers and airports to conduct audits and evaluations on the efficacy of the security systems, and issue annual reports of their results to the Secretary.

The Secretary shall conduct regular, unannounced and/or anonymous tests of the airport and air carrier's security systems to determine whether the systems are in compliance with the performance based measures as determined by the Secretary.

(4) SUPPORT FOR FAMILIES OF VICTIMS OF TRANSPORTATION DISASTERS

Family Advocate—there shall be established an Office of Family Advocate in the appropriate federal agency to be determined by the President. The Office shall develop standards of conduct for informing and supporting families of victims. The standards shall be developed in consultation with any federal agency, representatives of families of victims of airline or other transportation disasters, psychological experts and air carriers.

Third party involvement—the Office shall consult with a third party organization that has the appropriate experience, in offering counseling, support and protection for the families of victims. the Office is authorized to task an organization or other government agency, to carry out the necessary tasks, if appropriate, including the Federal Emergency Management Agency.

Passenger information—the Secretary shall require air carriers, both domestic and foreign flag carriers, to collect the following information at the time of passenger's ticket purchase: full name, address, telephone number (daytime and nighttime) and contact person. The Secretary shall require air carriers to provide, within three hours for domestic flights and four hours for international flights, such information to the Office of Family Advocate only in the event of a transportation disaster where serious injury or death occurred.

(5) FUNDING

Fee per ticket—the Secretary shall determine a fee to be assessed on each airline ticket, the amount of which is based on the cost to implement the provisions of this Act, but not to exceed $4 per ticket. The Secretary shall begin assessing the fee within 30 days from the enactment of this Act.

Aviation Security Account—there shall be established within the Department, an Aviation Security Account. The fees shall be collected and credited to relevant appropriations within the FAA.

By Mr. DASCHLE (for himself and Mr. PRESSLER);

S. 2038. A bill to authorize the construction of the Fall River Water Users District Rural Water System and authorize the appropriation of Federal dollars to assist the Fall River Water Users District, a nonprofit corporation, in the planning and construction of the water supply system, and for other purposes; to the Committee on Energy and Natural Resources.

THE FALL RIVER WATER USERS DISTRICT RURAL WATER SYSTEM ACT OF 1996

S. 2039. A bill to authorize the construction of the Perkins County Rural Water System and authorize the appropriation of Federal dollars to assist the Perkins County Rural Water System, Inc., a nonprofit corporation, in the planning and construction of the water supply system, and for other purposes; to the Committee on Energy and Natural Resources.

THE PERKINS COUNTY RURAL WATER SYSTEM ACT OF 1996

Mr. DASCHLE. Mr. President, the need for water development throughout South Dakota is great. As we prepare to enter the 21st century, all South Dakotans should be able to consider a high quality water supply to be a basic human right, and we should do whatever we can to meet this goal.

While considerable progress has been made in providing clean and safe drinking water to residents of my State, much work remains to be done. Fall River County and Perkins County are examples of areas that urgently need to develop new sources of potable water. That is why I am introducing bills today to authorize the construction of the Fall River Water Users District Rural Water System and the Perkins County Rural Water System.

The communities that would be served by both systems are comprised of farmers and ranchers who for too long have had to endure substandard, and at times remote, sources of drinking water. The drinking water available in Fall River County, SD, like the water in much of the rest of the State, is contaminated with high levels of nitrates, sulfates, and dissolved solids. Wells have been known to run dry, due to the high frequency of droughts in the region. Many people currently must haul water, sometimes as much as 60 miles round-trip. Similar problems exist in Perkins County, where much of the drinking water fails to meet minimum public health standards, thereby posing a long-term health risk to the citizens of that region.

Simply put, this situation is unacceptable and must be remedied.

In Fall River County, the Fall River Water Users District was formed to plan and develop a rural water system capable of supplying the water to sustain this community. I and my congressional colleagues have worked hard over the past year with the district to identify a solution that was affordable and could provide adequate amounts of clean water to satisfy the needs of the community. It became apparent that the only feasible option was the authorization of a rural water system

that involved the financial and technical participation of the Federal, State, and local governments.

My first bill would authorize the construction of a system to bring clean water to the residents of Fall River County. I am absolutely committed to continuing to work with the Fall River County Water Users District, the State and the Federal Government to bring a high quality water supply to Fall River County.

Under the second bill I am introducing today, the Perkins County Rural Water System will obtain Missouri River water through the Southwest Pipeline, which is part of the Garrison Diversion Unit in North Dakota. This is an efficient and cost-effective approach that takes advantage of existing water management infrastructure. Clean, safe drinking water will be provided to about 2,500 people who reside in the towns of Lemmon and Bison, and the surrounding areas.

It is my hope that my colleagues will join with me in supporting these two pieces of legislation, which will provide safe, clean drinking water to deserving South Dakota families.

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

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 2038

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 ''Fall River Water Users District Rural Water System Act of 1996''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) there are insufficient water supplies of reasonable quality available to the members of the Fall River Water Users District Rural Water System located in Fall River County, South Dakota, and the water supplies that are available are of poor quality and do not meet the minimum health and safety standards, thereby posing a threat to public health and safety;

(2) past cycles of severe drought in the southeastern area of Fall River county have left local residents without a satisfactory water supply and during 1990, many home owners and ranchers were forced to haul water to sustain their water needs;

(3) most members of the Fall River Water Users District are forced to either haul bottled water for human consumption or use distillers due to the poor quality of water supplies available;

(4) the Fall River Water Users District Rural Water System has been recognized by the State of South Dakota; and

(5) the best available, reliable, and safe rural and municipal water supply to serve the needs of the Fall River Water Users District Rural Water System members consists of a Madison Aquifer well, 3 separate water storage reservoirs, 3 pumping stations, and approximately 200 miles of pipeline.

(b) PURPOSES.—The Congress declares that the purposes of sections 1 through 13 are to—

(1) ensure a safe and adequate municipal, rural, and industrial water supply for the members of the Fall River Water Users District Rural Water System in Fall River County, South Dakota;

(2) assist the citizens of the Fall River Water Users District to develop safe and adequate municipal, rural, and industrial water supplies; and

(3) promote the implementation of water conservation programs by the Fall River Water Users District Rural Water System.

SEC. 3. DEFINITIONS.

As used in this Act (unless the context clearly requires otherwise):

(1) ENGINEERING REPORT.—The term ''engineering report'' means the study entitled ''Supplemental Preliminary Engineering Report for Fall River Water Users District'' in August 1995.

(2) PROJECT CONSTRUCTION BUDGET.—The term ''project construction budget'' means the description of the total amount of funds that are needed for the construction of the water supply system, as contained in the feasibility study.

(3) PUMPING AND INCIDENTAL OPERATIONAL REQUIREMENTS.—The term ''pumping and incidental operational requirements'' means all power requirements that are incidental to the operation of intake facilities, pumping stations, water treatment facilities, cooling facilities, reservoirs, and pipelines up to the point of delivery of water by the Fall River Water Users District Rural Water System to each entity that distributes water at retail to individual users.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(5) WATER SUPPLY SYSTEM.—The term ''water supply system'' means the Fall River Water Users District Rural Water System that is established and operated substantially in accordance with the feasibility study.

SEC. 4. FEDERAL ASSISTANCE FOR THE WATER SUPPLY SYSTEM.

(a) IN GENERAL.—The Secretary is authorized to make grants to the Fall River Water Users District Rural Water System, a nonprofit corporation, for the planning and construction of the water supply system.

(b) SERVICE AREA.—The water supply system shall provide for safe and adequate municipal, rural, and industrial water supplies, mitigation of wetlands areas; and water conservation within the boundaries of the Fall River Water Users District, described as follows: bounded on the north by the Angostura Reservoir, the Cheyenne River, and the Fall River/Custer County line, bounded on the east by the Fall River/Shannon County line, bounded on the south by the South Dakota/Nebraska State line, and bounded on the west by the previously established Igloo-Provo Water Project District.

(c) AMOUNT OF GRANTS.—Grants made available under subsection (a) to the Fall River Water Users District Rural Water System shall not exceed the amount authorized under section 10.

(d) LIMITATION ON AVAILABILITY OF CONSTRUCTION FUNDS.—The Secretary shall not obligate funds for the construction of the water supply system until—

(1) the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) have been met;

(2) a final engineering report has been prepared and submitted to the Congress for a period of not less than 90 days before the commencement of construction of the system; and

(3) a water conservation program has been developed and implemented.

SEC. 5. WATER CONSERVATION.

(a) PURPOSE.—The water conservation program required under this section shall be designed to ensure that users of water from the water supply system will use the best practicable technology and management techniques to conserve water use.

(b) DESCRIPTION.—The water conservation programs shall include—

(1) low consumption performance standards for all newly installed plumbing fixtures;

(2) leak detection and repair programs;

(3) rate structures that do not include declining block rate schedules for municipal households and special water users (as defined in the feasibility study);

(4) public education programs; and

(5) coordinated operation between the Fall River Water Users District Rural Water System and any preexisting water supply facilities within its service area.

(c) REVIEW AND REVISION.—The programs described in subsection (b) shall contain provisions for periodic review and revision, in cooperation with the Secretary.

SEC. 6. MITIGATION OF FISH AND WILDLIFE LOSSES.

Mitigation of fish and wildlife losses incurred as a result of the construction and operation of the Fall River Water Users District Rural Water System shall be on an acre-for-acre basis, based on ecological equivalency, concurrent with project construction, as provided in the feasibility study.

SEC. 7. USE OF PICK-SLOAN POWER.

(a) IN GENERAL.—From power designated for future irrigation and drainage pumping for the Pick-Sloan Missouri River Basin Program, the Western Area Power Administration shall make available the capacity and energy required to meet the pumping and incidental operational requirements of the water supply system during the period beginning May 1, and ending October 31, of each year.

(b) CONDITIONS.—The capacity and energy described in subsection (a) shall be made available on the following conditions:

(1) The water supply system shall be operated on a not-for-profit basis.

(2) The water supply system shall contract to purchase its entire electric service requirements, including the capacity and energy made available under subsection (a), from a qualified preference power supplier that itself purchases power from the Western Area Power Administration.

(3) The rate schedule applicable to the capacity and energy made available under subsection (a) shall be the firm power rate schedule of the Pick-Sloan Eastern Division of the Western Area Power Administration in effect when the power is delivered by the Administration.

(4) It shall be agreed by contract among—

(A) the Western Area Power Administration;

(B) the power supplier with which the water supply system contracts under paragraph (2);

(C) the power supplier of the entity described in subparagraph (B); and

(D) the Fall River Water Users District,

that in the case of the capacity and energy made available under subsection (a), the benefit of the rate schedule described in paragraph (3) shall be passed through to the water supply system, except that the power supplier of the water supply system shall not be precluded from including, in the charges of the supplier to the water system for the electric service, the other usual and customary charges of the supplier.

SEC. 8. NO LIMITATION ON WATER PROJECTS IN STATE.

This Act shall not limit the authorization for water projects in South Dakota and under law in effect on or after the date of enactment of this Act.

SEC. 9. WATER RIGHTS.

Nothing in this Act—

(1) invalidates or preempts State water law or an interstate compact governing water;

(2) alters the rights of any State to any appropriated share of the waters of any body of surface or ground water, whether determined by past or future interstate compacts or by past or future legislative or final judicial allocations;

(3) preempts or modifies any Federal or State law, or interstate compact, dealing with water quality or disposal; or

(4) confers on any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resource.

SEC. 10. FEDERAL COST SHARE.

The Secretary is authorized to provide funds equal to 80 percent of—

(1) the amount allocated in the total project construction budget for the planning and construction of the water supply system under section 4; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after August 1, 1995.

SEC. 11. NON-FEDERAL COST SHARE.

The non-Federal share of the costs allocated to the water supply system shall be 20 percent of—

(1) the amount allocated in the total project construction budget for the planning and construction of the water supply system under section 4; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after August 1, 1995.

SEC. 12. BUREAU OF RECLAMATION AUTHORIZATION.

(a) AUTHORIZATION.—The Secretary is authorized to allow the Bureau of Reclamation to provide construction oversight to the water supply system for those areas of the water supply system that are described in section 4(b).

(b) PROJECT OVERSIGHT ADMINISTRATION.—The amount of funds used by the Bureau of Reclamation for planning and construction of the water supply system may not exceed an amount equal to 3 percent of the amount provided in the total project construction budget for the portion of the projects to be constructed in Fall River County, South Dakota.

SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $3,600,000 for the planning and construction of the water system under section 4, plus such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after August 1, 1995.

S. 2039

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 ''Perkins County Rural Water System Act of 1996''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) there are insufficient water supplies of reasonable quality available to the members of the Perkins County Rural Water System located in Perkins County, South Dakota, and the water supplies that are available do not meet the minimum health and safety standards, thereby posing a threat to public health and safety;

(2) in 1977 the North Dakota State Legislature authorized and directed the State Water Commission to conduct the Southwest Area Water Supply Study, which included water service to a portion of Perkins County, South Dakota;

(3) the Garrison Diversion Unit Reformulation Act of 1986 authorized the Southwest Pipeline project as an eligible project for Federal cost share participation;

(4) the Perkins County Rural Water System has continued to be recognized by the State of North Dakota, the Southwest Water Authority, the North Dakota Water Commission, the Department of the Interior, and the Congress of the United States as a component of the Southwest Pipeline Project; and

(5) the best available, reliable, and safe rural and municipal water supply to serve the needs of the Perkins County Rural Water System, Inc., members is the Missouri River as delivered by the Southwest Pipeline Project in North Dakota.

(b) PURPOSES.—The Congress declares that the purposes of sections 1 through 13 are to—

(1) ensure a safe and adequate municipal, rural, and industrial water supply for the members of the Perkins County Rural Water Supply System, Inc., in Perkins County, South Dakota;

(2) assist the citizens of the Perkins County Rural Water Supply System, Inc., to develop safe and adequate municipal, rural, and industrial water supplies; and

(3) promote the implementation of water conservation programs by the Perkins County Rural Water System, Inc.

SEC. 3. DEFINITIONS.

As used in this Act (unless the context clearly requires otherwise):

(1) FEASIBILITY STUDY.—The term ''feasibility study'' means the study entitled ''Feasibility Study for Rural Water System for Perkins County Rural Water System, Inc.'', as amended in March 1995.

(2) PROJECT CONSTRUCTION BUDGET.—The term ''project construction budget'' means the description of the total amount of funds that are needed for the construction of the water supply system, as contained in the feasibility study.

(3) PUMPING AND INCIDENTAL OPERATIONAL REQUIREMENTS.—The term ''pumping and incidental operational requirements'' means all power requirements that are incidental to the operation of intake facilities, pumping stations, water treatment facilities, reservoirs, and pipelines up to the point of delivery of water by the Perkins County Rural Water System to each entity that distributes water at retail to individual users.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(5) WATER SUPPLY SYSTEM.—The term ''water supply system'' means the Perkins County Rural Water System, Inc., that is established and operated substantially in accordance with the feasibility study.

SEC. 4. FEDERAL ASSISTANCE FOR THE WATER SUPPLY SYSTEM.

(a) IN GENERAL.—The Secretary is authorized to make grants to the Perkins County Rural Water System, Inc., a nonprofit corporation, for the planning and construction of the water supply system.

(b) SERVICE AREA.—The water supply system shall provide for safe and adequate municipal, rural, and industrial water supplies, mitigation of wetlands areas, and water conservation in Perkins County, South Dakota.

(c) AMOUNT OF GRANTS.—Grants made available under subsection (a) to the Perkins County Water System, Inc., shall not exceed the amount authorized under section 10.

(d) LIMITATION ON AVAILABILITY OF CONSTRUCTION FUNDS.—The Secretary shall not obligate funds for the construction of the water supply system until—

(1) the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) have been met;

(2) a final engineering report has been prepared and submitted to the Congress for a period of not less than 90 days before the commencement of construction of the system; and

(3) a water conservation program has been developed and implemented.

SEC. 5. WATER CONSERVATION.

(a) PURPOSE.—The water conservation program required under this section shall be designed to ensure that users of water from the water supply system will use the best practicable technology and management techniques to conserve water use.

(b) DESCRIPTION.—The water conservation programs shall include—

(1) low consumption performance standards for all newly installed plumbing fixtures;

(2) leak detection and repair programs;

(3) rate structures that do not include declining block rate schedules for municipal households and special water users (as defined in the feasibility study);

(4) public education programs;

(5) coordinated operation between the Perkins County Rural Water System and any preexisting water supply facilities within its service area; and

(6) coordinated operation between the Southwest Pipeline Project of North Dakota and the Perkins County Rural Water System, Inc., of South Dakota.

(c) REVIEW AND REVISION.—The programs described in subsection (b) shall contain provisions for periodic review and revision, in cooperation with the Secretary.

SEC. 6. MITIGATION OF FISH AND WILDLIFE LOSSES.

Mitigation of fish and wildlife losses incurred as a result of the construction and operation of the Perkins County Rural Water Supply System shall be on an acre-for-acre basis, based on ecological equivalency, concurrent with project construction, as provided in the feasibility study.

SEC. 7. USE OF PICK-SLOAN POWER.

(a) IN GENERAL.—From power designated for future irrigation and drainage pumping for the Pick-Sloan Missouri River Basin Program, the Western Area Power Administration shall make available the capacity and energy required to meet the pumping and incidental operational requirements of the water supply system during the period beginning May 1, and ending October 31, of each year.

(b) CONDITIONS.—The capacity and energy described in subsection (a) shall be made available on the following conditions:

(1) The water supply system shall be operated on a not-for-profit basis.

(2) The water supply system shall contract to purchase its entire electric service requirements, including the capacity and energy made available under subsection (a), from a qualified preference power supplier that itself purchases power from the Western Area Power Administration.

(3) The rate schedule applicable to the capacity and energy made available under subsection (a) shall be the firm power rate schedule of the Pick-Sloan Eastern Division of the Western Area Power Administration in effect when the power is delivered by the Administration.

(4) It shall be agreed by contract among—

(A) the Western Area Power Administration;

(B) the power supplier with which the water supply system contracts under paragraph (2);

(C) the power supplier of the entity described in subparagraph (B); and

(D) the Perkins County Rural Water System, Inc.,

that in the case of the capacity and energy made available under subsection (a), the benefit of the rate schedule described in paragraph (3) shall be passed through to the water supply system, except that the power supplier of the water supply system shall not be precluded from including, in the charges

of the supplier to the water system for the electric service, the other usual and customary charges of the supplier.

SEC. 8. NO LIMITATION ON WATER PROJECTS IN STATES.

This Act shall not limit the authorization for water projects in South Dakota and North Dakota under law in effect on or after the date of enactment of this Act.

SEC. 9. WATER RIGHTS.

Nothing in this Act—

(1) invalidates or preempts State water law or an interstate compact governing water;

(2) alters the rights of any State to any appropriated share of the waters of any body of surface or ground water, whether determined by past or future interstate compacts or by past or future legislative or final judicial allocations;

(3) preempts or modifies any Federal or State law, or interstate compact, dealing with water quality or disposal; or

(4) confers on any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resource.

SEC. 10. FEDERAL COST SHARE.

The Secretary is authorized to provide funds equal to 75 percent of—

(1) the amount allocated in the total project construction budget for the planning and construction of the water supply system under section 4; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after May 1, 1994.

SEC. 11. NON-FEDERAL COST SHARE.

The non-Federal share of the costs allocated to the water supply system shall be 25 percent of—

(1) the amount allocated in the total project construction budget for the planning and construction of the water supply system under section 4; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after May 1, 1994.

SEC. 12. BUREAU OF RECLAMATION AUTHORIZATION.

(a) AUTHORIZATION.—The Secretary is authorized to allow the Bureau of Reclamation to provide construction oversight to the water supply system for those areas of the water supply system that are described in section 4(b).

(b) PROJECT OVERSIGHT ADMINISTRATION.—The amount of funds used by the Bureau of Reclamation for planning and construction of the water supply system may not exceed an amount equal to 3 percent of the amount provided in the total project construction budget for the portion of the project to be constructed in Perkins County, South Dakota.

SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $15,000,000 for the planning and construction of the water system under section 4, plus such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after May 1, 1994.

By Mr. HATCH (for himself and Mrs. HUTCHISON):

S. 2040. A bill to amend the Controlled Substances Act to provide a penalty for the use of a controlled substance with the intent to rape, and for other purposes; to the Committee on the Judiciary.

THE DRUG-INDUCED RAPE PREVENTION ACT OF 1996

Mr. HATCH. Mr. President, I rise today to introduce S. 2040, a bill to prevent the use of controlled substances to facilitate rape. This bill is to strike back at those who would use controlled substances to engage in the most reprehensible of crimes. Joining me in cosponsorship of this legislation is Senator HUTCHISON.

Mr. President, earlier in the year as a member of the congressional task force on national drug policy, I joined in issuing a report, ''Setting the Course: A National Drug Strategy.'' This report noted that every survey of teenage drug use in the past two years indicates not only increasing use of dangerous drugs among teens, but a disturbing change in the attitudes teens have about the dangers of drug use.

Two very important surveys have confirmed that teenage drug abuse is on the rise.

The first study is the national high school report, Monitoring the Future, which surveys over 50,000 students in some 400 public and private secondary schools. The second study is the annual survey by the Parents' Resource Institute for Drug Education, which surveys nearly 200,000 ninth to twelfth graders.

While these studies focused on the use of marijuana, the use of hallucinogens, stimulants, and other drugs are also on the rise. According to reports by the Center on Addiction and Substance Abuse, adolescents who use marijuana are 85 times more likely to move to other dangerous drugs, such as cocaine.

As a recent report that we issued from the Judiciary Committee, Losing Ground Against Drugs noted:

> The implication for public policy is clear. If such increases are allowed to continue for just two more years, America will be at risk of returning to the epidemic drug use of the 1970's.

While the overwhelming abuse of drugs by teenagers focuses on illicit drugs, the illegal diversion and misuse of medicines is also a growing problem in our country.

During the past few years, there has been increasing abuse of a drug called rohypnol. Rohypnol is not approved for marketing in the United States but it is a legitimate therapeutic agent that is approved for use in several countries to treat sleep disorders.

According to a report from the Haight Ashbury Free Clinic, several abuse patterns of rohypnol have evolved in the United States.

Rohypnol is being abused by heroin addicts as an enhancing agent for low-quality heroin, as well as in combination with cocaine. In some areas it is referred to as a ''club drug''—where it is used by so called ''recreational'' users who intermittently abuse a variety of substances.

However, the most disturbing use of rohypnol is its use to facilitate the rape of women. Reports continue to be made that rohypnol has been illicitly put into the drinks of unsuspecting victims before they are sexually assaulted.

I believe that the Federal Government must show that it will not tolerate the use of this drug—or any drug—to facilitate rape. I believe it is necessary and appropriate to establish a new provision that establishes tough penalties for the use of any controlled substance to facilitate rape.

Rohypnol abuse was initially reported in Florida and Texas, but its use has now become more widespread.

In an effort to stem the illegal flow of rohypnol into the United States, the U.S. Customs Service developed and implemented a ban on the importation of rohypnol into the United States.

Unfortunately, the problem continues to grow.

Rohypnol is a member of the widely-used class of prescription medications known as benzodiazapines. This class of drugs is used to treat sleep disorders, anxiety disorders and to control seizures, among other purposes. When used for legitimate medical purposes, this class of drugs is vital to the physical and mental health of thousands of Americans.

The Controlled Substances Act establishes five schedules of controlled substances, based primarily upon a drug's relative potential for abuse. Drugs listed in schedules I and II are those with the highest potential for abuse, while drugs listed in schedule V are those with the lowest potential for abuse.

Rohypnol is currently listed in Schedule IV of the Controlled Substances Act. In addition to rohypnol, more than twenty other benzodiazepine substances are listed as a Schedule IV substance.

Rohypnol is not marketed or manufactured in the United States. While not legally available for legitimate medical uses in the United States, rohypnol is widely used for legitimate medical purposes in many countries throughout the world.

In response to reports that the incidence of abuse of rohypnol was increasing, the Drug Enforcement Administration instituted the formal rescheduling process for this substance by submitting a formal request on April 11, 1996 to the Food and Drug Administration to conduct an evaluation of the scientific and medical evaluation of this substance. That evaluation is ongoing.

In a letter from Health and Human Services Secretary Donna E. Shalala to me on July 24, 1996, Secretary Shalala informed me that the goal of the rescheduling process was to make rohypnol subject to increased penalties for illicit use and trafficking.

Since this particular drug has become a leading agent of abuse and the focus of this debate, I agree with Secretary Shalala that it is appropriate to increase the penalties for illegal trafficking in rohypnol. This bill does that.

However, I am concerned about the precedent that rescheduling would have on this very useful class of medicines. I fee a more appropriate—and rapid—method to respond to this crisis is to implement the increased penalties

for illegal trafficking in rohypnol without having Congress circumvent the well-established process for rescheduling a substance.

As I mentioned previously, the rescheduling process requires a careful scientific and medical evaluation of the substance. This evaluation is completed by the FDA in consultation with HHS' National Institute on Drug Abuse. Congress does not have the resources or expertise to complete such an evaluation, and by considering rescheduling may establish an unintentional precedent with regard to scheduling of controlled substances which we may regret later on.

I believe that the Drug-Induced Rape Prevention Act of 1996 provides for a rapid, measured response to the problem that the abuse of rohypnol has presented, without establishing an unintended role for Congress with regard to the scheduling of controlled substances. I urge that this legislation be considered when we reconvene next month.

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

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

S. 2040

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 ''Drug-Induced Rape Prevention Act of 1996''.

SEC. 2. PENALTIES FOR DISTRIBUTION OF A CONTROLLED SUBSTANCE WITH INTENT TO RAPE.

Section 401(b) of the Controlled Substances Act is amended by adding at the end the following:

''(7)(A) Whoever, with intent to rape an individual, violates subsection (a) by distributing a controlled substance to that individual without that individual's knowledge, shall be imprisoned not more than 20 years and fined as provided under title 18, United States Code.

''(B) As used in this paragraph—

''(i) the term 'intent to rape' means the intent to facilitate conducted defined in section 2241(b) or 2242(2) of title 18, United States Code; and

''(ii) the term 'without that individual's knowledge' means that the individual is unaware that a substance with the ability to alter that individual's ability to appraise conduct or to decline participation in or communicate unwillingness to participate in conduct is administered to the individual.''.

SEC. 3. ADDITIONAL PENALTIES RELATING TO FLUNITRAZEPAM.

(a) GENERAL PENALTIES.—Section 401 of the Controlled Substances Act (21 U.S.C. 841) is amended—

(1) in subsection (b)(1)(C), by inserting ''or 1 gram of flunitrazepam'' after ''I or II''; and

(2) in subsection (b)(1)(D), by inserting ''or 30 milligrams of flunitrazepam,'' after ''schedule III,''.

(b) IMPORT AND EXPORT PENALTIES.—

(1) Section 1009(a) of the Controlled Substances Import and Export Act (21 U.S.C. 959(a)) is amended by inserting ''or flunitrazepam'' after ''I or II''.

(2) Section 1010(b)(3) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)) is amended by inserting ''or flunitrazepam'' after ''I or II,''.

(3) Section 1010(b)(4) of the Controlled Substances Import and Export Act is amended by inserting ''(except a violation involving flunitrazepam)'' after ''III, IV, or V,''.

(c) SENTENCING GUIDELINES.—The United States Sentencing Commission shall amend the Sentencing Guidelines so that one dosage unit of flunitrazepam shall be equivalent to one gram of marihuana for determining the offense level under the Drug Quantity Table.

Section 1. Short Title: Establishes the title of the bill as the ''Drug-Induced Rape Prevention Act of 1996.''

Section 2. Penalties for Distribution of a Controlled Substance with Intent to Rape: Creates a specific violation under the Controlled Substances Act (CSA) for unlawful distribution, with the intent to rape, of a controlled substance to a person without that person's knowledge. The penalty will be up to 20 years without probation, and fines will be imposed of up to two million dollars for an individual. The definition of ''intent to rape'' is provided in section 2241(b) or 2242(2) of Title 18, U.S.C. and is referenced in this bill.

Section 3. Additional Penalties Relating to Flunitrazepam:

(a) GENERAL PENALTIES.—Provides enhanced penalties for manufacturing, distributing, dispensing, or possessing with the intent to manufacture, dispense or distribute large quantities of the drug flunitrazepam (marketed under the name ''Rohypnol''). One gram or more of flunitrazepam will carry a penalty of not more than 20 years in prison, and 30 milligrams a penalty of not more than five years in prison.

(b) IMPORT AND EXPORT PENALTIES.—Extends the so-called ''long-arm'' provisions of 21 U.S.C. 959(a) to the unlawful manufacture and distribution of flunitrazepam outside the United States with the intent to import it unlawfully into this country.

(c) SENTENCING GUIDELINES.—Directs the U.S. Sentencing Commission to amend the Sentencing Guidelines so that flunitrazepam will be subject to the same base offense level as schedule I or II depressants.

By Mr. D'AMATO (for himself, Mr. MOYNIHAN, and Mr. FAIRCLOTH):

S. 2041. A bill to amend the Marine Protection, Research, and Sanctuaries Act of 1972 with respect to the dumping of dredged material in Long Island Sound, and for other purposes; to the Committee on Environment and Public Works.

THE LONG ISLAND SOUND PRESERVATION AND PROTECTION ACT

Mr. D'AMATO. Mr. President, I rise today to introduce legislation along with Senator MOYNIHAN and Senator FAIRCLOTH that will help guarantee that one of our Nation's most important estuaries is no longer used as a dumping ground for polluted dredged material. Long Island Sound is a spectacular body of water located between Long Island, NY and the State of Connecticut. Unfortunately, dumping of dredged material of questionable environmental impact has occurred in the sound for a number of years. It is high time that Congress put an end to this practice of willful pollution of the Sound.

The legislation that we are introducing today will prevent any individual or any Government agency from randomly dumping sediments into the ecologically sensitive sound. Specifically, the legislation prevents all sediments that contain any constituents prohibited as other than trace contaminants, as defined by Federal regulations, from being dumped into either Long Island Sound or Block Island Sound. Exceptions to the act can be made only in circumstances where the Administrator of the Environmental Protection Agency shows that the material will not cause undesirable effects to the environment or marine life.

Last fall, the U.S. Navy dumped over 1 million cubic yards of dredged material from the Thames River into the New London dump site located in the sound. Independent tests of this sediment indicated that contaminants were present in that dredged material that now lies at the bottom of the sound's New London dump site–contaminants such as dioxin, cadmium, pesticides, polyaromatic hydrocarbons, PCB's, and mercury. Right now, there is a question as to the long-term impact this material will have on the aquatic life and the environment in this area. Such concerns should not have to occur. It has taken years to come as far as we have in cleaning up Long Island Sound—we should not jeopardize those gains by routinely allowing the dumping of polluted sediments in these waters.

Over $1.2 billion in Federal, State, and local funds have been spent in the State of New York in the last quarter century combating pollution in the sound. However, over the last 25 years, we have continued to look the other way when it comes to dumping in the sound. Such actions are counterproductive in our efforts to restore the Sound for recreational activities such as swimming and boating as well as the economic benefits of sport fishing and the shellfish industry all of which bring more than $5.5 billion to the region each year. We can and must change our current direction. With the passage of this legislation, I am confident that we will do so, and the Long Island Sound will move forward on the road to recovery. I urge my colleagues to join us in cosponsoring this bill, and I encourage its swift passage in the Senate.

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

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

S. 2041

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 ''Long Island Sound Preservation and Protection Act of 1996''.

SEC. 2. DUMPING OF DREDGED MATERIALS IN LONG ISLAND SOUND.

Section 106(f) of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1416(f)) is amended to read as follows:

''(f) DUMPING OF DREDGED MATERIAL IN LONG ISLAND SOUND.—

''(1) IN GENERAL.—No dredged material from any Federal or non-Federal project that contains any of the constituents prohibited as other than trace contaminants (as defined by the Federal ocean dumping criteria stated in section 227.6 of title 40, Code of Federal Regulations) may be dumped in Long Island Sound or Block Island Sound except in a case in which it is demonstrated to the Administrator, and the Administrator certifies by publication in the Federal Register, that the dumping of the dredged material containing the constituents will not cause significant undesirable effects, including the threat associated with bioaccumulation of such constituents in marine organisms.

(2) FEDERAL PROJECTS EXCEEDING 25,000 YARDS.—In addition to other provisions of law and notwithstanding the specific exclusion relating to dredged material of the first sentence in section 102(a), any dumping of dredged material in Long Island Sound from a Federal project (or pursuant to Federal authorization) by a non-Federal applicant in a quantity exceeding 25,000 cubic yards shall comply with the criteria established under the second sentence of section 102(a) relating to the effects of dumping.

''(3) RELATION TO OTHER LAW.—Subsection (d) shall not apply to this subsection.''.

By Mr. MACK (for himself, Mr. BOND, Mr. D'AMATO, and Mr. BENNETT):

S. 2042. A bill to reform the multifamily rental assisted housing programs of the Federal Government, maintain the affordability and availability of low-income housing, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

THE MULTIFAMILY ASSISTED HOUSING REFORM AND AFFORDABILITY ACT OF 1996

Mr. MACK. Mr. President, I am pleased to introduce, on behalf of Senator D'AMATO, BOND, and BENNETT, the Multifamily Assisted Housing Reform and Affordability Act of 1996. This bill is a serious effort to reform the Nation's assisted and insured multifamily housing portfolio in a responsible manner that balances both fiscal and public policy goals. This legislation will save scarce Federal subsidy dollars while maintaining the affordability and availability of decent and safe rental housing.

About 20 years ago, the Federal Government encouraged private developers to construct affordable rental housing by providing mortgage insurance through the Federal Housing Administration [FHA] and rental assistance through the Department of Housing and Urban Development's [HUD] project-based Section 8 programs. In addition, tax incentives for the development of low-income housing were provided through the tax code until 1986.

The combination of these financial incentives resulted in the creation of thousands of decent, safe, and affordable housing properties but, at a great cost to the American taxpayer. Flaws in the Section 8 rental assistance program allowed owners to receive more Federal dollars in rental subsidy than was necessary to maintain properties as decent and affordable rental housing. A recent HUD study found that almost two-thirds of assisted properties have contract rents greater than comparable market rents. Like the severely distressed public housing stock, some of these Section 8 projects have become targets and havens for crime and drug activities. Thus, in some cases, taxpayers are paying costly subsidies for inferior housing. We believe that a policy that pays excessive rental subsidies for housing is not fair to the American taxpayer, and it cannot be sustained in the current budget environment.

It is critical that this legislation be enacted this year because in the next several years, a majority of the Section 8 contracts on the 8,500 FHA-insured properties will expire. If contracts continue to be renewed at existing levels, the cost of renewing these contracts will grow from $1.2 billion in fiscal year 1997 to almost $4 billion in fiscal year 2000 and $8 billion 10 years from now. However, if these project-based assistance contracts are not renewed most of the FHA-insured mortgages—with an unpaid principal balance of $18 billion—will default and result in claims on the FHA insurance funds. This could lead to more severe actions such as foreclosure, which will adversely affect residents and communities.

Like public housing, federally assisted and insured housing provides critical housing to almost 1.6 million American families. There are other similarities to public housing. For one, the average annual income of residents that reside in project-based housing is less than $7,000. A significant percentage of residents are elderly or persons with disabilities. Many of these developments are located in rural areas where no other rental housing exists. some of these properties serve as ''anchors'' of neighborhoods where the economic stability of the neighborhoods is dependent upon the viability of these properties.

Unfortunately for residents and communities, HUD does not have the ability to administer and oversee its portfolio of multifamily housing properties. The General Accounting Office and the HUD Office of Inspector General [IG] have found that even though HUD has various enforcement tools to ensure that properties are properly maintained, poor management information systems and ineffective oversight of properties have impeded HUD's ability to identify problems and pursue enforcement actions in a timely fashion. HUD is further hampered by the lack of adequate staffing and inadequately trained staff. For example, the IG found that the average workload for a HUD loan servicer ranged from 28 projects per servicer to 105 projects per servicer. In comparison, State housing finance agencies averaged 12 to 16 projects per servicer.

The Multifamily Assisted Housing Reform and Affordability Act addresses these issues through a new comprehensive structure that provides a wide variety of tools to address the spiraling costs of Section 8 assistance without harming residents or communities. The bill will reduce the long-term ongoing costs of Federal subsidies by restructuring the underlying debt insured by FHA. This restructuring process will reduce the subsidy needs and costs of the properties and minimizes adverse tax consequences to good owners.

In recognition of HUD's inability to manage and service its housing inventory, this legislation would transfer the functions and responsibilities to capable State and local housing agencies who would act as participating administrative entities in managing this program. Incentives would be provided to these entities to ensure that the American taxpayer is paying the least amount of money to provide decent, safe, and affordable housing. Any amount of incentives provided to State and local entities would only be used for low-income housing purposes.

Horror stories of owners that have clearly violated housing quality standards would no longer be tolerated. Our bill screens out bad owners and managers and nonviable projects from the inventory and provides tougher and more effective enforcement tools that will minimize fraud and abuse of FHA insurance and assisted housing programs.

Lastly, our bill provides tools to recapitalize the assisted stock that suffer from deferred maintenance and empowers residents by providing for meaningful community and resident input into the process. Residents would also be empowered through opportunities to purchase properties.

Mr. President, I would like to reemphasize that it is critical that we address this issue this year. Delays will only harm the assisted housing stock, its residents and communities, and the financial stability of the FHA insurance funds. Further, HUD only has limited statutory authority to renew these contracts. In most cases, it cannot and does not have the capability to deal with this housing portfolio under current law.

This legislation will protect the Federal Government's investment in assisted housing and ensure that participating administrative entities are held accountable for their activities. It is also our goal that this process will ensure the long-term viability of these projects with minimal Federal involvement. It is a real effort to reduce the costs of the Federal Government while recognizing the needs of low-income families and communities throughout the Nation.

Mr. President, I ask unanimous consent that a summary and the text 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. 2042

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Multifamily Assisted Housing Reform and Affordability Act of 1996''.

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

Sec. 1. Short title; table of contents.
TITLE I—FHA-INSURED MULTIFAMILY HOUSING MORTGAGE AND HOUSING ASSISTANCE RESTRUCTURING
Sec. 101. Findings and purposes.
Sec. 102. Definitions.
Sec. 103. Authority of participating administrative entities.
Sec. 104. Mortgage restructuring and rental assistance sufficiency plan.
Sec. 105. Section 8 renewals and long-term affordability commitment by owner of project.
Sec. 106. Prohibition on restructuring.
Sec. 107. Restructuring tools.
Sec. 108. Shared savings incentive.
Sec. 109. Management standards.
Sec. 110. Monitoring of compliance.
Sec. 111. Review.
Sec. 112. GAO audit and review.
Sec. 113. Regulations.
Sec. 114. Technical and conforming amendments.
Sec. 115. Termination of authority.
TITLE II—ENFORCEMENT PROVISIONS
Sec. 201. Implementation.
Subtitle A—FHA Single Family and Multifamily Housing
Sec. 211. Authorization to immediately suspend mortgagees.
Sec. 212. Extension of equity skimming to other single family and multifamily housing programs.
Sec. 213. Civil money penalties against mortgagees, lenders, and other participants in FHA programs.
Subtitle B—FHA Multifamily
Sec. 220. Civil money penalties against general partners, officers, directors, and certain managing agents of multifamily projects.
Sec. 221. Civil money penalties for noncompliance with section 8 HAP contracts.
Sec. 222. Extension of double damages remedy.
Sec. 223. Obstruction of Federal audits.

TITLE I—FHA-INSURED MULTIFAMILY HOUSING MORTGAGE AND HOUSING ASSISTANCE RESTRUCTURING

SEC. 101. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) there exists throughout the Nation a need for decent, safe, and affordable housing;

(2) as of the date of enactment of this Act, it is estimated that—

(A) the insured multifamily housing portfolio of the Federal Housing Administration consists of 14,000 rental properties, with an aggregate unpaid principal mortgage balance of $38,000,000,000; and

(B) approximately 10,000 of these properties contain housing units that are assisted with project-based rental assistance under section 8 of the United States Housing Act of 1937;

(3) FHA-insured multifamily rental properties are a major Federal investment, providing affordable rental housing to an estimated 2,000,000 low- and very low-income families;

(4) approximately 1,600,000 of these families live in dwelling units that are assisted with project-based rental assistance under section 8 of the United States Housing Act of 1937;

(5) a substantial number of housing units receiving project-based assistance have rents that are higher than the rents of comparable, unassisted rental units in the same housing rental market;

(6) many of the contracts for project-based assistance will expire during the several years following the date of enactment of this Act;

(7) it is estimated that—

(A) if no changes in the terms and conditions of the contracts for project-based assistance are made before fiscal year 2000, the cost of renewing all expiring rental assistance contracts under section 8 of the United States Housing Act of 1937 for both project-based and tenant-based rental assistance will increase from approximately $4,000,000,000 in fiscal year 1997 to over $17,000,000,000 by fiscal year 2000 and some $23,000,000,000 in fiscal year 2006;

(B) of those renewal amounts, the cost of renewing project-based assistance will increase from $1,200,000,000 in fiscal year 1997 to almost $8,000,000,000 by fiscal year 2006; and

(C) without changes in the manner in which project-based rental assistance is provided, renewals of expiring contracts for project-based rental assistance will require an increasingly larger portion of the discretionary budget authority of the Department of Housing and Urban Development in each subsequent fiscal year for the foreseeable future;

(8) absent new budget authority for the renewal of expiring rental contracts for project-based assistance, many of the FHA-insured multifamily housing projects that are assisted with project-based assistance will likely default on their FHA-insured mortgage payments, resulting in substantial claims to the FHA General Insurance Fund and Special Risk Insurance Funds;

(9) more than 15 percent of federally assisted multifamily housing projects are physically or financially distressed, including a number which suffer from mismanagement;

(10) due to Federal budget constraints, the downsizing of the Department of Housing and Urban Development, and diminished administrative capacity, the Department lacks the ability to ensure the continued economic and physical well-being of the stock of federally insured and assisted multifamily housing projects; and

(11) the economic, physical, and management problems facing the stock of federally insured and assisted multifamily housing projects will be best served by reforms that—

(A) reduce the cost of Federal rental assistance, including project-based assistance, to these projects by reducing the debt service and operating costs of these projects while retaining the low-income affordability and availability of this housing;

(B) address physical and economic distress of this housing and the failure of some project managers and owners of projects to comply with management and ownership rules and requirements; and

(C) transfer and share many of the loan and contract administration functions and responsibilities of the Secretary with capable State, local, and other entities.

(b) PURPOSES.—The purposes of this title are—

(1) to preserve low-income rental housing affordability and availability while reducing the long-term costs of project-based assistance;

(2) to reform the design and operation of Federal rental housing assistance programs, administered by the Secretary, to promote greater multifamily housing project operating and cost efficiencies;

(3) to encourage owners of eligible multifamily housing projects to restructure their FHA-insured mortgages and project-based assistance contracts in a manner which is consistent with this title before the year in which the contract expires;

(4) to streamline and improve federally insured and assisted multifamily housing project oversight and administration;

(5) to resolve the problems affecting financially and physically troubled federally insured and assisted multifamily housing projects through cooperation with residents, owners, State and local governments, and other interested entities and individuals; and

(6) to grant additional enforcement tools to use against those who violate agreements and program requirements, in order to ensure that the public interest is safeguarded and that Federal multifamily housing programs serve their intended purposes.

SEC. 102. DEFINITIONS.

For purposes of this title, the following definitions shall apply:

(1) COMPARABLE PROPERTIES.—The term ''comparable properties'' means properties that are—

(A) similar to the eligible multifamily housing project in neighborhood (including risk of crime), location, access, street appeal, age, property size, apartment mix, physical configuration, property amenities, inapartment rental amenities, and utilities;

(B) unregulated by contractual encumbrances or local rent-control laws; and

(C) occupied predominantly by renters who receive no rent supplements or rental assistance.

(2) ELIGIBLE MULTIFAMILY HOUSING PROJECT.—The term ''eligible multifamily housing project'' means a property consisting of more than 4 dwelling units—

(A) with rents which, on an average per unit or per room basis, exceed the fair market rent of the same market area, as determined by the Secretary;

(B) that is covered in whole or in part by a contract for project-based assistance under—

(i) the new construction and substantial rehabilitation program under section 8(b)(2) of the United States Housing Act of 1937 (as in effect before October 1, 1983);

(ii) the property disposition program under section 8(b) of the United States Housing Act of 1937;

(iii) the moderate rehabilitation program under section 8(e)(2) of the United States Housing Act of 1937;

(iv) the project-based certificate program under section 8 of the United States Housing Act of 1937;

(v) section 23 of the United States Housing Act of 1937 (as in effect before January 1, 1975);

(vi) the rent supplement program under section 101 of the Housing and Urban Development Act of 1965; or

(vii) section 8 of the United States Housing Act of 1937, following conversion from assistance under section 101 of the Housing and Urban Development Act of 1965; and

(C) financed by a mortgage insured under the National Housing Act.

(3) EXPIRING CONTRACT.—The term ''expiring contract'' means a project-based assistance contract attached to an eligible multifamily housing project which, under the terms of the contract, will expire.

(4) EXPIRATION DATE.—The term ''expiration date'' means the date on which an expiring contract expires.

(5) FAIR MARKET RENT.—The term ''fair market rent'' means the fair market rental established under section 8(c) of the United States Housing Act of 1937.

(6) KNOWING OR KNOWINGLY.—The term ''knowing'' or ''knowingly'' means having actual knowledge of or acting with deliberate ignorance or reckless disregard.

(7) LOW-INCOME FAMILIES.—The term ''low-income families'' has the same meaning as provided under section 3(b)(2) of the United States Housing Act of 1937.

(8) MULTIFAMILY HOUSING MANAGEMENT AGREEMENT.—The term ''multifamily housing management agreement'' means the agreement entered into between the Secretary and a participating administrative entity, as provided under section 103 of the title.

(9) PARTICIPATING ADMINISTRATIVE ENTITY.—The term ''participating administrative entity'' means a public agency, including a State housing finance agency or local housing agency, which meets the requirements under section 103(b).

(10) PROJECT-BASED ASSISTANCE.—The term ''project-based assistance'' means rental assistance under section 8 of the United States Housing Act of 1937 that is attached to a multifamily housing project.

(11) RENEWAL.—The term ''renewal'' means the replacement of an expiring Federal rental contract with a new contract under section 8 of the United States Housing Act of 1937, consistent with the requirements of this title.

(12) SECRETARY.—The term ''Secretary'' means the Secretary of Housing and Urban Development.

(13) STATE.—The term ''State'' has the same meaning as in section 104 of the Cranston-Gonzalez National Affordable Housing Act.

(14) TENANT-BASED ASSISTANCE.—The term ''tenant-based assistance'' has the same meaning as in section 8(f) of the United States Housing Act of 1937.

(15) UNIT OF GENERAL LOCAL GOVERNMENT.—The term ''unit of general local government'' has the same meaning as in section 104 of the Cranston-Gonzalez National Affordable Housing Act.

(16) VERY LOW-INCOME FAMILY.—The term ''very low-income family'' has the same meaning as in section 3(b) of the United States Housing Act of 1937.

SEC. 103. AUTHORITY OF PARTICIPATING ADMINISTRATIVE ENTITIES.

(a) PARTICIPATING ADMINISTRATIVE ENTITIES.—

(1) IN GENERAL.—The Secretary shall enter into multifamily housing management agreements with participating administrative entities for the implementation of mortgage restructuring and rental assistance sufficiency plans to restructure FHA-insured multifamily housing mortgages, in order to—

(A) reduce the costs of current and expiring contracts for assistance under section 8 of the United States Housing Act of 1937;

(B) address financially and physically troubled projects; and

(C) correct management and ownership deficiencies.

(2) MULTIFAMILY HOUSING MANAGEMENT AGREEMENTS.—Each multifamily housing management agreement entered into under this subsection shall—

(A) be a cooperative agreement to establish the obligations and requirements between the Secretary and the participating administrative entity;

(B) identify the eligible multifamily housing projects or groups of projects for which the participating administrative entity is responsible for assisting in developing and implementing approved mortgage workout and rental assistance sufficiency plans under section 104;

(C) require the participating administrative entity to review and certify to the accuracy and completeness of a comprehensive needs assessment submitted by the owner of an eligible multifamily housing project, in accordance with the information and data requirements of section 403 of the Housing and Community Development Act of 1992, including such other data, information, and requirements as the Secretary may require to be included as part of the comprehensive needs assessment;

(D) identify the responsibilities of both the participating administrative entity and the Secretary in implementing a mortgage restructuring and rental assistance sufficiency plan, including any actions proposed to be taken under section 106 or 107;

(E) require each mortgage restructuring and rental assistance sufficiency plan prepared in accordance with the requirements of section 104 for each eligible multifamily housing project;

(F) indemnify the participating administrative entity against lawsuits and penalties for actions taken pursuant to the agreement, excluding actions involving gross negligence or willful misconduct; and

(G) include compensation for all reasonable expenses incurred by the participating administrative entity necessary to perform its duties under this Act, including such incentives as may be authorized under section 108.

(b) SELECTION OF PARTICIPATING ADMINISTRATIVE ENTITY.—

(1) SELECTION CRITERIA.—The Secretary shall select a participating administrative entity based on the following criteria—

(A) is located in the State or local jurisdiction in which the eligible multifamily housing project or projects are located;

(B) has demonstrated expertise in the development or management of low-income affordable rental housing;

(C) has a history of stable, financially sound, and responsible administrative performance;

(D) has demonstrated financial strength in terms of asset quality, capital adequacy, and liquidity; and

(E) is otherwise qualified, as determined by the Secretary, to carry out the requirements of this title.

(2) SELECTION OF MORTGAGE RISK-SHARING ENTITIES.—Any State housing finance agency or local housing agency which is designated as a qualified participating entity under section 542 of the Housing and Community Development Act of 1992 shall automatically qualify as a participating administrative entity under this section.

(3) ALTERNATIVE ADMINISTRATORS.—With respect to any eligible multifamily housing project that is located in a State or local jurisdiction in which the Secretary determines that a participating administrative entity is not located, is unavailable, or does not qualify, the Secretary shall either—

(A) carry out the requirements of this title with respect to that eligible multifamily housing project; or

(B) contract with other qualified entities that meet the requirements of subsection (b), with the exception of subsection (b)(1)(A), the authority to carry out all or a portion of the requirements of this title with respect to that eligible multifamily housing project.

(4) PREFERENCE FOR STATE HOUSING FINANCE AGENCIES AS PARTICIPATING ADMINISTRATIVE ENTITIES.—For each State in which eligible multifamily housing projects are located, the Secretary shall give preference to the housing finance agency of that State or, if a State housing finance agency is unqualified or has declined to participate, a local housing agency to act as the participating administrative entity for that State or for the jurisdiction in which the agency located.

(5) STATE PORTFOLIO REQUIREMENTS.—

(A) IN GENERAL.—If the housing finance agency of a State is selected as the participating administrative entity, that agency shall be responsible for all eligible multifamily housing projects in that State, except that a local housing agency selected as a participating administrative entity shall be responsible for all eligible multifamily housing projects in the jurisdiction of the agency.

(B) DELEGATION.—A participating administrative entity may delegate or transfer responsibilities and functions under this title to one or more interested and qualified public entities.

(C) WAIVER.—A State housing finance agency or local housing agency may request a waiver from the Secretary from the requirements of this paragraph for good cause.

SEC. 104. MORTGAGE RESTRUCTURING AND RENTAL ASSISTANCE SUFFICIENCY PLAN.

(a) IN GENERAL.—

(1) DEVELOPMENT OF PROCEDURES AND REQUIREMENTS.—The Secretary shall develop procedures and requirements for the submission of a mortgage restructuring and rental assistance sufficiency plan for each eligible multifamily housing project with an expiring contract.

(2) TERMS AND CONDITIONS.—Each mortgage restructuring and rental assistance sufficiency plan submitted under this subsection shall be developed at the initiative of an owner of an eligible multifamily housing project with a participating administrative entity, under such terms and conditions as the Secretary shall require.

(3) CONSOLIDATION.—Mortgage restructuring and rental assistance sufficiency plans submitted under this subsection may be consolidated as part of an overall strategy for more than one property.

(b) NOTICE REQUIREMENTS.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—The Secretary shall establish notice procedures and hearing requirements for tenants and owners concerning the dates for the expiration of project-based assistance contracts for any eligible multifamily housing project.

(B) 12-MONTH NOTICE.—Under the hearing requirements established under this paragraph, the owner shall provide 12 months notice in writing before the expiration of the initial project-based assistance contract to tenants of any eligible multifamily housing project.

(2) EXTENSION OF CONTRACT TERM.—Subject to agreement by a project owner, the Secretary may extend the term of any expiring contract or provide a section 8 contract with rent levels set in accordance with subsection (f)(2) for a period sufficient to facilitate the implementation of a mortgage restructuring and rental assistance sufficiency plan, as determined by the Secretary.

(c) TENANT RENT PROTECTION.—If the owner of a project with an expiring Federal rental assistance contract does not agree to extend the contract, the Secretary shall make tenant-based assistance available to tenants residing in units assisted under the expiring contract at the time of expiration.

(d) MORTGAGE RESTRUCTURING AND RENTAL ASSISTANCE SUFFICIENCY PLAN.—Each mortgage restructuring and rental assistance sufficiency plan shall—

(1) except as otherwise provided, restructure the project-based assistance rents for the eligible multifamily housing property in a manner consistent with subsection (e);

(2) require the owner or purchaser of an eligible multifamily mortgage housing project with an expiring contract to submit to the participating administrative entity a comprehensive housing needs assessment, in accordance with the information and data requirements of section 403 of the Housing and Community Development Act of 1992, including such other data, information, and requirements as the Secretary may require to be included as part of the comprehensive needs assessment;

(3) require the owner or purchaser of the project to provide or contract for competent management of the project;

(4) require the owner or purchaser of the project to take such actions as may be necessary to rehabilitate, maintain adequate reserves, and to maintain the project in decent and safe condition, based on housing quality standards established by—

(A) the Secretary; or

(B) local housing codes or codes adopted by public housing agencies that—

(i) meet or exceed housing quality standards established by the Secretary; and

(ii) do not severely restrict housing choice;

(5) require the owner or purchaser of the project to maintain affordability and use restrictions for 20 years, as the participating administrative entity determines to be appropriate, which restrictions shall be consistent with the long-term physical and financial viability character of the project as affordable housing;

(6) meet subsidy layering requirements under guidelines established by the Secretary; and

(7) require the owner or purchaser of the project to meet such other requirements as the Secretary determines to be appropriate.

(e) TENANT AND COMMUNITY PARTICIPATION AND CAPACITY BUILDING.—

(1) PROCEDURES.—

(A) IN GENERAL.—The Secretary shall establish procedures to provide an opportunity for tenants of the project and other affected parties, including local government and the community in which the project is located, to participate effectively in the restructuring process established by this title.

(B) CRITERIA.—These procedures shall include—

(i) the rights to timely and adequate written notice of the proposed decisions of the owner or the Secretary or participating administrative entity;

(ii) timely access to all relevant information (except for information determined to be proprietary under standards established by the Secretary);

(iii) an adequate period to analyze this information and provide comments to the Secretary or participating administrative entity (which comments shall be taken into consideration by the Administrator); and

(iv) if requested, a meeting with a representative of the Administrator and other affected parties.

(2) PROCEDURES REQUIRED.—The procedures established under paragraph (1) shall permit tenant, local government, and community participation in at least the following decisions or plans specified in this title:

(A) The Multifamily Housing Management Agreement.

(B) Any proposed expiration of the section 8 contract.

(C) The project's eligibility for restructuring pursuant to section 106 and the mortgage restructuring and rental assistance sufficiency plan pursuant to section 104.

(D) Physical inspections.

(E) Capital needs and management assessments, whether before or after restructuring.

(F) Any proposed transfer of the project.

(3) FUNDING.—

(A) IN GENERAL.—The Secretary may provide not more than $10,000,000 annually in funding to tenant groups, nonprofit organizations, and public entities for building the capacity of tenant organizations, for technical assistance in furthering any of the purposes of this title (including transfer of developments to new owners) and for tenant services, from those amounts made available under appropriations Acts for implementing this title.

(B) ALLOCATION.—The Secretary may allocate any funds made available under subparagraph (A) through existing technical assistance programs and procedures developed pursuant to any other Federal law, including the Low-Income Housing Preservation and Resident Homeownership Act of 1990 and the Multifamily Property Disposition Reform Act of 1994.

(C) PROHIBITION.—None of the funds made available under subparagraph (A) may be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, to favor or oppose, by vote or otherwise, any legislation or appropriation by the Congress, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation.

(f) RENT LEVELS.—

(1) IN GENERAL.—Except as provided in paragraph (2), each mortgage restructuring and rental assistance sufficiency plan pursuant to the terms, conditions, and requirements of this title shall establish for units assisted with project-based assistance in eligible multifamily housing projects adjusted rent levels that—

(A) are equivalent to rents derived from comparable properties, if—

(i) the participating administrative entity makes the rent determination not later than 60 days after the owner submits a mortgage restructuring and rental assistance sufficiency plan; and

(ii) the market rent determination is based on not less than 2 comparable properties; or

(B) if those rents cannot be determined, are equal to 90 percent of the fair market rents for the relevant market area.

(2) EXCEPTIONS.—

(A) IN GENERAL.—A contract under this section may include rent levels that exceed the rent level described in paragraph (1) at rent levels that do not exceed 120 percent of the local fair market rent if the participating administrative entity—

(i) determines, that the housing needs of the tenants and the community cannot be adequately addressed through implementation of the rent limitation required to be established through a mortgage restructuring and rental assistance sufficiency plan under paragraph (1); and

(ii) follows the procedures under paragraph (3).

(B) EXCEPTION RENTS.—In any fiscal year, a participating administrative entity may approve exception rents on not more than 20 percent of all units in the geographic jurisdiction of the entity with expiring contracts in that fiscal year, except that the Secretary may waive this ceiling upon a finding of special need in the geographic area served by the participating administrative entity.

(3) RENT LEVELS FOR EXCEPTION PROJECTS.—For purposes of this section, a project eligible for an exception rent shall receive a rent calculation on the actual and projected costs of operating the project, at a level that provides income sufficient to support a budget-based rent that consists of—

(A) the debt service of the project;

(B) the operating expenses of the project, as determined by the participating administrative entity, including—

(i) contributions to adequate reserves;

(ii) the costs of maintenance and necessary rehabilitation; and

(iii) other eligible costs permitted under section 8 of the United States Housing Act of 1937;

(C) an adequate allowance for potential operating losses due to vacancies and failure to collect rents, as determined by the participating administrative entity;

(D) an allowance for a reasonable rate of return to the owner or purchaser of the project, as determined by the participating administrative entity, which shall not exceed 7 percent of the return on equity; and

(E) other expenses determined by the participating administrative entity to be necessary for the operation of the project.

(g) EXEMPTIONS FROM RESTRUCTURING.—Subject to section 106, the Secretary shall renew project-based assistance contracts at existing rents if—

(1) the project was financed through obligations such that the implementation of a mortgage restructuring and rental assistance plan under this section is inconsistent with applicable law or agreements governing such financing;

(2) in the determination of the Secretary or the participating administrative entity, the refinancing would not result in significant savings to the Secretary; or

(3) the project has an expiring contract under section 8 of the United States Housing Act of 1937 but does not qualify as an eligible multifamily project pursuant to section 102(6) of this title.

SEC. 105. SECTION 8 RENEWALS AND LONG-TERM AFFORDABILITY COMMITMENT BY OWNER OF PROJECT.

(a) SECTION 8 RENEWALS OF RESTRUCTURED PROJECTS.—Subject to the availability of amounts provided in advance in appropriations Acts, the Secretary shall enter into contracts with participating administrative entities pursuant to which the participating administrative entity shall offer to renew or extend an expiring section 8 contract on an eligible multifamily project, and the owner of the project shall accept the offer, provided the initial renewal is in accordance with the terms and conditions specified in the mortgage restructuring and rental sufficiency plan.

(b) REQUIRED COMMITMENT.—After the initial renewal of a section 8 contract pursuant to this section, the owner shall accept each offer made pursuant to subsection (a) to renew the contract, for a period of 20 years from the date of the initial renewal, if the offer to renew is on terms and conditions specified in the mortgage restoration and rental sufficiency plan.

SEC. 106. PROHIBITION ON RESTRUCTURING.

(a) PROHIBITION ON RESTRUCTURING.—The Secretary shall not consider any mortgage restructuring and rental assistance sufficiency plan or request for contract renewal if the participating administrative entity determines that—

(1) the owner or purchaser of the project has engaged in material adverse financial or managerial actions or omissions with regard to this project (or with regard to other similar projects if the Secretary determines that those actions or omissions constitute a pattern of mismanagement that would warrant suspension or debarment by the Secretary), including—

(A) knowingly and materially violating any Federal, State, or local law or regulation with regard to this project or any other federally assisted project;

(B) knowingly and materially breaching a contract for assistance under section 8 of the United States Housing Act of 1937;

(C) knowingly and materially violating any applicable regulatory or other agreement with the Secretary or a participating administrative entity;

(D) repeatedly failing to make mortgage payments at times when project income was sufficient to maintain and operate the property;

(E) materially failing to maintain the property according to housing quality standards after receipt of notice and a reasonable opportunity to cure; or

(F) committing any actions or omissions that would warrant suspension or debarment by the Secretary;

(2) the owner or purchaser of the property materially failed to follow the procedures

and requirements of this title, after receipt of notice and an opportunity to cure; or

(3) the poor condition of the project cannot be remedied in a cost effective manner, as determined by the participating administrative entity.

(b) OPPORTUNITY TO DISPUTE FINDINGS.—

(1) IN GENERAL.—During the 30-day period beginning on the date on which the owner or purchaser of an eligible multifamily housing project receives notice of a rejection under subsection (a) or of a mortgage restructuring and rental assistance sufficiency plan under section 104, the Secretary or participating administrative entity shall provide that owner or purchaser with an opportunity to dispute the basis for the rejection and an opportunity to cure.

(2) AFFIRMATION, MODIFICATION, OR REVERSAL.—

(A) IN GENERAL.—After providing an opportunity to dispute under paragraph (1), the Secretary or the participating administrative entity may affirm, modify, or reverse any rejection under subsection (a) or rejection of a mortgage restructuring and rental assistance sufficiency plan under section 104.

(B) REASONS FOR DECISION.—The Secretary or the participating administrative entity, as applicable, shall identify the reasons for any final decision under this paragraph.

(C) REVIEW PROCESS.—The Secretary shall establish an administrative review process to appeal any final decision under this paragraph.

(c) FINAL DETERMINATION.—Any final determination under this section shall not be subject to judicial review.

(d) DISPLACED TENANTS.—Subject to the availability of amounts provided in advance in appropriations Acts, for any low-income tenant that is residing in a project or receiving assistance under section 8 of the United States Housing Act of 1937 at the time of rejection under this section, that tenant shall be provided with tenant-based assistance and reasonable moving expenses, as determined by the Secretary.

(e) TRANSFER OF PROPERTY.—For properties disqualified from the consideration of a mortgage restructuring and rental assistance sufficiency plan under this section because of actions by an owner or purchaser in accordance with paragraph (1) or (2) of subsection (a), the Secretary shall establish procedures to facilitate the voluntary sale or transfer of a property as part of a mortgage restructuring and rental assistance sufficiency plan, with a preference for tenant organizations and tenant-endorsed community-based nonprofit and public agency purchasers meeting such reasonable qualifications as may be established by the Secretary.

SEC. 107. RESTRUCTURING TOOLS.

(a) RESTRUCTURING TOOLS.—For purposes of this title, and to the extent these actions are consistent with this section, an approved mortgage restructuring and assistance sufficiency plan may include one or more of the following:

(1) FULL OR PARTIAL PAYMENT OF CLAIM.—Making a full payment of claim or partial payment of claim under section 541(b) of the National Housing Act.

(2) REFINANCING OF DEBT.—Refinancing of all or part of the debt on a project, if the refinancing would result in significant subsidy savings under section 8 of the United States Housing Act of 1937.

(3) MORTGAGE INSURANCE.—Providing FHA multifamily mortgage insurance, reinsurance or other credit enhancement alternatives, including multifamily risk-sharing mortgage programs, as provided under section 542 of the Housing and Community Development Act of 1992. Any limitations on the number of units available for mortgage insurance under section 542 shall not apply to eligible multifamily housing projects. Any credit subsidy costs of providing mortgage insurance shall be paid from the General Insurance Fund and the Special Risk Insurance Fund.

(4) CREDIT ENHANCEMENT.—Any additional State or local mortgage credit enhancements and risk-sharing arrangements may be established with State or local housing finance agencies, the Federal Housing Finance Board, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation, to a modified first mortgage.

(5) COMPENSATION OF THIRD PARTIES.—Entering into agreements, incurring costs, or making payments, as may be reasonably necessary, to compensate the participation of participating administrative entities and other parties in undertaking actions authorized by this title. Upon request, participating administrative entities shall be considered to be contract administrators under section 8 of the United States Housing Act of 1937 for purposes of any contracts entered into as part of an approved mortgage restructuring and rental assistance sufficiency plan.

(6) RESIDUAL RECEIPTS.—Applying any acquired residual receipts to maintain the long-term affordability and physical condition of the property. The participating administrative entity may expedite the acquisition of residual receipts by entering into agreements with owners of housing covered by an expiring contract to provide an owner with a share of the receipts, not to exceed 10 percent.

(7) REHABILITATION NEEDS.—Assisting in addressing the necessary rehabilitation needs of the project, except that assistance under this paragraph shall not exceed the equivalent of $5,000 per unit for those units covered with project-based assistance. Rehabilitation may be paid from the provision of grants from residual receipts or, as provided in appropriations Acts, from budget authority provided for increases in the budget authority for assistance contracts under section 8 of the United States Housing Act of 1937, or through the debt restructuring transaction. Each owner that receives rehabilitation assistance shall contribute not less than 25 percent of the amount of rehabilitation assistance received.

(8) MORTGAGE RESTRUCTURING.—Restructuring mortgages to provide a structured first mortgage to cover rents at levels that are established in section 104(f) and a second mortgage equal to the difference between the restructured first mortgage and the mortgage balance of the eligible multifamily housing project at the time of restructuring. The second mortgage shall bear interest at a rate not to exceed the applicable Federal rate for a term not to exceed 40 years. If the first mortgage remains outstanding, payments of interest and principal on the second mortgage shall be made from all excess project income only after the payment of all reasonable and necessary operating expenses (including deposits in a reserve for replacement), debt service on the first mortgage, and such other expenditures as may be approved by the Secretary. Except as required by the preceding sentence, during the period in which the first mortgage remains outstanding, no payments of interest or principal shall be required on the second mortgage. The second mortgage shall be assumable by any subsequent purchaser of any multifamily housing project, pursuant to guidelines established by the Secretary. The principal and accrued interest due under the second mortgage shall be fully payable upon disposition of the property, unless the mortgage is assumed under the preceding sentence. The owner shall begin repayment of the second mortgage upon full payment of the first mortgage in equal monthly installments in an amount equal to the monthly principal and interest payments formerly paid under the first mortgage. The principal and interest of a second mortgage shall be immediately due and payable upon a finding by the Secretary that an owner has failed to materially comply with this title or any requirements of the United States Housing Act of 1937 as those requirements apply to the applicable project. Any credit subsidy costs of providing a second mortgage shall be paid from the General Insurance Fund and the Special Risk Insurance Fund.

(b) ROLE OF FNMA AND FHLMC.—Section 1335 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4565) is amended—

(1) in paragraph (3), by striking ''and'' at the end;

(2) paragraph (4), by striking the period at the end and inserting ''; and'';

(3) by striking ''To meet'' and inserting the following:

''(a) IN GENERAL.—To meet''; and

(4) by adding at the end the following:

''(5) assist in maintaining the affordability of assisted units in eligible multifamily housing projects with expiring contracts, as defined under the Multifamily Assisted Housing Reform and Affordability Act of 1996.

''(b) AFFORDABLE HOUSING GOALS.—Actions taken under subsection (a)(5) shall constitute part of the contribution of each entity in meeting their affordable housing goals under sections 1332, 1333, and 1334 for any fiscal year, as determined by the Secretary.''.

(c) PROHIBITION ON EQUITY SHARING BY THE SECRETARY.—The Secretary is prohibited from participating in any equity agreement or profit-sharing agreement in conjunction with any eligible multifamily housing project.

SEC. 108. SHARED SAVINGS INCENTIVE.

(a) IN GENERAL.—At the time a participating administrative entity is designated, the Secretary shall negotiate an incentive agreement with the participating administrative entity, which agreement may provide such entity with a share of savings from any restructured mortgage and reduced subsidies resulting from actions under section 107. The Secretary shall negotiate with participating administrative entities a savings incentive formula that provides for periodic payments over a 5-year period, which is allocated as incentives to participating administrative entities and to project owners.

(b) USE OF SAVINGS.—Notwithstanding any other provision of law, the incentive agreement under subsection (a) shall require any savings provided to a participating administrative entity under that agreement to be used only for providing decent, safe, and affordable housing for very low-income families and persons with a priority for eligible multifamily housing projects; and

SEC. 109. MANAGEMENT STANDARDS.

Each participating administrative entity shall establish and implement management standards, including requirements governing conflicts of interest between owners, managers, contractors with an identity of interest, pursuant to guidelines established by the Secretary and consistent with industry standards.

SEC. 110. MONITORING OF COMPLIANCE.

(a) COMPLIANCE AGREEMENTS.—Pursuant to regulations issued by the Secretary after public notice and comment, each participating administrative entity, through binding contractual agreements with owners and

otherwise, shall ensure long-term compliance with the provisions of this title. Each agreements shall, at a minimum, provide for—

(1) enforcement of the provisions of this title; and

(2) remedies for the breach of those provisions.

(b) PERIODIC MONITORING.—

(1) IN GENERAL.—Not less than annually, each participating administrative entity shall review the status of all multifamily housing projects for which a mortgage restructuring and rental assistance sufficiency plan has been implemented.

(2) INSPECTIONS.—Each review under this subsection shall include onsite inspection to determine compliance with housing codes and other requirements as provided in this title and the multifamily housing management agreements.

(c) AUDIT BY THE SECRETARY.—The Comptroller General of the United States, the Secretary, and the Inspector General of the Department of Housing and Urban Development may conduct an audit at any time of any multifamily housing project for which a mortgage restructuring and rental assistance sufficiency plan has been implemented.

SEC. 111. REVIEW.

(a) ANNUAL REVIEW.—In order to ensure compliance with this title, the Secretary shall conduct an annual review and report to the Congress on actions taken under this title and the status of eligible multifamily housing projects.

(b) SUBSIDY LAYERING REVIEW.—The participating administrative entity shall certify, pursuant to guidelines issued by the Secretary, that the requirements of section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 are satisfied so that the combination of assistance provided in connection with a property for which a mortgage is to be restructured shall not be any greater than is necessary to provide affordable housing.

SEC. 112. GAO AUDIT AND REVIEW.

(a) INITIAL AUDIT.—Not later than 18 months after the effective date of interim or final regulations promulgated under this title, the Comptroller General of the United States shall conduct an audit to evaluate a representative sample of all eligible multifamily housing projects and the implementation of all mortgage restructuring and rental assistance sufficiency plans.

(b) REPORT.—

(1) IN GENERAL.—Not later than 18 months after the audit conducted under subsection (a), the Comptroller General of the United States shall submit to the Congress a report on the status of all eligible multifamily housing projects and the implementation of all mortgage restructuring and rental assistance sufficiency plans.

(2) CONTENTS.—The report submitted under paragraph (1) shall include—

(A) a description of the initial audit conducted under subsection (a); and

(B) recommendations for any legislative action to increase the financial savings to the Federal Government of the restructuring of eligible multifamily housing projects balanced with the continued availability of the maximum number of affordable low-income housing units.

SEC. 113. REGULATIONS.

(a) RULEMAKING AND IMPLEMENTATION.—The Secretary shall issue interim regulations necessary to implement this title not later than the expiration of the 6-month period beginning on the date of enactment of this Act. Not later than 1 year after the date of enactment of this Act, in accordance with the negotiated rulemaking procedures set forth in subchapter III of chapter 5 of title 5, United States Code, the Secretary shall implement final regulations implementing this title.

(b) REPEAL OF FHA MULTIFAMILY HOUSING DEMONSTRATION AUTHORITY.—

(1) IN GENERAL.—Beginning upon the expiration of the 6-month period beginning on the date of enactment of this Act, the Secretary may not exercise any authority or take any action under section 210 of the Balanced Budget Down Payment Act, II.

(2) UNUSED BUDGET AUTHORITY.—Any unused budget authority under section 210(f) of the Balanced Budget Down Payment Act, II, shall be available for taking actions under the requirements established through regulations issued under subsection (a).

SEC. 114. TECHNICAL AND CONFORMING AMENDMENTS.

(a) CALCULATION OF LIMIT ON PROJECT-BASED ASSISTANCE.—Section 8(d) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)) is amended by adding at the end the following new paragraph:

''(5) CALCULATION OF LIMIT.—Any contract entered into under section 104 of the Multifamily Assisted Housing Reform and Affordability Act of 1996 shall be excluded in computing the limit on project-based assistance under this subsection.''.

(b) PARTIAL PAYMENT OF CLAIMS ON MULTIFAMILY HOUSING PROJECTS.—Section 541 of the National Housing Act (12 U.S.C. 1735f–19) is amended—

(1) in subsection (a), in the subsection heading, by striking ''AUTHORITY'' and inserting ''DEFAULTED MORTGAGES'';

(2) by redesignating subsection (b) as subsection (c); and

(3) by inserting after subsection (a) the following new subsection:

''(b) EXISTING MORTGAGES.—Notwithstanding any other provision of law, the Secretary, in connection with a mortgage restructuring under section 104 of the Multifamily Assisted Housing Reform and Affordability Act of 1996, may make a one time, nondefault partial payment of the claim under the mortgage insurance contract, which shall include a determination by the Secretary or the participating administrative entity, in accordance with the Multifamily Assisted Housing Reform and Affordability Act of 1996, of the market value of the project and a restructuring of the mortgage, under such terms and conditions as the Secretary may establish.''.

SEC. 115. TERMINATION OF AUTHORITY.

(a) IN GENERAL.—Except as provided in subsection (b), this title is repealed effective October 1, 2001.

(b) EXCEPTION.—The repeal under this section does not apply with respect to projects and programs for which binding commitments have been entered into before October 1, 2001.

TITLE II—ENFORCEMENT PROVISIONS

SEC. 201. IMPLEMENTATION.

(a) ISSUANCE OF NECESSARY REGULATIONS.—Notwithstanding section 7(o) of the Department of Housing and Urban Development Act or part 10 of title 24, Code of Federal Regulations (as in existence on the date of enactment of this Act), the Secretary shall issue such regulations as the Secretary determines to be necessary to implement this title and the amendments made by this title in accordance with section 552 or 553 of title 5, United States Code, as determined by the Secretary.

(b) USE OF EXISTING REGULATIONS.—In implementing any provision of this title, the Secretary may, in the discretion of the Secretary, provide for the use of existing regulations to the extent appropriate, without rulemaking.

Subtitle A—FHA Single Family and Multifamily Housing

SEC. 211. AUTHORIZATION TO IMMEDIATELY SUSPEND MORTGAGEES.

Section 202(c)(3)(C) of the National Housing Act (12 U.S.C. 1708(c)(3)(C)) is amended by inserting after the first sentence the following new sentence: ''Notwithstanding paragraph (4)(A), a suspension shall be effective upon issuance by the Board if the Board determines that there exists adequate evidence that immediate action is required to protect the financial interests of the Department or the public.''.

SEC. 212. EXTENSION OF EQUITY SKIMMING TO OTHER SINGLE FAMILY AND MULTIFAMILY HOUSING PROGRAMS.

Section 254 of the National Housing Act (12 U.S.C. 1715z–19) is amended to read as follows:

''SEC. 254. EQUITY SKIMMING PENALTY.

''(a) IN GENERAL.—Whoever, as an owner, agent, or manager, or who is otherwise in custody, control, or possession of a multifamily project or a 1- to 4-family residence that is security for a mortgage note that is described in subsection (b), willfully uses or authorizes the use of any part of the rents, assets, proceeds, income, or other funds derived from property covered by that mortgage note for any purpose other than to meet reasonable and necessary expenses that include expenses approved by the Secretary if such approval is required, in a period during which the mortgage note is in default or the project is in a nonsurplus cash position, as defined by the regulatory agreement covering the property, or the mortgagor has failed to comply with the provisions of such other form of regulatory control imposed by the Secretary, shall be fined not more than $500,000, imprisoned not more than 5 years, or both.

''(b) MORTGAGE NOTES DESCRIBED.—For purposes of subsection (a), a mortgage note is described in this subsection if it—

''(1) is insured, acquired, or held by the Secretary pursuant to this Act;

''(2) is made pursuant to section 202 of the Housing Act of 1959 (including property still subject to section 202 program requirements that existed before the date of enactment of the Cranston-Gonzalez National Affordable Housing Act); or

''(3) is insured or held pursuant to section 542 of the Housing and Community Development Act of 1992, but is not reinsured under section 542 of the Housing and Community Development Act of 1992.''.

SEC. 213. CIVIL MONEY PENALTIES AGAINST MORTGAGEES, LENDERS, AND OTHER PARTICIPANTS IN FHA PROGRAMS.

(a) CHANGE TO SECTION TITLE.—Section 536 of the National Housing Act (12 U.S.C. 1735f–14) is amended by striking the section heading and the section designation and inserting the following:

''SEC. 536. CIVIL MONEY PENALTIES AGAINST MORTGAGEES, LENDERS, AND OTHER PARTICIPANTS IN FHA PROGRAMS.''.

(b) EXPANSION OF PERSONS ELIGIBLE FOR PENALTY.—Section 536(a) of the National Housing Act (12 U.S.C. 1735f–14(a)) is amended—

(1) in paragraph (1), by striking the first sentence and inserting the following: ''If a mortgagee approved under the Act, a lender holding a contract of insurance under title I of this Act, or a principal, officer, or employee of such mortgagee or lender, or other person or entity participating in either an insured mortgage or title I loan transaction under this Act or providing assistance to the borrower in connection with any such loan, including sellers of the real estate involved,

borrowers, closing agents, title companies, real estate agents, mortgage brokers, appraisers, loan correspondents and dealers, knowingly and materially violates any applicable provision of subsection (b), the Secretary may impose a civil money penalty on the mortgagee or lender, or such other person or entity, in accordance with this section. The penalty under this paragraph shall be in addition to any other available civil remedy or any available criminal penalty, and may be imposed whether or not the Secretary imposes other administrative sanctions.''; and

(2) in paragraph (2)—

(A) in the first sentence, by inserting ''or such other person or entity'' after ''lender''; and

(B) in the second sentence, by striking ''provision'' and inserting ''the provisions''.

(c) ADDITIONAL VIOLATIONS FOR MORTGAGEES, LENDERS, AND OTHER PARTICIPANTS IN FHA PROGRAMS.—Section 536(b) of the National Housing Act (12 U.S.C. 1735f–14(b)) is amended—

(1) by redesignating paragraph (2) as paragraph (3);

(2) by inserting after paragraph (1) the following new paragraph:

''(2) The Secretary may impose a civil money penalty under subsection (a) for any knowing and material violation by a principal, officer, or employee of a mortgagee or lender, or other participants in either an insured mortgage or title I loan transaction under this Act or provision of assistance to the borrower in connection with any such loan, including sellers of the real estate involved, borrowers, closing agents, title companies, real estate agents, mortgage brokers, appraisers, loan correspondents, and dealers for—

''(A) submission to the Secretary of information that was false, in connection with any mortgage insured under this Act, or any loan that is covered by a contract of insurance under title I of this Act;

''(B) falsely certifying to the Secretary or submitting to the Secretary a false certification by another person or entity; or

''(C) failure by a loan correspondent or dealer to submit to the Secretary information which is required by regulations or directives in connection with any loan that is covered by a contract of insurance under title I of this Act.''; and

(3) in paragraph (3), as redesignated, by striking ''or paragraph (1)(F)'' and inserting ''or (F), or paragraph (2)(A), (B), or (C)''.

(d) CONFORMING AND TECHNICAL AMENDMENTS.—Section 536 of the National Housing Act (12 U.S.C. 1735f–14) is amended—

(1) in subsection (c)(1)(B), by inserting after ''lender'' the following: ''or such other person or entity'';

(2) in subsection (d)(1)—

(A) by inserting ''or such other person or entity'' after ''lender''; and

(B) by striking ''part 25'' and inserting ''parts 24 and 25''; and

(3) in subsection (e), by inserting ''or such other person or entity'' after ''lender'' each place that term appears.

Subtitle B—FHA Multifamily

SEC. 220. CIVIL MONEY PENALTIES AGAINST GENERAL PARTNERS, OFFICERS, DIRECTORS, AND CERTAIN MANAGING AGENTS OF MULTIFAMILY PROJECTS.

(a) CIVIL MONEY PENALTIES AGAINST MULTIFAMILY MORTGAGORS.—Section 537 of the National Housing Act (12 U.S.C. 1735f–15) is amended—

(1) in subsection (b)(1), by striking ''on that mortgagor'' and inserting the following: ''on that mortgagor, on a general partner of a partnership mortgagor, or on any officer or director of a corporate mortgagor'';

(2) in subsection (c)—

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

''(c) OTHER VIOLATIONS.—''; and

(B) in paragraph (1)—

(i) by striking ''VIOLATIONS.—The Secretary may'' and all that follows through the colon and inserting the following:

''(A) LIABLE PARTIES.—The Secretary may also impose a civil money penalty under this section on—

''(i) any mortgagor of a property that includes five or more living units and that has a mortgage insured, coinsured, or held pursuant to this Act;

''(ii) any general partner of a partnership mortgagor of such property;

''(iii) any officer or director of a corporate mortgagor;

''(iv) any agent employed to manage the property that has an identity of interest with the mortgagor, with the general partner of a partnership mortgagor, or with any officer or director of a corporate mortgagor of such property; or

''(v) any member of a limited liability company that is the mortgagor of such property or is the general partner of a limited partnership mortgagor or is a partner of a general partnership mortgagor.

''(B) VIOLATIONS.—A penalty may be imposed under this section upon any liable party under subparagraph (A) that knowingly and materially takes any of the following actions:'';

(ii) in subparagraph (B), as designated by clause (i), by redesignating the subparagraph designations (A) through (L) as clauses (i) through (xii), respectively;

(iii) by adding after clause (xii), as redesignated by clause (ii), the following new clauses:

''(xiii) Failure to maintain the premises, accommodations, any living unit in the project, and the grounds and equipment appurtenant thereto in good repair and condition in accordance with regulations and requirements of the Secretary, except that nothing in this clause shall have the effect of altering the provisions of an existing regulatory agreement or federally insured mortgage on the property.

''(xiv) Failure, by a mortgagor, a general partner of a partnership mortgagor, or an officer or director of a corporate mortgagor, to provide management for the project that is acceptable to the Secretary pursuant to regulations and requirements of the Secretary.''; and

(iv) in the last sentence, by deleting ''of such agreement'' and inserting ''of this subsection'';

(3) in subsection (d)—

(A) in paragraph (1)(B), by inserting after ''mortgagor'' the following: '', general partner of a partnership mortgagor, officer or director of a corporate mortgagor, or identity of interest agent employed to manage the property''; and

(B) by adding at the end the following new paragraph:

''(5) PAYMENT OF PENALTY.—No payment of a civil money penalty levied under this section shall be payable out of project income.'';

(4) in subsection (e)(1), by deleting ''a mortgagor'' and inserting ''an entity or person'';

(5) in subsection (f), by inserting after ''mortgagor'' each place such term appears the following: '', general partner of a partnership mortgagor, officer or director of a corporate mortgagor, or identity of interest agent employed to manage the property'';

(6) by striking the heading of subsection (f) and inserting the following: ''CIVIL MONEY PENALTIES AGAINST MULTIFAMILY MORTGAGORS, GENERAL PARTNERS OF PARTNERSHIP MORTGAGORS, OFFICERS AND DIRECTORS OF CORPORATE MORTGAGORS, AND CERTAIN MANAGING AGENTS''; and

(7) by adding at the end the following new subsection:

''(k) IDENTITY OF INTEREST MANAGING AGENT.—For purposes of this section, the terms 'agent employed to manage the property that has an identity of interest' and 'identity of interest agent' mean an entity—

''(1) that has management responsibility for a project;

''(2) in which the ownership entity, including its general partner or partners (if applicable) and its officers or directors (if applicable), has an ownership interest; and

''(3) over which the ownership entity exerts effective control.''.

(b) IMPLEMENTATION.—

(1) PUBLIC COMMENT.—The Secretary shall implement the amendments made by this section by regulation issued after notice and opportunity for public comment. The notice shall seek comments primarily as to the definitions of the terms 'ownership interest in' and 'effective control', as those terms are used in the definition of the terms 'agent employed to manage the property that has an identity of interest' and 'identity of interest agent'.

(2) TIMING.—A proposed rule implementing the amendments made by this section shall be published not later than one year after the date of enactment of this Act.

(c) APPLICABILITY OF AMENDMENTS.—The amendments made by subsection (a) shall apply only with respect to—

(1) violations that occur on or after the effective date of the final regulations implementing the amendments made by this section; and

(2) in the case of a continuing violation (as determined by the Secretary of Housing and Urban Development), any portion of a violation that occurs on or after that date.

SEC. 221. CIVIL MONEY PENALTIES FOR NONCOMPLIANCE WITH SECTION 8 HAP CONTRACTS.

(a) BASIC AUTHORITY.—Title I of the United States Housing Act of 1937 is amended by adding at the end the following new section:

''SEC. 27. CIVIL MONEY PENALTIES AGAINST SECTION 8 OWNERS.

''(a) IN GENERAL.—

''(1) EFFECT ON OTHER REMEDIES.—The penalties set forth in this section shall be in addition to any other available civil remedy or any available criminal penalty, and may be imposed regardless of whether the Secretary imposes other administrative sanctions.

''(2) FAILURE OF SECRETARY.—The Secretary may not impose penalties under this section for a violation, if a material cause of the violation is the failure of the Secretary, an agent of the Secretary, or a public housing agency to comply with an existing agreement.

''(b) VIOLATIONS OF HOUSING ASSISTANCE PAYMENT CONTRACTS FOR WHICH PENALTY MAY BE IMPOSED.—

''(1) LIABLE PARTIES.—The Secretary may impose a civil money penalty under this section on—

''(A) any owner of a property receiving project-based assistance under section 8;

''(B) any general partner of a partnership owner of that property; and

''(C) any agent employed to manage the property that has an identity of interest with the owner or the general partner of a partnership owner of the property.

''(2) VIOLATIONS.—A penalty may be imposed under this section for a knowing and material breach of a housing assistance payments contract, including the following—

''(A) failure to provide decent, safe, and sanitary housing pursuant to section 8; or

''(B) knowing or willful submission of false, fictitious, or fraudulent statements or requests for housing assistance payments to

the Secretary or to any department or agency of the United States.

''(3) AMOUNT OF PENALTY.—The amount of a penalty imposed for a violation under this subsection, as determined by the Secretary, may not exceed $25,000 per violation.

''(c) AGENCY PROCEDURES.—

''(1) ESTABLISHMENT.—The Secretary shall issue regulations establishing standards and procedures governing the imposition of civil money penalties under subsection (b). These standards and procedures—

''(A) shall provide for the Secretary or other department official to make the determination to impose the penalty;

''(B) shall provide for the imposition of a penalty only after the liable party has received notice and the opportunity for a hearing on the record; and

''(C) may provide for review by the Secretary of any determination or order, or interlocutory ruling, arising from a hearing and judicial review, as provided under subsection (d).

''(2) FINAL ORDERS.—

''(A) IN GENERAL.—If a hearing is not requested before the expiration of the 15-day period beginning on the date on which the notice of opportunity for hearing is received, the imposition of a penalty under subsection (b) shall constitute a final and unappealable determination.

''(B) EFFECT OF REVIEW.—If the Secretary reviews the determination or order, the Secretary may affirm, modify, or reverse that determination or order.

''(C) FAILURE TO REVIEW.—If the Secretary does not review that determination or order before the expiration of the 90-day period beginning on the date on which the determination or order is issued, the determination or order shall be final.

''(3) FACTORS IN DETERMINING AMOUNT OF PENALTY.—In determining the amount of a penalty under subsection (b), the Secretary shall take into consideration—

''(A) the gravity of the offense;

''(B) any history of prior offenses by the violator (including offenses occurring before the enactment of this section);

''(C) the ability of the violator to pay the penalty;

''(D) any injury to tenants;

''(E) any injury to the public;

''(F) any benefits received by the violator as a result of the violation;

''(G) deterrence of future violations; and

''(H) such other factors as the Secretary may establish by regulation.

''(4) PAYMENT OF PENALTY.—No payment of a civil money penalty levied under this section shall be payable out of project income.

''(d) JUDICIAL REVIEW OF AGENCY DETERMINATION.—Judicial review of determinations made under this section shall be carried out in accordance with section 537(e) of the National Housing Act.

''(e) REMEDIES FOR NONCOMPLIANCE.—

''(1) JUDICIAL INTERVENTION.—

''(A) IN GENERAL.—If a person or entity fails to comply with the determination or order of the Secretary imposing a civil money penalty under subsection (b), after the determination or order is no longer subject to review as provided by subsections (c) and (d), the Secretary may request the Attorney General of the United States to bring an action in an appropriate United States district court to obtain a monetary judgment against that person or entity and such other relief as may be available.

''(B) FEES AND EXPENSES.—Any monetary judgment awarded in an action brought under this paragraph may, in the discretion of the court, include the attorney's fees and other expenses incurred by the United States in connection with the action.

''(2) NONREVIEWABILITY OF DETERMINATION OR ORDER.—In an action under this subsection, the validity and appropriateness of the determination or order of the Secretary imposing the penalty shall not be subject to review.

''(f) SETTLEMENT BY SECRETARY.—The Secretary may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this section.

''(g) DEPOSIT OF PENALTIES.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, if the mortgage covering the property receiving assistance under section 8 is insured or formerly insured by the Secretary, the Secretary shall apply all civil money penalties collected under this section to the appropriate insurance fund or funds established under this Act, as determined by the Secretary.

''(2) EXCEPTION.—Notwithstanding any other provision of law, if the mortgage covering the property receiving assistance under section 8 is neither insured nor formerly insured by the Secretary, the Secretary shall make all civil money penalties collected under this section available for use by the appropriate office within the Department for administrative costs related to enforcement of the requirements of the various programs administered by the Secretary.

''(h) DEFINITIONS.—For the purposes of this section—

''(1) the term 'agent employed to manage the property that has an identity of interest' means an entity—

''(A) that has management responsibility for a project;

''(B) in which the ownership entity, including its general partner or partners (if applicable), has an ownership interest; and

''(C) over which such ownership entity exerts effective control; and

''(2) the term 'knowing' means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibitions under this section.''.

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply only with respect to—

(1) violations that occur on or after the effective date of final regulations implementing the amendments made by this section; and

(2) in the case of a continuing violation (as determined by the Secretary of Housing and Urban Development), any portion of a violation that occurs on or after such date.

(c) IMPLEMENTATION.—

(1) REGULATIONS.—

(A) IN GENERAL.—The Secretary shall implement the amendments made by this section by regulation issued after notice and opportunity for public comment.

(B) COMMENTS SOUGHT.—The notice under subparagraph (A) shall seek comments as to the definitions of the terms ''ownership interest in'' and ''effective control'', as such terms are used in the definition of the term ''agent employed to manage such property that has an identity of interest''.

(2) TIMING.—A proposed rule implementing the amendments made by this section shall be published not later than one year after the date of enactment of this Act.

SEC. 222. EXTENSION OF DOUBLE DAMAGES REMEDY.

Section 421 of the Housing and Community Development Act of 1987 (12 U.S.C. 1715z–4a) is amended—

(1) in subsection (a)(1)—

(A) in the first sentence, by striking ''Act; or (B)'' and inserting the following: ''Act; (B) a regulatory agreement that applies to a multifamily project whose mortgage is insured or held by the Secretary under section 202 of the Housing Act of 1959 (including property subject to section 202 of such Act as it existed before enactment of the Cranston-Gonzalez National Affordable Housing Act of 1990); (C) a regulatory agreement or such other form of regulatory control as may be imposed by the Secretary that applies to mortgages insured or held by the Secretary under section 542 of the Housing and Community Development Act of 1992, but not reinsured under section 542 of the Housing and Community Development Act of 1992; or (D)''; and

(B) in the second sentence, by inserting after ''agreement'' the following: '', or such other form of regulatory control as may be imposed by the Secretary,'';

(2) in subsection (a)(2), by inserting after ''Act,'' the following: ''under section 202 of the Housing Act of 1959 (including section 202 of such Act as it existed before enactment of the Cranston-Gonzalez National Affordable Housing Act of 1990) and under section 542 of the Housing and Community Development Act of 1992,'';

(3) in subsection (b), by inserting after ''agreement'' the following: '', or such other form of regulatory control as may be imposed by the Secretary,'';

(4) in subsection (c)—

(A) in the first sentence, by inserting after ''agreement'' the following: '', or such other form of regulatory control as may be imposed by the Secretary,''; and

(B) in the second sentence, by inserting before the period the following: ''or under the Housing Act of 1959, as appropriate''; and

(5) in subsection (d), by inserting after ''agreement'' the following: '', or such other form of regulatory control as may be imposed by the Secretary,''.

SEC. 223. OBSTRUCTION OF FEDERAL AUDITS.

Section 1516(a) of title 18, United States Code, is amended by inserting after ''under a contract or subcontract,'' the following: ''or relating to any property that is security for a mortgage note that is insured, guaranteed, acquired, or held by the Secretary of Housing and Urban Development pursuant to any Act administered by the Secretary,''.

SUMMARY OF THE MULTIFAMILY ASSISTED HOUSING REFORM AND AFFORDABILITY ACT OF 1996

Restructures the oversubsidized portfolio and reduces Section 8 subsidy costs while maintaining the affordable housing stock. Projects with subsidy contract rents above the fair market rent would be restructured in a manner that would reduce the rents by restructuring the underlying debt. Rents would be ''marked'' to comparable market rents where comparable properties exist or at 90 percent of fair market rents (FMR) if comparable properties do not exist.

In some cases (such as properties that provide special services to elderly and disabled households or because of the local market rent conditions), even if debt is restructured, setting rents at comparable market rent levels of 90 percent of FMR may be inadequate to cover the costs of operation. In these cases, a budget-based process would be used to set rents at the minimum level necessary to support proper operations and maintenance costs.

Screens out troubled multifamily properties and noncompliant owners. Nonviable housing projects and bad owners would be screened out from the renewal and debt restructuring process. Community and resident involvement would be used in resolving these problems. Potential outcomes could include demolition or change of ownership to other entities including nonprofits. Alternative housing would be provided to affected residents in cases of demolition. Stronger FHA and Section 8 enforcement authorities would also be provided to address troubled

properties and bad owners. In addition, stronger enforcement remedies would be an integral part of all restructuring transactions, to ensure that restructured properties would continue to provide high quality affordable housing.

Recapitalizes the assisted stock that suffer from deferred maintenance. In some cases, recapitalization is needed to address deferred maintenance for properties under portfolio restructuring. Rehabilitation grants or deeper debt writedowns would be used.

Utilizes capable public entities to restructure portfolio and recognizes HUD's limited capacity. Portfolio restructuring is being undertaken to reform and improve the programs from a financial and operating perspective, but not to abandon the long-term commitment to resident protection and ongoing affordability. As a result, balancing the fiscal goals of reducing costs with the public policy goals of maintaining affordable housing requires an intermediary accountable to the public interest. With HUD's acknowledged lack of capacity to address these issues, public intermediaries that have demonstrated expertise in affordable housing and responsible management would be selected. State housing finance agencies would be given a priority in acting as Participating Administrative Entities (PAE). Incentives would be negotiated with the PAEs to protect the financial interests of the Federal Government.

Addresses the tax issues facing debt restructuring. Under current tax law, debt restructuring could result in the triggering of a large income tax liability on the owners/investors without generating sufficient cash with which the owners/investors could pay the tax. As a result, a tax solution is needed to avoid resistance and delays from owners and investors. Debt restructuring results in an event that reduces the outstanding mortgage that is owed by the owners and investors. This reduction in the mortgage amount will result in a tax liability—referred to as ''cancellation of indebtedness'' or COD. COD is generally treated as ordinary taxable income under the Internal Revenue Code.

The bill addresses this problem by bifurcating the existing mortgage into two obligations. The first piece would be determined on the amount the mortgage could be supported by the rental income stream. Payment on the second piece would be deferred until the first mortgage is paid off. According to Treasury officials, this practice would not result in an immediate tax liability to owners and investors.

Provides for resident and community input into the restructuring process. To ensure that portfolio restructuring does not adversely affect the residents or local communities in which the properties are located, communities, residents, and local government officials would be provided an opportunity to comment on the process.

Strengthens HUD and FHA enforcement authority. This bill contains important provisions that will minimize the incidence of fraud and abuse of federally assisted programs. Such key provisions include (1) expanding HUD's ability to impose sanctions on lenders, (2) expanding equity skimming prohibitions, and (3) broadening the use of civil money penalties.

Mr. BOND. Mr. President, I stand in strong support of the Multifamily Assisted Housing Reform and Affordability Act of 1996. This bill goes a long way toward developing a constructive and comprehensive section 8 mark-to-market contract renewal program for reducing the costs of expiring project-based section 8 contracts, limiting the financial exposure of the FHA multifamily housing insurance fund for FHA-insured section 8 projects, and preserving, to the maximum extent possible, the section 8 project-based housing stock for very-low- and low-income families.

I congratulate Senators D'AMATO, MACK, and BENNETT for their contribution and commitment to this comprehensive legislation, as well as their commitment to finding a bipartisan approach to the many difficult issues associated with the renewal of over subsidized section 8 project-based contracts. This legislation is a meaningful step in developing a reasonable policy toward the concerns raised by these expiring section 8 project-based contracts.

Over the last 25 years, a number of HUD programs were established for the construction of affordable, low-income housing by providing FHA mortgage insurance while financing the cost of the housing through section 8 project-based housing assistance. Currently, there are some 8,500 projects with almost 1 million units that are both FHA-insured and whose debt service is almost totally dependent on rental assistance payments made under section 8 project-based contracts. Most of these projects serve very-low-income families, with approximately 37 percent of the stock serving elderly families.

The crisis facing this housing stock is that the section 8 project-based housing assistance was initially budgeted and appropriated through 15- and 20-year section 8 project-based contracts that are now expiring and for which contract renewal is prohibitively expensive. For example, at least 75 percent of this housing stock have rents that exceed the fair market rent of the local area.

Since current law prohibits HUD from renewing these section 8 contracts at rents above 100 percent of the fair market rent, with some exceptions not to exceed 120 percent, in many cases, the failure to renew expiring section 8 project-based contracts at existing rents will leave owners without the financial ability to pay the mortgage debt on these projects. This means that owners likely will default on their FHA-insured mortgage liabilities, resulting in FHA mortgage insurance claims and foreclosures. HUD would then own and be responsible for managing these low-income multifamily housing projects. This bill is intended to avoid this potential crisis through a fiscally responsible and housing sensitive strategy.

In addition, the cost of the section 8 contracts on these projects reemphasizes the difficult budget and appropriation issues facing the Congress. In particular, according to HUD estimates, the cost of all section 8 contract renewals, both tenant-based and project-based, will require appropriations of about $4.3 billion in fiscal year 1997, $10 billion in fiscal year 1998, and over $16 billion in fiscal year 2000. In addition, the cost of renewing the section 8 project-based contracts will grow from $1.2 billion in fiscal year 1997 to almost $4 billion in fiscal year 2000, and to some $8 billion in 10 years.

Since the HUD appropriations account cannot sustain these exploding costs, this legislation is intended to be a comprehensive response which will reduce the financial cost and exposure to the Federal Government and preserve this valuable housing resource. The Senate bill would generally preserve this low-income housing by using various tools to restructure these multifamily housing mortgages to the market value of the housing with resulting reductions in section 8 costs.

I also am troubled by some of the other section 8 mark-to-market proposals being promoted, including the position taken by HUD which, in general, opposes preserving this housing as FHA-insured or as assisted through section 8 project-based assistance, including the elderly assisted housing, in favor of vouchers. This position is very questionable, and I emphasize that it is widely opposed by the housing industry and tenant groups and advocates.

I highlight the underlying principles of the bill which would authorize the establishing of participating administrative entities [PAE's] which would generally be a public agency, with a first preference that a PAE be a State housing finance agency or, second, a local housing agency. These entities would be contracted by HUD to develop work-out plans in conjunction with owners of FHA-insured projects with expiring, oversubsidized section 8 contracts. Each PAE would develop mortgage restructuring and rental assistance sufficiency plans as workout instruments to reduce the section 8 subsidy needs of projects through mortgage restructuring.

The basic tool provided in the draft bill, and the likely key to any successful strategy to preserve this housing, is to authorize the restructuring of the mortgage debt on these oversubsidized section 8 multifamily housing projects. In particular, the bill would allow the restructuring of these high cost mortgages with a new first mortgage reflecting, generally, the market value of a project, and a soft second mortgage held by HUD, with interest at the applicable Federal rate, covering the remainder of the original mortgage debt and payable upon disposition or upon full payment of the first mortgage. This provision will reduce the cost of section 8 assistance and minimize any loss to the FHA multifamily insurance fund. In addition, this approach ensures that there is no taxable event by virtue of the mortgage restructuring.

I also think it would be beneficial to look at some kind of exit tax relief to encourage owners, especially limited partners, to divest their interest in these properties, to encourage new investment in and revitalization of these properties. Nevertheless, I am convinced that the tax committees are unlikely to take up this issue during this

Congress and that any discussion on tax relief will have to wait for another time.

Finally, I emphasize that it is time to act now. I am currently sponsoring a section 8 mark-to-market demonstration to be included in the VA–HUD fiscal year 1997 appropriations bill which is similar to the Multifamily Assisted Housing Reform and Affordability Act and which represents an interim approach to the section 8 mark-to-market contract renewal issue. This appropriation language indicates my strong belief that we can no longer afford, as a matter of housing policy and fiscal responsibility, to renew expiring section 8 project-based contracts at the existing, over-market rents. Nevertheless, I strongly prefer that section 8 reform legislation be acted on by the authorizing committees before the end of the fiscal year, with the full benefit of hearings and discussion on these very difficult policy issues.

I look forward to working with my colleagues on the legislation and hope that the Housing Subcommittee and Banking Committee can act in an expeditious manner on this measure. I emphasize the need to work together and I look forward to moving this legislation through Congress and onto the desk of the President.

Mr. D'AMATO. Mr. President, I rise today to cosponsor the Multifamily Assisted Housing Reform and Affordability Act of 1996. I wish to thank my colleagues, Senators CONNIE MACK and KIT BOND, for their outstanding efforts in crafting and advancing this vitally important piece of legislation to restructure the Department of Housing and Urban Development's [HUD] Federal Housing Administration [FHA] insured and section 8 assisted multifamily housing portfolio. Also,I would like to thank Senator BENNETT for his diligence in confronting the complex issues surrounding our federal multifamily housing programs.

Mr. President, this legislation represents a significant step forward in addressing the complicated and vexing problem of the rising costs of HUD's section 8 assisted housing program. Over the course of the next several years, the costs of renewing expiring section 8 contracts at their current rent levels will skyrocket from $4.3 billion in fiscal year 1997 to $20 billion in fiscal year 2002—a figure which represents the entire existing HUD budget. This is the result of the expiration of long-term housing assistance contracts which were entered into 15 to 20 years ago. In addition, many of these contracts support projects with rents that are far higher than local market rents. While these rising costs are clearly significant and represent a formidable challenge, the expiration of these long-term contracts also presents us with an opportunity to address the oversubsidized and often inflated costs of the section 8 program.

During the course of the past year, the Banking Committee has held hearings and has conducted an ongoing dialogue with residents, lenders, servicers, public officials and leading professionals within the housing community to find a consensus solution to the problems associated with the section 8 program. This legislation represents the culmination of that important effort.

Mr. President, I would like to emphasize the guiding principles of this legislation: To contain the growth of the expanding costs of the section 8 program; to protect existing tenants; to maintain the existing stock of decent, safe and affordable housing for future needs; to remove bad owners and managers; to protect the FHA insurance fund and minimize the liability of the Federal taxpayer; and to provide for local control and flexibility while reducing HUD's administrative burden.

This legislation seeks to: Reduce inflated contract rents to market-rate and budget-based rent levels; screen out bad owners, replace corrupt managers and encourage transfers to resident-supported nonprofit corporations; and provide must needed capital and facilitate private financing to address backlogged maintenance needs. This comprehensive approach will allow us to reduce the costs of the section 8 program while protecting the FHA insurance fund and minimizing the liability of the federal taxpayer. The outstanding debt on the oversubsidized portfolio would be restructured to reflect market rent levels. This debt restructuring would include the continuation of project-based subsidies as well as FHA multifamily insurance. This bill also addresses the significant tax dilemma which would be caused by debt restructuring. In order to avoid adverse tax consequences, a bifurcation of the mortgage into two separate obligations is proposed.

The legislation recognizes the lack of capacity at HUD and seeks to maximize local control and flexibility in carrying out debt restructuring in order to reduce inflated rents. A preference would be provided to State and local housing finance agencies to oversee mortgage workouts. These public entities are ideally suited for this role and are already accountable to the public interest in their own jurisdictions. Also, residents of affected properties would be provided with input in a communitywide consultation process, and will be provided adequate notice, access to information, and an adequate time period for analysis and comment.

In conclusion, let me reiterate my appreciation for my colleagues who made tremendous contributions to the effort to stem this impending crisis. As chairman of the Subcommittee on Housing Opportunity and Community Development, Senator MACK has charted a reasonable and rational course for us to follow. He has utilized a fair and bipartisan approach in the development of this legislation, and should be commended for his efforts. Also, Senator BOND, chairman of the Subcommittee on VA–HUD Appropriations and my fellow colleague on the Banking Committee, has been very instrumental in moving the process forward. Throughout, he has insisted on our continued federal commitment to providing affordable housing and the protection of the interests of existing low and moderate income tenants.

I thank all members of the Banking Committee for their tireless efforts on behalf of affordable housing and look forward to pursuing our bipartisan commitment to resolving the HUD section 8 crisis as expeditiously as possible.

By Mr. KERRY:

S. 2043. A bill to require the implementation of a corrective action plan in States in which child poverty has increased; to the Committee on Finance.

CHILD POVERTY LEGISLATION

Mr. KERRY. Mr. President, the welfare bill we passed this week would allow States to experiment with various welfare policies. Many States may implement innovative welfare policies to move parents from welfare to work. But if we are sending Federal money to States, if we are going to take this risk and allow States to experiment, we must be sure that child poverty does not increase.

There is nothing more important than constantly reminding ourselves that our focus is—or ought to be—this Nation's children. That was the focus when under Franklin Roosevelt's leadership title IV–A of the Social Security Act was originally enacted. The objective here is to help impoverished children.

This bill I am introducing today says that if child poverty increases in a State after the date of enactment of the welfare bill, then that State would be required to submit a corrective action plan. Although a weaker version of my bill passed and was included in the welfare bill, I am introducing this as a separate bill in the hope that ultimately we will be able to pass the strongest possible version.

What would this bill do? This bill says that if the most recent State child poverty rate exceeds the level for the previous year by 5 percent or more then the State would have to submit to the HHS Secretary within 90 days a corrective action plan describing the actions the state shall take to reduce child poverty rates.

Mr. President, I want to be clear that this bill in no way intrudes on a State's ability to design its own welfare program. State flexibility would not be decreased in any way. This bill simply says that if a state's welfare system increases child poverty, that state must take corrective action.

Mr. President, I believe all of us regardless of party can agree on two things at least: We can all agree that the child poverty rate in this country is too high. The fact is that 15.3 million U.S. children live in poverty. This

means that more than 1 in 5 children—21.8 percent—live in poverty. In Massachusetts, there are more than 176,000 children who live in poverty. And despite the stereotypes, Mr. President, the majority of America's poor children are white (9.3 million) and live in rural or suburban areas (8.4 million) rather than central cities (6.9 million).

The other thing on which we can all agree, because it is a fact rather than an opinion, is that the child poverty rate in this country is dramatically higher than the rate in other major industrialized countries. According to an excellent, comprehensive recent report by an international research group called the Luxembourg Income Study, the child poverty rate in the United Kingdom is less than half our rate (9.9 percent), the rate in France is less than one-third of our rate (6.5 percent), and the rate in Denmark (3.3 percent) is about one-sixth our rate.

Mr. President, we know that poverty is bad for children. This should be obvious. Nobel prizewinning economist Robert Solow and the Children's Defense Fund recently conducted the first-ever long-term impact of child poverty. They found that their lowest estimate was that the future cost to society of a single year of poverty for the 15 million poor children is $36 billion in lost output per worker. When they included lost work hours, lower skills, and other labor market disadvantages related to poverty, they found that the future cost to society was $177 billion.

With this bill, I want to make sure that, at the very least, if a State's welfare plan increases child poverty—instead of increasing the number of parents moving from welfare to work and self-sufficiency—that State will take immediate steps to refocus its program.

Mr. President, I urge all my colleagues to support this bill to ensure that welfare reform results in more parents working, not more child poverty.

By Mr. SANTORUM:

S. 2044. A bill to provide for modification of the State agreement under title II of the Social Security Act with the State of Pennsylvania with respect to certain students; to the Committee on Finance.

LEGISLATION HELPING PENNSYLVANIA STUDENTS

Mr. SANTORUM. Mr. President, I wanted to take a few minutes of Senate business today to introduce legislation of importance to the Pennsylvania state system of higher education and to the students enrolled and working at our state-related universities.

The bill is a companion measure to legislation in the House of Representatives. The House proposal was introduced by my friend and distinguished colleague from Pennsylvania, Representative BILL CLINGER.

Mr. President, this legislation will affect students and graduate assistants employed by Pennsylvania's public universities and will allow them to keep more of their pay from campus employment. Currently, student employees of Pennsylvania's State system of higher education are covered under FICA and pay taxes unlike working students at schools in most other states. Only a change in the law would enable Pennsylvania's colleges and universities to exempt their student employees from FICA coverage.

This legislation would make Pennsylvania schools more attractive and competitive with the other states who have opted out of Social Security coverage. Graduate students are often called upon to perform paid assistant teaching duties. The current system and application of FICA coverage does not make Pennsylvania institutions as competitive with other out of state graduate programs.

If a student or graduate student compares their employment earning possibilities with other states, Pennsylvania students are at a distinct disadvantage. At a time in young adults' lives when resources are usually limited, it makes practical sense to free up more funds for student employees who are working hard toward their educational goals.

Today, colleges and universities are being called upon to downsize and make better use of dollars. This legislation is an easy way to support individuals who are attaining goals while attending Pennsylvania state-related universities.

By Mr. HATFIELD:

S. 2045. A bill to provide regulatory relief for small business concerns, and for other purposes; to the Committee on Small Business.

THE NATIONAL SMALL BUSINESS REGULATORY RELIEF ACT

Mr. HATFIELD. Mr. President, one of the most common small business complaints my constituents bring to my attention is the issue of burdensome government regulations. As we all recognize, small businesses rarely have the expertise or resources necessary to keep up to date with changing Federal requirements. Consequently, many small businesses are not in compliance with Federal regulations and face potential fines. Fines or costly compliance procedures can be devastating to small businesses which characteristically operate at a very narrow profit margin.

All across this Nation conscientious small business owners are frustrated with Federal regulations simply because they cannot get concise and specific answers to their compliance questions. How can we realistically expect to increase environmental protection, work place safety or tax compliance, if these respective agency's regulations are so complex that professionals in these fields cannot determine the meanings and applications of these rules? While our regulatory reform efforts have done much to change the rulemaking process and the sheer volume of regulations, very little has been done to translate rules written by bureaucrats into easy to understand language that the owner of any small firm can implement.

Mr. President, according to a 1995 study by the Small Business Administration's Office of Advocacy, 94 percent of small businesses were unsure of what they needed to do to comply with Federal regulations. The same study revealed that it is difficult, if not impossible, for small businesses to obtain concise answers to compliance questions from a Federal agency. It is no wonder that so many business owners, who have honestly believed they were in compliance, have either lost or had their businesses crippled because they were uninformed or misunderstood Federal regulations which applied to them.

Congress has considered several proposals which would scale back intrusive Federal regulations. However, we must realize that Federal regulations will continue in some capacity. Consequently, it is vital to establish a mechanism which assists small businesses in complying with these regulations.

The Small Business Development Centers have established themselves as a valuable resource for small businesses. They have an existing network of over 950 centers nationwide which have been providing education and technical assistance to small business owners for years.

The Oregon Small Business Development Center Network has distinguished itself as a national model of how SBDC's can play an integral role in ensuring the success of small businesses. In April 1995 I conducted a field hearing in Portland, OR on a proposal to expand the responsibilities of the SBDC's to include regulatory compliance assistance. At that hearing, I heard from several Oregon small business owners who testified about their experience with the Oregon Small Business Development Center Network and the positive benefits these centers have had on small businesses in the State of Oregon.

The proposal to accomplish a shift in Federal regulatory policy from enforcement to education was at a conceptual stage at the time of the Oregon field hearing. However, this idea was extremely intriguing and the small business owners who discussed this issue were impressive in conveying their vision for the future of this proposal. Since that time, I have worked with the National Association of Small Business Development Center and the Director of the Oregon SBDC Network to develop this concept into the legislation I am introducing today.

The National Small Business Regulatory Relief Act provides comprehensive regulatory assistance to small firms by enlisting the nationwide network of over 950 Small Business Development Centers (SBDC's). Over 550,000 small businesses each year seek SBDC

help in drafting business plans and expansion strategies, developing financing and marketing tactics, improving management and personnel skills, and addressing many other business needs. The locally controlled and managed SBDC network's long-standing confidentiality policy and its proven track record of success make it an ideal, cost-effective and user-friendly delivery system for meaningful compliance assistance. Even though SBDC's are funded by all 50 States and the Federal Government they do not have enough resources to provide the regulatory help small businesses so desperately need.

Mr. President this legislation provides the resources necessary to expand SBDC assistance, creating a one-stop shop business resource that can explain how a company's marketing, finance, personnel, international trade, procurement and technology strategies comport with the regulatory requirements of EPA, OSHA, and IRS. The result will be a holistic delivery system of business assistance that will not only increase compliance with today's regulations, but will help small businesses bring about a cleaner environment, safer work place and better tax compliance. Most importantly, by utilizing the vast SBDC network, the cost of making comprehensive regulatory assistance available to all of America's small businesses is minimized for a program of this magnitude.

This legislation authorizes appropriations to the Occupational Safety and Health Administration, the Environmental Protection Agency and the Internal Revenue Service to accomplish the goals I described earlier. However, I would like to point out that similar legislation has been introduced in the House of Representatives which directs each of these three Federal agencies to set-aside a percentage of their overall budget for SBDC compliance assistance activities. While I sympathize with the intentions of the House sponsors of this measure to use existing funds for this program, as Chairman and a longtime member of the Senate Appropriations Committee I feel the appropriations process is the proper way to distribute Federal discretionary dollars. I believe that the goals of this proposal can be accomplished using existing Federal dollars.

Mr. President, America's small businesses are frustrated by the current Federal regulatory situation and have been pleading for help. The National Small Business Regulatory Relief Act is a creative approach towards balancing economic growth with regulatory compliance. I urge my colleagues to join me in this important effort to assist our Nation's small businesses in complying with Federal regulations.

I ask unanimous consent that a letter from the Oregon Small Business Development Center Network in support of this legislation be included in the RECORD.

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

OREGON SMALL BUSINESS DEVELOPMENT CENTER NETWORK,
Eugene, OR, January 8, 1996.

Hon. MARK O. HATFIELD,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR HATFIELD: Thank you for taking time from your busy schedule to meet with me and John Eskildsen regarding the Oregon Small Business Development Center Network and the National Small Business Extension Network proposal. We appreciate your strong support and advocacy for the OSBDCN and the NSBEN proposal.

I believe that the NSBEN proposal represents a tremendous opportunity to reduce the federal regulatory burden on small business while simultaneously reducing the federal budget. This legislation, if enacted, will enable small business owners in Oregon and throughout the United States to meet federal regulatory standards without fear of reprisal.

Thank you again for your leadership and support for small business.

Sincerely,

SANDY CUTLER,
State Director, Oregon Small Business Development Center Network.

By Mr. ROCKEFELLER:

S. 2046. A bill to amend section 29 of the Internal Revenue Code of 1986 to allow a credit for qualified fuels produced from wells drilled during 1997, and for other purposes; to the Committee on Finance.

THE MARGINAL WELL DRILLING INCENTIVE ACT OF 1996

Mr. ROCKEFELLER. Mr. President, today I offer a bill that is very important to my State of West Virginia, and can benefit the entire Nation. This very small bill will have a very big impact on the ability of small oil and gas producers in my State and across the Nation to compete. The bill creates a new tax incentive, modeled on the old section 29 tax credit, to help small marginal well drillers.

I offer this with a measure of frustration, based on the fact that while Congress managed to incorporate a great number of narrowly targeted amendments into the small business tax bill passed today, the final bill did not include this provision that I propose today. I am pleased that the tax package includes an extension of the part of section 29 dealing with facilities that manufacture gas from biomass and coal. That is helpful to a variety of States, including West Virginia. But for less than one tenth the cost of that provision, we could and should have done something to help drillers get gas from devonian shale and other nonconventional sources.

The original section 29 credit for drilling expired in 1992 after some of the larger gas companies in this country put emphasis on getting relief from the alternative minimum tax instead of renewing section 29. They got that, but it didn't help a lot of the smaller drillers, which happen to include most of the gas producers in West Virginia.

Mr. President, I'd like the record to show that since the credit expired, drilling for margin gas wells in West Virginia has dropped off by more than 30 percent. In 1992, the last year of the credit, 760 wells were drilled in West Virginia. By 1995, that number had fallen to 530 wells. In that same timeframe, the number of rigs actively drilling wells in the Appalachian basin declined from 73 to 45—a 48-percent decline. That translates directly into jobs, as the average rig employs about 25 people. When you add to that all the jobs associated with a well (from transportation to bookkeeping), you have a job loss of more than 1,500 in the Appalachian Basin, which stretches from New York to Kentucky, and from Ohio to Virginia.

Mr. President, this is about more than jobs. I have spoken in the past of the great problem our Nation has with oil dependency. Following the oil shocks of the 1970's, Congress made a concerted effort to help ease our dependency on foreign energy sources. That effort showed much success in the 1980's when imports fell by more than 40 percent from 1970's highs. However, the 1990's have seen import totals steadily rise, to today when more than 50 percent of our oil is imported. In fact, Mr. President, the biggest 1-year rise in imports since 1986 came in the year following the expiration of section 29, in 1993.

The Senate knows well the problem raised by energy dependency. The Gulf war was fought largely to protect our foreign oil sources in the Middle East, and 19 brave American soldiers died in June for that very same cause. Our energy dependency, in addition to years of cheap oil and an exceptionally harsh winter, also led to the outrage earlier this spring when gas prices at the pump rose steeply.

For all these reasons, Mr. President, it is important that we foster the development of new sources of domestic energy. Gas in my State, and many others, is hard to get at. It is locked in rock formations that yield their fuel much more slowly, and at lower profits, than wells in the oil patch out West.

This bill is specifically designed to offer a very modest incentive to those producers, when the price of natural gas gets so low that they can't make a profit from their wells. Unlike the original section 29, the credit will be available only for the first 10 million cubic feet of gas produced each year by each well. Additionally, the credit will only be available to wells that produce less than 100 million cubic feet of gas per year.

Mr. President, I have intentionally limited the scope of this bill so that it is only available to smaller wells, and only there, for a limited amount of gas. The idea behind this bill is not to have a big giveaway for big oil and gas producers. But instead, it is designed to give a little bit of insurance to risk-taking drillers who make their living tilling nonconventional sources for fuel.

This is a modest bill, but one that can make a big difference in certain places that have the potential for more prosperity, more job growth, and more economic growth like West Virginia. Reviving and revising section 29 will put an incentive in place to seize more of this potential while reducing the entire country's dependence in foreign oil. I urge the Senate to find a way to make this bill a reality—the sooner, the better.

By Mr. HATCH (for himself, Mr. CONRAD, Mr. PRESSLER, Mr. PRYOR, Mr. NICKLES, and Mr. BAUCUS):

S. 2047. A bill to amend the Internal Revenue Code of 1986 to modify the application of the pension nondiscrimination rules to governmental plans; to the Committee on Finance.

NONDISCRIMINATION RULES FOR GOVERNMENT PENSION PLANS LEGISLATION

Mr. HATCH. Mr. President, I rise today to introduce legislation with Senators CONRAD, PRESSLER, PRYOR, NICKLES, and BAUCUS that would make permanent the current moratorium on the application of the pension nondiscrimination rules to State and local government pension plans.

For nearly 20 years, State and local government pension plans have been deemed to satisfy the complex nondiscrimination rules of the Internal Revenue Code for qualified retirement plans until Treasury can figure out how or if these rules are applicable to unique Government pension plans. This bill simply puts an end to this stalled process and dispels over 20 years of uncertainty for administrators of State and local retirement plans. Let me summarize the evolution of this issue and why this bill is being introduced today.

Mr. President, the Federal Government has a long-established policy of encouraging tax deferred retirement savings. Most retirement plans that benefit employees are employer sponsored tax deferred retirement plans. Over the years, Congress has required that these plans meet strict nondiscrimination standards designed to ensure that they do not provide disproportionate benefits to business owners, officers, or highly compensated individuals.

In response to the growing popularity of employer sponsored tax deferred pension plans, Congress passed the Employee Retirement Income Security Act [ERISA] in 1974 to enhance the rules governing pension plans. However, during consideration of ERISA Congress recognized that nondiscrimination rules for private pension plans were not readily applicable to public pension plans because of the unique nature of governmental employers. Former Representative Ullman, during Ways and Means Committee consideration of ERISA, stated, ''The committee exempted Government plans from the new higher requirements because adequate information is not now available to permit a full understanding of the impact these new requirements would have on Governmental plans.'' Thus, Congress was not prepared to apply nondiscrimination rules to public plans. After studying the issue, the Internal Revenue Service on August 10, 1977, issued News Release IR–1869, which stated that issues concerning discrimination under State and local government retirement plans would not be raised until further notice. Thus, an indefinite moratorium was placed on the application of the new rules to government plans.

In 1986, Congress passed the Tax Reform Act of 1986, which made further changes to pension laws and the general nondiscrimination rules. On May 18, 1989, the Department of the Treasury, in proposed regulations, lifted the 12-year public sector moratorium and required that public sector plans comply with the new rules immediately. However, further examination revealed, and Treasury and the IRS recognized, that a separate set of rules was required for State and local government plans because of their unique features. Consequently, through final rules issued in September 1991, the Treasury reestablished the moratorium on a temporary basis until January 1, 1993, and solicited comments for consideration. In addition, government pension plans were deemed to satisfy the statutory nondiscrimination requirements for years prior to 1993. Since then, the moratorium has been extended three more times, the latest of which began this year and is in effect until 1999.

Mr. President, here we are, in August 1996, 22 years since the passage of ERISA and State and local government pension plans are still living under the shadow of having to comply with the cumbersome, costly, and complex nondiscrimination rules. Experience over the past 20 years has shown that the existing nondiscrimination rules have limited utility in the public sector. Furthermore, the long delay in action illustrates the seriousness of the problem and the doubtful issuance of nondiscrimination regulations by the Department of the Treasury.

Mr. President, last year during consideration of another extension of the moratorium, a coalition of associations representative of State and local governmental plans summarized their current position in a letter to IRS Commissioner Margaret Richardson dated October 13, 1995.

> In our discussions with Treasury over the past two years, there have been no abuses or even significant concerns identified that would warrant the imposition of such a cumbersome thicket of federal rules on public plans that already are the subject of State and local government regulation.
>
> Accordingly, while we always remain open to further discussion, as our Ways and Means statement indicates the experience of the past two years in working with Treasury to develop a sensible and workable set of nondiscrimination rules for governmental plans has convinced us that the task ultimately is a futile one—portending tremendous cost, complexity, and disruption of sovereign State operations in the absence of any identifiable problem.

Mr. President, the sensible conclusion of this 20 year exercise is to admit that the Treasury is not likely to issue regulations for State and local pension plans and Congress should make the temporary moratorium permanent.

Furthermore, there are examples to support this legislation. Relief from the pension nondiscrimination rules is not a new concept. Multiemployer plans are currently not covered by the nondiscrimination rules under the theory that labor-management collective bargaining will ensure nondiscriminatory treatment to rank-and-file workers. In reality, Mr. President, State and local government pension plans face an even higher level of scrutiny. State law generally requires publicly elected legislators to amend the provisions of a public plan. Electoral accountability to the voters and media scrutiny serve as protections against abusive and discriminatory benefits.

Moreover, further precedent exists for Congress to grant relief from the nondiscrimination rules. In 1986, the Congress established the Thrift Savings Fund for Federal employees. As originally enacted, the Fund was required to comply with the 401(k) nondiscrimination rules on employee contributions and matching contributions to the fund. However, in 1987, as part of a Continuing Appropriations Act for 1988, the Congress passed a provision that made these nondiscrimination rules inapplicable to the Federal Thrift Savings Fund. Thus, Congress has reaffirmed the need to treat Governmental pension plans as unique.

Mr. President, this legislation is not sweeping nor does it grant any new treatment to these plans. Because of moratorium, governmental plans are currently treated as satisfying the nondiscrimination rules. Lifting the moratorium would impose on governmental pension plans the costly task of testing for discrimination when no significant abuses or concerns exist. In fact, finally imposing these rules may require benefits to be reduced for State and local government employees and force costly modifications to these retirement plans. This legislation coincides with the principle of allowing a State to enjoy the right to determine the compensation of its employees.

Mr. President, with another expiration of the moratorium looming in the future, I believe it is time to address this issue. I am under no delusion that it will be resolved quickly. The complexities of these rules and the uniqueness of governmental plans have brought us to where we are today. I believe that as members better understand the history of this issue they will agree with us that the appropriate step is to end this uncertainty and make the temporary moratorium permanent.

Mr. President, I ask unanimous consent that the text of the bill be printed following my remarks.

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

S. 2047

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

SECTION 1. MODIFICATIONS TO NONDISCRIMINATION AND MINIMUM PARTICIPATION RULES WITH RESPECT TO GOVERNMENTAL PLANS.

(a) GENERAL NONDISCRIMINATION AND PARTICIPATION RULES.—

(1) NONDISCRIMINATION REQUIREMENTS.—Paragraph (5) of section 401(a) of the Internal Revenue Code of 1986 (relating to qualified pension, profit-sharing, and stock bonus plans) is amended by adding at the end the following new subparagraph:

''(F) GOVERNMENTAL PLANS.—Paragraphs (3) and (4) shall not apply to a governmental plan (within the meaning of section 414(d)).''

(2) ADDITIONAL PARTICIPATION REQUIREMENTS.—Subparagraph (H) of section 401(a)(26) of such Code is amended to read as follows:

''(H) EXCEPTION FOR GOVERNMENTAL PLANS.—This paragraph shall not apply to a governmental plan (within the meaning of section 414(d)).''

(3) MINIMUM PARTICIPATION STANDARDS.—Paragraph (2) of section 410(c) of such Code is amended to read as follows:

''(2) A plan described in paragraph (1) shall be treated as meeting the requirements of this section for purposes of section 401(a), except that in the case of a plan described in subparagraph (B), (C), or (D) of paragraph (1), this paragraph shall only apply if such plan meets the requirements of section 401(a)(3) (as in effect on September 1, 1974).''

(b) PARTICIPATION STANDARDS FOR QUALIFIED CASH OR DEFERRED ARRANGEMENTS.—Paragraph (3) of section 401(k) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

''(E)(i) The requirements of subparagraph (A)(i) and (C) shall not apply to a governmental plan (within the meaning of section 414(d)).

''(ii) The requirements of subsection (m)(2) (without regard to subsection (a)(4)) shall apply to any matching contribution of a governmental plan (as so defined).''

(c) NONDISCRIMINATION RULES FOR SECTION 403(b) PLANS.—Paragraph (12) of section 403(b) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

''(C) GOVERNMENTAL PLANS.—For purposes of paragraph (1)(D), the requirements of subparagraph (A)(i) shall not apply to a governmental plan (within the meaning of section 414(d)).''

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning on or after the date of enactment of this Act.

(2) TREATMENT FOR YEARS BEGINNING BEFORE DATE OF ENACTMENT.—A governmental plan (within the meaning of section 414(d) of the Internal Revenue Code of 1986) shall be treated as satisfying the requirements of sections 401(a)(3), 401(a)(4), 401(a)(26), 401(k), 401(m), 403 (b)(1)(D) and (b)(12), and 410 of such Code for all taxable years beginning before the date of enactment of this Act.

By Mr. MOYNIHAN (for himself, Mr. D'AMATO, and Mr. DODD):

S. 2048. A bill to amend section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act), to provide for disclosure of information relating to individuals who committed Nazi war crimes, and for other purposes; to the Committee on the Judiciary.

WAR CRIMES DISCLOSURE ACT

Mr. MOYNIHAN. Mr. President, today I am joined by Senators D'AMATO and DODD in introducing the War Crime Disclosure Act. This legislation is a companion measure to a bill pending in the House, H.R. 1281, sponsored by Representative MALONEY.

The measure is a simple one. It requires the disclosure of information under the Freedom of Information Act regarding individuals who participated in Nazi war crimes.

Ideally, such documents would be made available to the public without further legislation and without having to go through the slow process involved in getting information through the Freedom of Information Act [FOIA]. Unfortunately this is not the case. Researchers seeking information on Nazi war criminals are denied access to relevant materials in the possession of the United States Government, even when the disclosure of these documents no longer pose a threat to national security—if indeed they ever did.

With the passing of time it becomes ever more important to document Nazi war crimes, lest the enormity of those crimes be lost to history. The greater access which this legislation will provide will add clarity of this important effort. I applaud those researchers who continue to pursue this important work.

I would also like to call to the attention of my colleagues the excellent work of the Office of Special Investigations of the Department of Justice. This office has a monumental task and I would not wish to add to that burden or divert its officials from their primary goal of pursuing Nazi war criminals. To that end, I would note that this legislation does not apply to the Office of Special Investigations, as it is not identified in paragraph (1)(B) of the bill as a ''specified agency.'' I would also add that there is a provision in the bill which specifically prohibits the disclosure of information which would compromise the work of the Office of Special Investigations.

Mr. President, I would like to thank Representative MALONEY for her original work on this subject in the House of Representatives. I would also thank Senators D'AMATO and DODD for joining me in this effort here in the Senate. Finally, I would be remiss if I did not pay special tribute to A.M. Rosenthal, whose indefatigable efforts on this subject are as admirable as they are effective.

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

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

S. 2048

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 ''War Crimes Disclosure Act''.

SEC. 2. REQUIREMENT FOR DISCLOSURE UNDER FOIA OF INFORMATION RELATING TO INDIVIDUALS WHO COMMITTED NAZI WAR CRIMES.

(a) IN GENERAL.—Section 552 of title 5, United States Code, is amended—

(1) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively; and

(2) by inserting after subsection (c) the following new subsection:

''(d)(1)(A) Notwithstanding subsection (b), this section shall apply to any matter in the possession of a specified agency, that relates to any individual as to whom there exists reasonable grounds to believe that such individual, during the period beginning on March 23, 1933, and ending on May 8, 1945, under the direction of or in association with—

''(i) the Nazi Government of Germany,

''(ii) any government in any area occupied by the military forces of the Nazi Government of Germany,

''(iii) any government established with the assistance or cooperation of the Nazi government of Germany, or

''(iv) any government that was an ally of the Nazi government of Germany,

ordered, incited, assisted or otherwise participated in the persecution of any person because of race, religion, national origin, or political opinion.

''(B) For purposes of subparagraph (a), the term 'specified agency' means the following entities, any predecessors of such an entity, and any component of such an entity (or of such a predecessor):

''(i) The Central Intelligence Agency.

''(ii) The Department of Defense.

''(iii) The National Security Agency.

''(iv) The National Security Council.

''(v) The Department of State.

''(vi) The Federal Bureau of Investigation.

''(vii) The United States Information Agency.

''(2)(A) Except as provided in subparagraph (B), Paragraph (1) shall not apply to the disclosure of any matter when there is clear and convincing evidence that such disclosure would—

''(i) reasonably be expected to constitute an unwarranted invasion of personal privacy;

''(ii) pose a current threat to military defense, intelligence operations, or the conduct of foreign relations of the United States;

''(iii) reveal an intelligence agent whose identity currently requires protection;

''(iv) compromise an understanding of confidentiality currently requiring protection between an agent of the Government and a cooperating individual or a foreign government;

''(v) constitute a substantial risk of physical harm to a living person who provided confidential information to the United States; or

''(vi) compromise an enforcement investigation,inquiry, or prosecution by the Office of Special Investigations of the Department of Justice.

''(B) Subparagraph (A) shall only apply to records, information, or other relevant matter which is—

''(i) properly classified; and

''(ii) the protection of which outweighs the public interest in disclosure.

''(3) Any reasonably segregable portion of a matter referred to in paragraph (2) shall be provided, after deletion of all portions of the matter that are referred to in such subparagraph, to any person requesting the matter

under this section if the reasonably segregable portion of the matter would otherwise be required to be disclosed under this section.

''(4) In the case of a request under this section for any matter required to be disclosed under this subsection, if the agency receiving such request is unable to locate the records so requested, such agency shall promptly supply, to the person making such a request, a description of the steps which were taken by such agency to search the indices and other locator systems of the agency to determine whether such records are in the possession or control of the agency.''.

(b) INAPPLICABILITY OF NATIONAL SECURITY ACT OF 1947 EXEMPTION.—Section 701 of the National Security Act of 1947 (50 U.S.C. 431) is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

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

''(e) Subsection (a) shall not apply to any operational file, or any portion of any operational file, described under section 552(d) of title 5, United States Code (Freedom of Information Act).''.

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall apply to requests made after the expiration of the 180-day period beginning on the date of the enactment of this Act.

ADDITIONAL COSPONSORS

S. 607

At the request of Mr. AKAKA, his name was added as a cosponsor of S. 607 a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to clarify the liability of certain recycling transactions, and for other purposes.

S. 1487

At the request of Mr. GRAMM, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 1487 a bill to establish a demonstration project to provide that the Department of Defense may receive medicare reimbursement for health care services provided to certain medicare-eligible covered military beneficiaries.

S. 1493

At the request of Mr. LAUTENBERG, the name of the Senator from Oregon [Mr. WYDEN] was added as a cosponsor of S. 1493, a bill to amend title 18, United States Code, to prohibit certain interstate conduct relating to exotic animals.

S. 1542

At the request of Mr. LEVIN, his name was added as a cosponsor of S. 1542, a bill to amend the Internal Revenue Code of 1986 to provide for the expensing of environmental remediation costs in empowerment zones and enterprise communities.

S. 1662

At the request of Mr. HATFIELD, the name of the Senator from Oregon [Mr. WYDEN] was added as a cosponsor of S. 1662, a bill to establish areas of wilderness and recreation in the State of Oregon, and for other purposes.

S. 1735

At the request of Mr. PRESSLER, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 1735, a bill to establish the United States Tourism Organization as a nongovernmental entity for the purpose of promoting tourism in the United States.

S. 1820

At the request of Mr. DASCHLE, the name of the Senator from Washington [Mrs. MURRAY] was added as a cosponsor of S. 1820, a bill to amend title 5 of the United States Code to provide for retirement savings and security.

S. 1821

At the request of Mr. DASCHLE, the name of the Senator from Washington [Mrs. MURRAY] was added as a cosponsor of S. 1821, a bill to amend the Internal Revenue Code of 1986 to provide for retirement savings and security.

S. 1832

At the request of Ms. MIKULSKI, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of S. 1832, a bill to amend title II of the Social Security Act to provide that a monthly insurance benefit thereunder shall be paid for the month in which the recipient dies, subject to a reduction of 50 percent if the recipient dies during the first 15 days of such month, and for other purposes.

S. 1892

At the request of Mr. LAUTENBERG, the name of the Senator from Illinois, [Mr. SIMON] was added as a cosponsor of S. 1892, a bill to reward States for collecting medicaid funds expended on tobacco-related illnesses, and for other purposes.

S. 1900

At the request of Mr. DORGAN, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 1900, a bill to amend title XVIII and XIX of the Social Security Act to permit a waiver of the prohibition of offering nurse aide training and competency evaluation programs in certain nursing facilities.

S. 1901

At the request of Mr. DORGAN, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 1901, a bill to amend title XIX of the Social Security Act to repeal the requirement for annual resident review for nursing facilities under the Medicaid program and to require resident reviews for mentally ill or mentally retarded residents when there is a significant change in physical or mental condition.

S. 1944

At the request of Mr. HATFIELD, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 1944, a bill to establish a commission to be known as the Harold Hughes Commission on Alcoholism.

SENATE RESOLUTION 277

At the request of Mr. CRAIG, the name of the Senator from Kansas [Mrs. FRAHM] was added as a cosponsor of Senate Resolution 277, a resolution to express the sense of the Senate that, to ensure continuation of a competitive free-market system in the cattle and beef markets, the Secretary of Agriculture and Attorney General should use existing legal authorities to monitor commerce and practices in the cattle and beef markets for potential antitrust violations, the Secretary of Agriculture should increase reporting practices regarding domestic commerce in the beef and cattle markets (including exports and imports), and for other purposes.

SENATE CONCURRENT RESOLUTION 68—TO CORRECT THE ENROLLMENT OF H.R. 3103

Mr. WELLSTONE (for himself, Mr. KENNEDY, and Mr. WYDEN) submitted the following resolution; which was considered and agreed to:

S. CON. RES. 68

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the bill (H.R. 3103) entitled ''An Act to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term care services and coverage, to simplify the administration of health insurance, and for other purposes'', the Clerk of the House of Representatives shall make the following correction:

Strike subtitle H of title II.

SENATE CONCURRENT RESOLUTION 69—RELATIVE TO EUTHANASIA DURING WORLD WAR II

Mr. SANTORUM (for himself and Mrs. FEINSTEIN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 69

Whereas Dr. Hans Joachim Sewering was a member of the Nazi party beginning on November 11, 1933, as well as a member of the SS;

Whereas Dr. Sewering served as staff physician and medical director at the Schoenbrunn Sanitarium beginning in 1942;

Whereas, between 1943 and 1945, under Dr. Sewering's supervision, 909 German Catholic mentally and physically disabled patients, mainly children, were transferred from the sanitarium to a ''Healing Center'' at Eglfing-Haar;

Whereas, subsequently, these patients were killed by starvation and an overdose of a sleeping drug, Luminal;

Whereas there is documentation with Dr. Sewering's signature on its that transfers a 14-year-old epileptic girl names Babette Frowis from the sanitarium to the healing center on October 26, 1943;

Whereas Babette Frowis was pronounced dead on November 16, 1943, just 15 days after being transferred there by Dr. Sewering;

Whereas Dr. Sewering has enjoyed a successful and lengthy medical career after the war, most recently acting as the President of the Federal Physicians Chamber in Germany;

Whereas 4 Franciscan nuns, who worked in the sanitarium at the time these acts occurred, came forward in January of 1993 to corroborate the accusations against Dr. Sewering made by physicians in Germany;

Whereas these nuns broke a 50-year-long vow of silence at the suggestion of the Bishop of Munich to expose Dr. Sewering and share their accounts of the patients;

Whereas these being elected president-elect of the World Medical Association in 1993, protest by the American Medical Association about his alleged crimes led Dr. Sewering to resign as president-elect;

Whereas the German Government has never conducted a criminal inquiry or indicted Dr. Sewering;

Whereas the German Government has all of the patient records, including the signature of the doctor that ordered the transfers to the ''Healing Center'', in a government archival center, and these records have never been examined by government prosecutors; and

Whereas the German Government has so far protected this criminal: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the German Government should investigate and prosecute Dr. Hans Joachim Sewering for his war crimes of active euthanasia and crimes against humanity committed during World War II.

Mr. SANTORUM. Mr. President, I rise today to submit a concurrent resolution with my colleague Senator FEINSTEIN and to give a few remarks on the Holocaust. Mr. President, many Americans probably have the opinion that we have closed the door on the Holocaust. In fact, we have a museum here in Washington that stands as a reminder of this black mark in our history. Unfortunately, the very submission of this concurrent resolution tells us that this chapter has not yet been closed.

By way of background, my father- and mother-in-law, Dr. Ken and Betty Lee Garver, have done extensive research on the medical history of Nazi war time. In their continued work within the medical community, they have come in contact with Dr. Michael Franzblau from California. It is Dr. Franzblau who brought to our attention the background and history of a German doctor who was a member of the Nazi party and referred many of Germany's disabled and afflicted to ''healing centers'' or death camps during the 1940's.

Of the millions of victims of World War II, it is the faces of the children we remember most, like the face of Babette Frowis. Babette Frowis was a 14-year-old child who suffered from epilepsy. She was sent to the Schoenbrunn Sanitarium in 1943 when Adolf Hitler began ''cleansing'' the German race. The Medical Director of the Sanitarium, Dr. Hans Joachim Sewering, then transferred her to the Healing Center at Eglfing-Haar on October 26, 1943. Twenty-one days later, on November 16, 1943, she was pronounced dead.

Babette Frowis was not the only one. It is estimated that between 1942 and 1945, 909 patients, the overwhelming majority of whom were children, were transferred to the ''Healing Center'' for extermination, under Dr. Sewerings' command. At Eglfing-Haar, the children were subjected to a mixture of starvation and an overdose of a sleeping drug, Luminal. Authorities at the center saw this method as a low cost way of disposing of disabled children.

Dr. Sewering was a member of the Nazi party, as well as the Medical Director of the Sanitarium. When the war ended, Dr. Sewering went on to enjoy a full and rewarding medical career in Bavaria. In 1993 he became the president-elect of the World Medical Association, but after protest he resigned. Shortly after this, the Department of Justice placed Dr. Sewering on the ''watch list'' thereby preventing his entry into the United States. Dr. Sewering, at the age of 78, still practices medicine in Bavaria.

I have been in contact with the German Ambassador on this matter requesting an explanation and information on behalf of the German Government as to why Dr. Sewering has not been investigated and why the documents regarding the transfer of patients have not been made public. This concurrent resolution expresses the Sense of Congress that the German Government should investigate and prosecute Dr. Sewering for his war crimes of active euthanasia and crimes against humanity committed during World War II.

I appreciate the interest and joint sponsorship of Senator FEINSTEIN, and look forward to working with her as we continue to draw the attention of Congress to this situation and ultimately action by the German Government.

SENATE CONCURRENT RESOLUTION 70—DIRECTING THE CLERK OF THE HOUSE OF REPRESENTATIVES

Mr. MURKOWSKI submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 70

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the bill (H.R. 1975) to improve the management of royalties from Federal and Outer Continental Shelf oil and gas leases, and for other purposes, the Clerk of the House of Representatives shall make the following corrections:

(1) On page 5, line 23, strike the word ''provision'' and insert in lieu thereof the word ''provisions''.

(2) On page 29, line 23, insert the word ''so'' before the word ''demonstrate''.

(3) On page 36, line 2, insert the word ''not'' after the word ''shall''.

(4) On page 36, line 19, strike the word ''rate'' and insert in lieu thereof the word ''date''.

(5) On page 36, line 24, strike the word ''owned'' and insert in lieu thereof the word ''owed''.

(6) On page 39, line 8, strike the word ''dues'' and insert in lieu thereof the word ''due''.

(7) On page 44, line 24, strike the word ''it'' and insert in lieu thereof the word ''its''.

SENATE RESOLUTION 287—TO AUTHORIZE THE PRODUCTION OF RECORDS BY THE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 287

Whereas, the Office of the Attorney General of the State of New Jersey has requested that the Permanent Subcommittee on Investigations provide it with copies of Subcommittee records in connection with a licensing investigation that the Office is currently conducting;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that documents, papers, and records under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved, That the Chairman and Ranking Minority Member of the Permanent Subcommittee on Investigations, acting jointly, are authorized to provide to the Office of the Attorney General of the State of New Jersey copies of Subcommittee records that the Office has requested for use in connection with its pending licensing investigation.

Mr. LOTT. Mr. President, the Permanent Subcommittee on Investigations has received a request from the New Jersey Attorney General's Office for copies of subcommittee records relevant to a background investigation that the Office is conducting in connection with a solid waste disposal company's licensing application.

In the course of drug enforcement hearings in the mid-1970s, the subcommittee investigated allegations relating to an individual who was then a federal drug enforcement official and is now a principal in the solid waste firm seeking licensure from the State of New Jersey. The Attorney General's Office is seeking access to subcommittee records to enable the Office to fulfill its responsibilities under state law to conduct a thorough background investigation of this individual.

Mr. President, this resolution would authorize the chairman and ranking minority member of the Permanent Subcommittee on Investigations, acting jointly, to provide subcommittee records in response to this request.

AMENDMENTS SUBMITTED

THE FOOD AND GROCERY PRODUCTS DONATION ACT OF 1996

LEAHY AMENDMENT NO. 5148

Mr. SANTORUM (for Mr. LEAHY) proposed an amendment to the bill (H.R. 2428) to encourage the donation of food and grocery products to nonprofit organizations for distribution to needy individuals by giving the Model Good Samaritan Food Donation Act the full force and effect of law.

Beginning on page 2, strike line 16 and all that follows through page 3, line 11, and insert the following:

(C) by striking subsection (c) and inserting the following:

''(c) LIABILITY FOR DAMAGES FROM DONATED FOOD AND GROCERY PRODUCTS.—

''(1) LIABILITY OF PERSON OR GLEANER.—A person or gleaner shall not be subject to civil or criminal liability arising from the nature, age, packaging, or condition of apparently wholesome food or an apparently fit grocery product that the person or gleaner donates in good faith to a nonprofit organization for ultimate distribution to needy individuals.

''(2) LIABILITY OF NONPROFIT ORGANIZATION.—A nonprofit organization shall not be subject to civil or criminal liability arising from the nature, age, packaging, or condition of apparently wholesome food or an apparently fit grocery product that the nonprofit organization received as a donation in good faith from a person or gleaner for ultimate distribution to needy individuals.

''(3) EXCEPTION.—Paragraphs (1) and (2) shall not apply to an injury to or death of an ultimate user or recipient of the food or grocery product that results from an act or omission of the person, gleaner, or nonprofit organization, as applicable, constituting gross negligence or intentional misconduct.''.

KENNEDY AMENDMENT NO. 5149

Mr. SANTORUM (for Mr. KENNEDY) proposed an amendment to the bill, H.R. 2428, supra; as follows:

On page 2, line 8, insert ''the title heading and'' before ''sections''.

On page 2, strike line 15 and insert the following: Samaritan'';

(C) in subsection (b)(7), to read as follows:

''(7) GROSS NEGLIGENCE.—The term 'gross negligence' means voluntary and conscious conduct (including a failure to act) by a person who, at the time of the conduct, knew that the conduct was likely to be harmful to the health or well-being of another person.'';

On page 3, line 11, strike the period and insert ''; and''.

On page 3, between lines 11 and 12, insert the following:

(E) in subsection (f), by adding at the end the following: ''Nothing in this section shall be construed to supercede State or local health regulations.''

On page 4, after line 1, insert the following:

(c) CONFORMING AMENDMENT.—The table of contents for the National and Community Service Act of 1990 is amended by striking the items relating to title IV.

THE OREGON RESOURCE CONSERVATION ACT OF 1996 OPAL CREEK WILDERNESS AND OPAL CREEK SCENIC RECREATION AREA ACT OF 1996

HATFIELD AMENDMENT NO. 5150

Mr. HATFIELD proposed an amendment to the bill (S. 1662) to establish areas of wilderness and recreation in the State of Oregon, and for other purposes; as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Oregon Resource Conservation Act of 1996''.

TITLE I—OPAL CREEK WILDERNESS AND SCENIC RECREATION AREA

SEC. 101. SHORT TITLE.

This title may be cited as the ''Opal Creek Wilderness and Opal Creek Scenic Recreation Area Act of 1996''.

SEC. 102. DEFINITIONS.

In this title:

(1) BULL OF THE WOODS WILDERNESS.—The term ''Bull of the Woods Wilderness'' means the land designated as wilderness by section 3(4) of the Oregon Wilderness Act of 1984 (Public Law 98–328; 16 U.S.C. 1132 note).

(2) OPAL CREEK WILDERNESS.—The term ''Opal Creek Wilderness'' means certain land in the Willamette National Forest in the State of Oregon comprising approximately 12,800 acres, as generally depicted on the map entitled ''Proposed Opal Creek Wilderness and Scenic Recreation Area'', dated July 1996.

(3) SCENIC RECREATION AREA.—The term ''Scenic Recreation Area'' means the Opal Creek Scenic Recreation Area, comprising approximately 13,000 acres, as generally depicted on the map entitled ''Proposed Opal Creek Wilderness and Scenic Recreation Area'', dated July 1996 and established under section 104(a)(3) of this title.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

SEC. 103. PURPOSES.

The purposes of this title are:

(1) to establish a wilderness and scenic recreation area to protect and provide for the enhancement of the natural, scenic, recreational, historic and cultural resources of the area in the vicinity of Opal Creek;

(2) to protect and support the economy of the communities in the Sanitiam Canyon; and

(3) to provide increased protection for an important drinking water source for communities served by the North Santiam River.

SEC. 104. ESTABLISHMENT OF OPAL CREEK WILDERNESS AND SCENIC RECREATION AREA.

(a) ESTABLISHMENT.—On a determination by the Secretary under subsection (b)—

(1) the Opal Creek Wilderness, as depicted on the map described in Section 102(2), is hereby designated as wilderness, subject to the provisions of the Wilderness Act of 1964, shall become a component of the National Wilderness System, and shall be know as the Opal Creek Wilderness;

(2) the part of the Bull of the Woods Wilderness that is located in the Willamette National Forest shall be incorporated into the Opal Creek Wilderness; and

(3) the Secretary shall establish the Opal Creek Scenic Recreation Area in the Willamette National Forest in the State of Oregon, comprising approximately 13,000 acres, as generally depicted on the map described in Section 102(3).

(b) CONDITIONS.—The designations in subsection (a) shall not take effect unless the Secretary makes a determination, not later than 2 years after the date of enactment of this title, that the following conditions have been met:

(1) the following have been donated to the United States in an acceptable condition and without encumbrances—

(A) all right, title, and interest in the following patented parcels of land—

(i) Santiam Number 1, mineral survey number 992, as described in patent number 39–92–0002, dated December 11, 1991;

(ii) Ruth Quartz Mine Number 2, mineral survey number 994, as described in patent number 39–91–0012, dated February 12, 1991;

(iii) Morning Star Lode, mineral survey number 993, as described in patent number 36–91–0011, dated February 12, 1991;

(B) all right, title, and interest held by any entity other than the Times Mirror Land and Timber Company, its successors and assigns, in and to lands located in section 18, township 8 south, range 5 east, Marion County, Oregon, Eureka numbers 6, 7, 8, and 13 mining claims; and

(C) an easement across the Hewitt, Starvation, and Poor Boy Mill Sites, mineral survey number 990, as described in patent number 36–91–0017, dated May 9, 1991. In the sole discretion of the Secretary, such easement may be limited to administrative use if an alternative access route, adequate and appropriate for public use, is provided.

(2) a binding agreement has been executed by the Secretary and the owners of record as of March 29, 1996, of the following interests, specifying the terms and conditions for the disposition of such interests to the United States Government—

(A) the lode mining claims known as Princess Lode, Black Prince Lode, and King Number 4 Lode, embracing portions of sections 29 and 32, township 8 south, range 5 east, Willamette-Meridian, Marion County, Oregon, the claims being more particularly described in the field notes and depicted on the plat of mineral survey number 887, Oregon; and

(B) Ruth Quartz Mine Number 1, mineral survey number 994, as described in patent number 39–91–0012, dated February 12, 1991.

(c) ADDITIONS TO THE WILDERNESS AND SCENIC RECREATION AREAS.—

(1) Lands or interests in lands conveyed to the United States under this section shall be included in and become part of, as appropriate, Opal Creek Wilderness or the Opal Creek Scenic Recreation Area.

(2) On acquiring all or substantially all of the land located in section 36, township 8 south, range 4 east, of the Williamette Meridian, Marion County, Oregon, commonly known as the Rosboro section by exchange, purchase from a willing seller, or by donation, the Secretary shall expand the boundary of the Scenic Recreation Area to include such land.

(3) On acquiring all or substantially all of the land located in section 18, township 8 south, range 5 east, Marion County, Oregon, commonly known as the Times Mirror property, by exchange, purchase from a willing seller, or by donation, such land shall be included in and become a part of the Opal Creek Wilderness.

SEC. 105. ADMINISTRATION OF THE SCENIC RECREATION AREA.

(a) IN GENERAL.—The Secretary shall administer the Scenic Recreation Area in accordance with this title and the laws (including regulations) applicable to the National Forest System.

(b) OPAL CREEK MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 2 years after the date of establishment of the Scenic Recreation Area, the Secretary, in consultation with the advisory committee established under section 106(a), shall prepare a comprehensive Opal Creek Management Plan (Management Plan) for the Scenic Recreation Area.

(2) INCORPORATION IN LAND AND RESOURCE MANAGEMENT PLAN.—Upon its completion, the Opal Creek Management Plan shall become part of the land and resource management plan for the Williamette National Forest and supersede any conflicting provision in such land and resource management plan. Nothing in this paragraph shall be construed to supersede the requirements of the Endangered Species Act or the National Forest Management Act or regulations promulgated under those Acts, or any other law.

(3) REQUIREMENTS.—The Opal Creek Management Plan shall provide for a broad range of land uses, including—

(A) recreation;

(B) harvesting of nontraditional forest products, such as gathering mushrooms and material to make baskets; and

(C) educational and research opportunities.

(4) PLAN AMENDMENTS.—The Secretary may amend the Opal Creek Management Plan as the Secretary may determine to be necessary, consistent with the procedures and purposes of this title.

(c) RECREATION.—

(1) RECOGNITION.—Congress recognizes recreation as an appropriate use of the Scenic Recreation Area.

(2) MINIMUM LEVELS.—The management plan shall permit recreation activities at not less than the levels in existence on the date of enactment of this title.

(3) HIGHER LEVELS.—The management plan may provide for levels of recreation use higher than the levels in existence on the date of enactment of this title if such uses are consistent with the protection of the resource values of Scenic Recreation Area.

(4) The management plan may include public trail access through section 28, township 8 south, range 5 east, Willamette Meridian, to Battle Axe Creek, Opal Pool and other areas in the Opal Creek Wilderness and the Opal Creek Scenic Recreation Area.

(d) TRANSPORTATION PLANNING.—

(1) IN GENERAL.—Except as provided in this subparagraph, motorized vehicles shall not be permitted in the Scenic Recreation Area. To maintain reasonable motorized and other access to recreation sites and facilities in existence on the date of enactment of this title, the Secretary shall prepare a transportation plan for the Scenic Recreation Area that:

(A) evaluates the road network within the Scenic Recreation Area to determine which roads shall be retained and which roads should be closed;

(B) provides guidelines for transportation and access consistent with this title;

(C) considers the access needs of persons with disabilities in preparing the transportation plan for the Scenic Recreation Area;

(D) allows forest road 2209 beyond the gate to the Scenic Recreation Area, as depicted on the map described in 102(2), to be used by motorized vehicles only for administrative purposes and for access by private inholders, subject to such terms and conditions as the Secretary may determine to be necessary; and

(E) restricts construction on or improvements to forest road 2209 beyond the gate to the Scenic Recreation Area to maintaining the character of the road as it existed upon the date of enactment of this title, which shall not include paving or widening. In order to comply with subsection 107(b) of this title, the Secretary may make improvements to forest road 2209 and its bridge structures consistent with the character of the road as it existed on the date of enactment of this title.

(e) HUNTING AND FISHING.—

(1) IN GENERAL.—Subject to applicable Federal and State law, the Secretary shall permit hunting and fishing in the Scenic Recreation Area.

(2) LIMITATION.—The Secretary may designate zones in which, and establish periods when, no hunting or fishing shall be permitted for reasons of public safety, administration or public use and enjoyment of the Scenic Recreation Area.

(3) CONSULTATION.—Except during an emergency, as determined by the Secretary, the Secretary shall consult with the Oregon State Department of Fish and Wildlife before issuing any regulation under this subsection.

(f) TIMBER CUTTING.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall prohibit the cutting and/or selling of trees in the Scenic Recreation Area.

(2) PERMITTED CUTTING.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary may allow the cutting of trees in the Scenic Recreation Area only—

(i) for public safety, such as to control the continued spread of a forest fire in the Scenic Recreation Area or on land adjacent to the Scenic Recreation Area;

(ii) for activities related to administration of the Scenic Recreation Area, consistent with the Opal Creek Management Plan; or

(iii) for removal of hazard trees along trails and roadways.

(B) SALVAGE SALES.—The Secretary may not allow a salvage sale in the Scenic Recreation Area.

(g) WITHDRAWAL.—

(1) Subject to valid existing rights, all lands in the Scenic Recreation Area are withdrawn from—

(i) any form of entry, appropriation, or disposal under the public land laws;

(ii) location, entry, and patent under the mining laws; and

(iii) disposition under the mineral and geothermal leasing laws.

(h) BORNITE PROJECT.—

(1) Nothing in this title shall be construed to interfere with or approve any exploration, mining, or mining-related activity in the Bornite Project Area, depicted on the map described in subsection 102(3), conducted in accordance with applicable laws.

(2) Nothing in this title shall be construed to interfere with the ability of the Secretary to approve and issue, or deny, special use permits in connection with exploration, mining, and mining-related activities in the Bornite Project Area.

(3) Motorized vehicles, roads, structures, and utilities (including but not limited to power lines and water lines) may be allowed inside the Scenic Recreation Area to serve the activities conducted on land within the Bornite Project.

(4) After the date of enactment of this title, no patent shall be issued for any mining claim under the general mining laws located within the Bornite Project Area.

(i) WATER IMPOUNDMENTS.—Notwithstanding the Federal Power Act (16 U.S.C. 791a et seq.), the Federal Energy Regulatory Commission may not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project work in the Scenic Recreation Area, except as may be necessary to comply with the provisions of subsection 105(h) with regard to the Bornite Project.

(j) CULTURAL AND HISTORIC RESOURCE INVENTORY.—

(1) IN GENERAL.—Not later than 1 year after the date of establishment of the Scenic Recreation Area, the Secretary shall review and revise the inventory of the cultural and historic resources on the public land in the Scenic Recreation Area developed pursuant to the Oregon Wilderness Act of 1984 (Public Law 98–328; U.S.C. 1132).

(2) INTERPRETATION.—Interpretive activities shall be developed under the management plan in consultation with State and local historic preservation organizations and shall include a balanced and factual interpretation of the cultural, ecological, and industrial history of forestry and mining in the Scenic Recreation Area.

(k) PARTICIPATION.—So that the knowledge, expertise, and views of all agencies and groups may contribute affirmatively to the most sensitive present and future use of the Scenic Recreation Area and its various subareas for the benefit of the public:

(1) ADVISORY COUNCIL.—The Secretary shall consult on a periodic and regular basis with the advisory council established under section 106 with respect to matters relating to management of the Scenic Recreation Area.

(2) PUBLIC PARTICIPATION.—The Secretary shall seek the views of private groups, individuals, and the public concerning the Scenic Recreation Area.

(3) OTHER AGENCIES.—The Secretary shall seek the views and assistance of, and cooperate with, any other Federal, State, or local agency with any responsibility for the zoning, planning, or natural resources of the Scenic Recreation Area.

(4) NONPROFIT AGENCIES AND ORGANIZATIONS.—The Secretary shall seek the views of any nonprofit agency or organization that may contribute information or expertise about the resources and the management of the Scenic Recreation Area.

SEC. 106. ADVISORY COUNCIL.

(a) ESTABLISHMENT.—Not later than 90 days after the establishment of the Scenic Recreation Area, the Secretary shall establish an advisory council for the Scenic Recreation Area.

(b) MEMBERSHIP.—The advisory council shall consist of not more than 13 members, of whom—

(1) 1 member shall represent Marion County, Oregon, and shall be designated by the governing body of the county;

(2) 1 member shall represent Clackamas County, Oregon and shall designated by the governing body of the county;

(3) 1 member shall represent the State of Oregon and shall be designated by the governor of Oregon; and

(4) 1 member shall represent the City of Salem, and shall be designated by the mayor of Salem, Oregon;

(5) 1 member from a city within a 25 mile radius of the Opal Creek Scenic Recreation Area, to be designated by the governor of the State of Oregon from a list of candidates provided by the mayors of the cities located within a 25 mile radius of the Opal Creek Scenic Recreation Area; and

(6) not more than 8 members shall be appointed by the Secretary from among persons who, individually or through association with a national or local organization, have an interest in the administration of the Scenic Recreation Area, including, but not limited to, representatives of the timber industry, environmental organizations, the mining industry, inholders in the Opal Creek Wilderness and Scenic Recreation Area, economic development interests and Indian Tribes.

(c) STAGGERED TERMS.—Members of the advisory council shall serve for staggered terms of three years.

(d) CHAIRMAN.—The Secretary shall designate one member of the advisory council as chairman.

(e) VACANCIES.—The Secretary shall fill a vacancy on the advisory council in the same manner as the original appointment.

(f) COMPENSATION.—Members of the advisory council shall receive no compensation for service on the advisory council.

SEC. 107. GENERAL PROVISIONS.

(a) LAND ACQUISITION.—

(1) IN GENERAL.—Subject to the other provisions of this title the Secretary may acquire any lands or interests in land in the Scenic Recreation Area or the Opal Creek Wilderness that the Secretary determines are needed to carry out this title.

(2) PUBLIC LAND.—Any lands or interests in land owned by a State or a political subdivision of a State may be acquired only by donation or exchange.

(3) CONDEMNATION.—Within the boundaries of the Opal Creek Wilderness or the Scenic Recreation Area, the Secretary may not acquire any privately owned land or interest in land without the consent of the owner unless the Secretary finds that—

(A) the nature of land use has changed significantly, or the landowner has demonstrated intent to change the land use significantly, from the use that existed on the date of the enactment of this title; and

(B) acquisition by the Secretary of the land or interest in land is essential to ensure use of the land or interest in land in accordance with the purposes of this title or the

management plan prepared under section 105(b).

(4) Nothing in this title shall be construed to enhance or diminish the condemnation authority available to the Secretary outside the boundaries of the Opal Creek Wilderness or the Scenic Recreation Area.

(b) ENVIRONMENTAL RESPONSE ACTIONS AND COST RECOVERY.—

(1) RESPONSE ACTIONS.—Nothing in this title shall limit the authority of the Secretary or a responsible party to conduct an environmental response action in the Scenic Recreation Area in connection with the release, threatened release, or cleanup of a hazardous substance, pollutant, or contaminant, including a response action conducted under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

(2) LIABILITY.—Nothing in this title shall limit the authority of the Secretary or a responsible party to recover costs related to the release, threatened release, or cleanup of any hazardous substance or pollutant or contaminant in the Scenic Recreation Area.

(c) MAPS AND DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this title, the Secretary shall file a map and a boundary description for the Opal Creek Wilderness and for the Scenic Recreation Area with the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(2) FORCE AND EFFECT.—The boundary description and map shall have the same force and effect as if the description and map were included in this title, except that the Secretary may correct clerical and typographical errors in the boundary description and map.

(3) AVAILABILITY.—The map and boundary description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

(d) Nothing in this title shall interfere with any activity for which a special use permit has been issued, has not been revoked, and has not expired, before the date of enactment of this title, subject to the terms of the permit.

SEC. 108. ROSBORO LAND EXCHANGE.

(a) AUTHORIZATION.—Notwithstanding any other law, if the Rosboro Lumber Company (referred to in this section as ''Rosboro'') offers and conveys marketable title to the United States to the land described in subsection (b), the Secretary of Agriculture shall convey all right, title and interest held by the United States to sufficient lands described in subsection (c) to Rosboro, in the order in which they appear in subsection (c), as necessary to satisfy the equal value requirements of subsection (d).

(b) LAND TO BE OFFERED BY ROSBORO.—The land referred to in subsection (a) as the land to be offered by Rosboro shall comprise Section 36, Township 8 South, Range 4 East, Willamette Meridian.

(c) LAND TO BE CONVEYED BY THE UNITED STATES.—The land referred to in subsection (a) as the land to be conveyed by the United States shall comprise sufficient land from the following prioritized list to be of equal value under subparagraph (d):

(i) Section 5, Township 17 South, Range 4 East, Lot 7 (37.63 acres);

(ii) Section 2, Township 17 South, Range 4 East, Lot 3 (29.28 acres);

(iii) Section 13, Township 17 South, Range 4 East, S½SE¼ (80 acres);

(iv) Section 2, Township 17 South, Range 4 East, SW¼SW¼ (40 acres);

(v) Section 2, Township 17 South, Range 4 East, NW¼SE¼ (40 acres);

(vi) Section 8, Township 17 South, Range 4 East, SE¼SW¼ (40 acres);

(vii) Section 11, Township 17 South, Range 4 East, W½NW¼ (80 acres);

(d) EQUAL VALUE.—The land and interests in land exchanged under this section shall be of equal market value as determined by nationally recognized appraisal standards, including, to the extent appropriate, the Uniform Standards for Federal Land Acquisition, the Uniform Standards of Professional Appraisal Practice, or shall be equalized by way of payment of cash pursuant to the provisions of section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)), and other applicable law. The appraisal shall consider access costs for the parcels involved.

(e) TIMETABLE.—

(1) The exchange directed by this section shall be consummated not later than 120 days after the date Rosboro offers and conveys the property described in subsection (b) to the United States.

(2) The authority provided by this section shall lapse if Rosboro fails to offer the land described in subsection (b) within two years after the date of enactment of this title.

(3) Rosboro shall have the right to challenge in United States District Court for the District of Oregon a determination of marketability under subsection (a) and a determination of value for the lands described in subsections (b) and (c) by the Secretary of Agriculture. The Court shall have the authority to order the Secretary to complete the transaction contemplated in this Section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 109. DESIGNATION OF ELKHORN CREEK AS A WILD AND SCENIC RIVER.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding at the end the following:

''( )(A) ELKHORN CREEK.—The 6.4 mile segment traversing federally administered lands from that point along the Willamette National Forest boundary on the common section line between Sections 12 and 13, Township 9 South, Range 4 East, Willamette Meridian, to that point where the segment leaves federal ownership along the Bureau of Land Management boundary in Section 1, Township 9 South, Range 3 East, Willamette Meridian, in the following classes:

(i) a 5.8-mile wild river area, extending from that point along the Willamette National Forest boundary on the common section line between Sections 12 and 13, Township 9 South, Range 4 East, Willamette Meridian, to its confluence with Buck Creek in Section 1, Township 9 South, Range 3 East, Willamette Meridian, to be administered as agreed on by the Secretaries of Agriculture and the Interior, or as directed by the President; and

(ii) a 0.6-mile scenic river area, extending from the confluence with Buck Creek in Section 1, Township 9 South, Range 3 East, Willamette Meridian, to that point where the segment leaves federal ownership along the Bureau of Land Management boundary in Section 1, Township 9 South, Range 3 East, Willamette Meridian, to be administered by the Secretary of Interior, or as directed by the President.

(B) Notwithstanding Section 3(b) of this Act, the lateral boundaries of both the wild river area and the scenic river area along Elkhorn Creek shall include an average of not more than 640 acres per mile measured from the ordinary high water mark on both sides of the river.''

SEC. 110. ECONOMIC DEVELOPMENT.

(A) ECONOMIC DEVELOPMENT PLAN.—As a condition for receiving funding under subsection (b) of this section, the State of Oregon, in consultation with Marion and Clackamas Counties and the Secretary of Agriculture, shall develop a plan for economic development projects for which grants under this section may be used in a manner consistent with this title and to benefit local communities in the vicinity of the Opal Creek area. Such plan shall be based on an economic opportunity study and other appropriate information.

(b) FUNDS PROVIDED TO THE STATES FOR GRANTS.—Upon completion of the Opal Creek Management Plan, and receipt of the plan referred to in subsection (a) of this section, the Secretary shall provide, subject to appropriations, $15,000,000 to the State or Oregon. Such funds shall be used to make grants or loans for economic development projects that further the purposes of this title and benefit the local communities in the vicinity of Opal Creek.

(c) REPORT.—The State of Oregon shall—

(1) prepare and provide the Secretary and Congress with an annual report on the use of the funds made available under this section;

(2) make available to the Secretary and to Congress, upon request, all accounts, financial records, and other information related to grants and loans made available pursuant to this section; and

(3) as loans are repaid, make additional grants and loans with the money made available for obligation by such repayments.

TITLE II—UPPER KLAMATH BASIN

SEC. 201. UPPER KLAMATH BASIN ECOLOGICAL RESTORATION PROJECTS.

(a) DEFINITIONS.—In this section:

(1) ECOSYSTEM RESTORATION OFFICE.—The term ''Ecosystem Restoration Office'' means the Klamath Basin Ecosystem Restoration Office operated cooperatively by the United States Fish and Wildlife Service, Bureau of Reclamation, Bureau of Land Management, and Forest Service.

(2) WORKING GROUP.—The term ''Working Group'' means the Upper Klamath Basin Working Group, established before the date of enactment of this title, consisting of members nominated by their represented groups, including:

(A) 3 tribal members;

(B) 1 representative of the city of Klamath Falls Oregon;

(C) 1 representative of Klamath County, Oregon;

(D) 1 representative of institutions of higher education in the Upper Klamath Basin;

(E) 4 representatives of the environmental community, including at least one such representative from the State of California with interests in the Klamath Basin National Wildlife Refuge Complex;

(F) 4 representatives of local businesses and industries, including at least one representative of the wood products industry and one representative of the ocean commercial fishing industry and/or the recreational fishing industry based in either Oregon or California;

(G) 4 representatives of the ranching and farming community, including representatives of federal lease-land farmers and ranchers and of private land farmers and ranchers in the Upper Klamath Basin;

(H) 2 representatives from State of Oregon agencies with authority and responsibility in the Klamath River Basin, including one from the Oregon Department of Fish and Wildlife and one from the Oregon Water Resources Department;

(I) 4 representatives from the local community;

(J) 1 representative each from the following federal resource management agencies in the Upper Klamath Basin: Fish and Wildlife Service, Bureau of Reclamation, Bureau of

Land Management, Bureau of Indian Affairs, Forest Service, Natural Resources Conservation Service, National Marine Fisheries Service and Ecosystem Restoration Office; and

(K) 1 representative of the Klamath County Soil and Water Conservation District.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(4) TASK FORCE.—The term ''Task Force'' means the Klamath River Basin Fisheries Task Force as established by the Klamath River Basin Fishery Resource Restoration Act (P.L. 99–552, 16 U.S.C. 460ss–3, et seq.).

(5) COMPACT COMMISSION.—The term ''Compact Commission'' means the Klamath River Basin Compact Commission created pursuant to the Klamath River Company Act of 1954.

(6) CONSENSUS.—The term ''consensus'' means a unanimous agreement by the Working Group members present and consisting of at least a quorum at a regularly scheduled business meeting.

(7) QUORUM.—The term ''quorum'' means one more than half of those qualified Working Group members appointed and eligible to serve.

(8) TRINTY TASK FORCE.—The term ''Trinity Task Force'' means the Trinity River Restoration Task Force created by P.L. 98–541, as amended by P.L. 104–143.

(b) IN GENERAL.—

(1) The Working Group through the Ecosystem Restoration Office, with technical assistance from the Secretary, will propose ecological restoration projects, economic development and stability projects, and projects designed to reduce the impacts of drought conditions to be undertaken in the Upper Klamath Basin based on a consensus of the Working Group membership.

(2) The Secretary shall pay, to the greatest extent feasible, up to 50 percent of the cost of performing any project approved by the Secretary or his designee, up to a total amount of $1,000,000 during each of fiscal years 1997 through 2001.

(3) Funds made available under this title through the Department of the Interior or the Department of Agriculture shall be distributed through the Ecosystem Restoration Office.

(4) The Ecosystem Restoration Office may utilize not more than 15 percent of all federal funds administered under this section for administrative costs relating to the implementation of this title.

(5) All funding recommendations developed by the Working Group shall be based on a consensus of Working Group members.

(c) COORDINATION.—

(1) The Secretary shall formulate a cooperative agreement among the Working Group, the Task Force, the Trinity Task Force and the Compact Commission for the purposes of ensuring that projects proposed and funded through the Working Group are consistent with other basin-wide fish and wildlife restoration and conservation plans, including but not limited to plans developed by the Task Force and the Compact Commission.

(2) To the greatest extent practicable, the Working Group shall provide notice to, and accept input from, two members each of the Task Force, the Trinity Task Force, and the Compact Commission, so appointed by those entities, for the express purpose of facilitating better communication and coordination regarding additional basin-wide fish and wildlife and ecosystem restoration and planning efforts. The roles and relationships of the entities involved shall be clarified in the cooperative agreement.

(d) PUBLIC MEETINGS.—The Working Group shall conduct all meetings subject to applicable open meeting and public participation laws. They chartering requirements of 5 U.S.C. App 2 ss 1–15 are hereby deemed to have been met by this section.

(e) TERMS AND VACANCIES.—Working Group members shall serve for three-year terms, beginning on the date of enactment of this title. Vacancies which occur for any reason after the date of enactment of this title shall be filled by direct appointment of the governor of the State of Oregon, in consultation with nominations from the appropriate groups, interests, and government agencies outlined in subsection (a)(2).

(f) RIGHTS, DUTIES, AND AUTHORITIES UNAFFECTED.—The Working Group will supplement, rather than replace, existing efforts to manage the natural resources of the Deschutes Basin. Nothing in this title affects any legal right, duty or authority of any person or agency, including any member of the working group.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this title $1,000,000 for each of fiscal year 1997 through 2002.

TITLE III—DESCHUTES BASIN.

SEC. 301. DESCHUTES BASIN ECOSYSTEM RESTORATION PROJECTS.

(a) DEFINITIONS.—In this section:

(1) WORKING GROUP.—The term ''Working Group'' means the Deschutes River Basin Working Group established before the date of enactment of this title, consisting of members nominated by their represented groups, including:

(A) 5 representatives of private interests including one each from hydroelectric production, livestock grazing, timber, land development, and recreation/tourism;

(B) 4 representatives of private interests including two each from irrigated agriculture and the environmental community;

(C) 2 representatives from the Confederated Tribes of the Warm Springs Reservation of Oregon;

(D) 2 representatives from Federal agencies with authority and responsibility in the Deschutes River Basin, including one from the Department of the Interior and one from the Agriculture Department;

(E) 2 representatives from the State of Oregon agencies with authority and responsibility in the Deschutes River Basin, including one from the Oregon Department of Fish and Wildlife and one from the Oregon Water Resources Department; and

(F) 4 representatives from county or city governments within the Deschutes River Basin county and/or city governments.

(2) SECRETARY.—the term ''Secretary'' means the Secretary of the Interior.

(3) FEDERAL AGENCIES.—The term ''Federal agencies'' means agencies and departments of the United States, including, but not limited to, the Bureau of Reclamation, Bureau of Indian Affairs, Bureau of Land Management, Fish and Wildlife Service, Forest Service, Natural Resources Conservation Service, Farm Services Agency, the National Marine Fisheries Service, and the Bonneville Power Administration.

(4) CONSENSUS.—The term ''consensus'' means a unanimous agreement by the Working Group members present and constituting at least a quorum at a regularly scheduled business meeting.

(5) QUORUM.—The term ''quorum'' means one more than half of those qualified Working Group members appointed and eligible to serve.

(b) IN GENERAL.—

(1) The Work Group will propose ecological restoration projects on both Federal and non-federal lands and waters to be undertaken in the Deschutes River Basin based on a consensus of the Working Group, provided that such projects, when involving Federal land or funds, shall be proposed to the Bureau of Reclamation in the Department of the Interior and any other Federal agency with affected land or funds.

(2) The Working Group will accept donations, grants or other funds and place such funds received into a trust fund, to be expended on ecological restoration projects which, when involving federal land or funds, are approved by the affected Federal agency.

(3) The Bureau of Reclamation shall pay from funds authorized under subsection (g) of this title up to 50 percent of the cost of performing any project proposed by the Working Group and approved by the Secretary, up to a total amount of $1,000,000 during each of the fiscal years 1997 through 2001.

(4) Non-federal contributions to project costs for purposes of computing the federal matching share under paragraph (3) of this subsection may include in-kind contributions.

(5) Funds authorized in subsection (g) of this title shall be maintained in and distributed by the Bureau of Reclamation in the Department of the Interior. The Bureau of Reclamation shall not expend more than 5 percent of amounts appropriated pursuant to subsection (h) for Federal administration of such appropriations pursuant to this title.

(6) The Bureau of Reclamation is authorized to provide by grant to the Working Group not more than 5 percent of funds appropriated pursuant to subsection (g) of this title for not more than 50 percent of administrative costs relating to the implementation of this title.

(7) The Federal agencies with authority and responsibility in the Deschutes River Basin shall provide technical assistance to the Working Group and shall designate representatives to serve as members of the Working Group.

(8) All funding recommendations developed by the Working Group shall be based on a consensus of the Working Group members.

(c) PUBLIC NOTICE AND PARTICIPATION.—The Working Group shall conduct all meetings subject to applicable open meeting and public participation laws. The chartering requirements of 5 U.S.C. App 2 ss 1–15 are hereby deemed to have been met by this section.

(d) PRIORITIES.—The Working Group shall give priority to voluntary market-based economic incentives for ecosystem restoration including, but not limited to, water leases and purchases; land leases and purchases; tradable discharge permits; and acquisition of timber, grazing, and land development rights to implement plans, programs, measures, and projects.

(e) TERMS AND VACANCIES.—Members of the Working Group representing governmental agencies or entities shall be named by the represented government agency. Members of the Working Group representing private interests shall be named in accordance with the articles of incorporation and bylaws of the Working Group. Representatives from federal agencies will serve for terms of 3 years. Vacancies which occur for any reason after the date of enactment of this title shall be filled in accordance with this title.

(f) ADDITIONAL PROJECTS.—Where existing authority and appropriations permit, Federal agencies may contribute to the implementation of projects recommended by the Working Group and approved by the Secretary.

(g) RIGHTS, DUTIES AND AUTHORITIES UNAFFECTED.—The Working Group will supplement, rather than replace, existing efforts to manage the natural resources of the Deschutes Basin. Nothing in this title affects any legal right, duty or authority of any person or agency, including any member of the Working Group.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to

carry out this title $1,000,000 for each of fiscal years 1997 through 2001.

TITLE IV—MOUNT HOOD CORRIDOR

SEC. 401. LAND EXCHANGE.

(a) AUTHORIZATION.—Notwithstanding any other law, if Longview Fibre Company (referred to in this section as ''Longview'') offers and conveys title that is acceptable to the United States to some or all of the land described in subsection (b), the Secretary of the Interior (referred to in this section as the ''Secretary'') shall convey to Longview title to some or all of the land described in subsection (c), as necessary to satisfy the requirements of subsection (d).

(b) LAND TO BE OFFERED BY LONGVIEW.—The land referred to in subsection (a) as the land to be offered by Longview are those lands depicted on the map entitled ''Mt. Hood Corridor Land Exchange Map'', dated July 18, 1996.

(c) LAND TO BE CONVEYED BY THE SECRETARY.—The land referred to in subsection (a) as the land to be conveyed by the Secretary are those lands depicted on the map entitled ''Mt. Hood Corridor Land Exchange Map'', dated July 18, 1996.

(d) EQUAL VALUE.—The land and interests in land exchanged under this section—

(1) shall be of equal market value as determined by nationally recognized appraisal standards, including, to the extent appropriate, the Uniform Standards for Federal Land Acquisition, the Uniform Standards of Professional Appraisal Practice, or shall be equalized by way of payment of cash pursuant to the provisions of section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)), and other applicable law.

(e) REDESIGNATION OF LAND TO MAINTAIN REVENUE FLOW.—So as to maintain the current flow of revenue from land subject to the Act entitled ''An Act relating to the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant land situated in the State of Oregon'', approved August 28, 1937 (43 U.S.C. 1181a et seq.), the Secretary may redesignate public domain land located in and west of Range 9 East, Willamette Meridian, Oregon, as land subject to that Act.

(f) TIMETABLE.—The exchange directed by this section shall be consummated not later than 1 year after the date of enactment of this title.

(g) WITHDRAWAL OF LANDS.—All lands managed by the Department of the Interior, Bureau of Land Management, located in Townships 2 and 3 South, Ranges 6 and 7 East, Willamette Meridian, which can be seen from the right-of-way of U.S. Highway 26 (in this section, such lands are referred to as the ''Mt. Hood Corridor Lands''), shall be managed primarily for the protection or enhancement of scenic qualities. Management prescriptions for other resource values associated with these lands shall be planned and conducted for purposes other than timber harvest, so as not to impair the scenic qualities of the area.

(h) TIMBER CUTTING.—Timber cutting may be conducted on Mt. Hood Corridor Lands following a resource-damaging catastrophic event. Such cutting may only be conducted to achieve the following resource management objectives, in compliance with the current land use plans—

(1) to maintain safe conditions for the visiting public;

(2) to control the continued spread of forest fire;

(3) for activities related to administration of the Mt. Hood Corridor Lands; or

(4) for removal of hazard trees along trails and roadways.

(i) ROAD CLOSURE.—The forest road gate located on Forest Service Road 2503, located in T. 2 S., R. 6 E., sec. 14, shall remain closed and locked to protect resources and prevent illegal dumping and vandalism. Access to this road shall be limited to—

(1) Federal and State officers and employees acting in an official capacity;

(2) employees and contractors conducting authorized activities associated with the telecommunication-sites located in T. 2 S., R. 6 E., sec. 14; and

(3) the general public for recreational purposes, except that all motorized vehicles will be prohibited.

(j) NEPA EXEMPTION.—The National Environmental Policy Act of 1969 (P.L. 91–190) shall not apply to this section for one year after the date of enactment of this title.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

TITLE V—COQUILLE TRIBAL FOREST

SEC. 501. CREATION OF THE COQUILLE FOREST.

(a) The Coquille Restoration Act (P.L. 101–42) is amended by inserting at the end of section 5 the following:

''(d) CREATION OF THE COQUILLE FOREST.—

(1) DEFINITIONS.—In this subsection:

(A) the term ''Coquille Forest'' means certain lands in Coos County, Oregon, comprising approximately 5,400 acres, as generally depicted on the map entitled ''Coquille Forest Proposal'', dated July 8, 1996.

(B) the term ''Secretary'' means the Secretary of Interior.

(C) the term ''the Tribe'' means the Coquille Tribe of Coos County, Oregon.

(2) MAP.—The map described in subparagraph (d)(1)(A), and such additional legal descriptions which are applicable, shall be placed on file at the local District Office of the Bureau of Land Management, the Agency Office of the Bureau of Indian Affairs, and with the Senate Committee on Energy and Natural Resources and the House Committee on Resources.

(3) INTERIM PERIOD.—From the date of enactment of this subsection until two years after the date of enactment of this subsection, the Bureau of Land Management shall:

(A) retain federal jurisdiction for the management of lands designated under this subsection as the Coquille Forest and continue to distribute revenues from such lands in a manner consistent with existing law; and,

(B) prior to advertising, offering or awarding any timber sale contract on lands designated under his subsection as the Coquille Forest, obtain the approval of the Assistant Secretary for Indian Affairs, acting on behalf of and in consultation with the Tribe.

(4) TRANSITION PLANNING AND DESIGNATION.—

(A) During the two year interim period provided for in paragraph (3), the Assistant Secretary for Indian Affairs, acting on behalf of and in consultation with Tribe, is authorized to initiate development of a forest management plan for the Coquille Forest. The Secretary, acting through the director of the Bureau of Land Management, shall cooperate and assist in the development of such plan and in the transition of forestry management operations for the Coquille Forest to the Assistant Secretary for Indian Affairs.

(B) Two years after the date of enactment of this subsection, the Secretary shall take the lands identified under subparagraph (d)(1)(A) into trust, and shall hold such lands in trust, in perpetuity, for the Coquille Tribe. Such lands shall be thereafter designated as the Coquille Forest.

(C) So as to maintain the current flow of revenue from land subject to the Act entitled ''An Act relating to the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant land situated in the State of Oregon'' (the O & C Act), approved August 28, 1937 (43 U.S.C. 1181a et seq.), the Secretary may redesignate, from public domain lands within the Tribe's service area, as defined in this Act, certain lands to be subject to the O & C Act. Lands redesignated under this subparagraph shall not exceed lands sufficient to constitute equivalent timber value as compared to lands constituting the Coquille Forest.

(5) MANAGEMENT.—The Secretary of Interior, acting through the Assistant Secretary for Indian Affairs shall manage the Coquille Forest under applicable State and Federal forestry and environmental protection laws, and subject to critical habitat designations under the Endangered Species Act, and subject to the standards and guidelines of Federal forest plans on adjacent or nearby Federal lands, now and in the future. The Secretary shall otherwise manage the Coquille Forest in accordance with the laws pertaining to the management of Indian Trust lands and shall distribute revenues in accord with PL 101–630, 25 U.S.C. 3107.

(A) Unprocessed logs harvested from the Coquille Forest shall be subject to the same Federal statutory restrictions on export to foreign Nations that apply to unprocessed logs harvested from Federal lands.

(B) Notwithstanding any other provision of law, all sales of timber from land subject to this subsection shall be advertised, offered and awarded according to competitive bidding practices, with sales being awarded to the highest responsible bidder.

(6) INDIAN SELF-DETERMINATION ACT AGREEMENT.—No sooner than two years after the date of enactment of this subsection, the Secretary may, upon a satisfactory showing of management competence and pursuant to the Indian Self-Determination Act (23 U.S.C. 450 et seq.), enter into a binding Indian self-determination agreement (agreement) with the Coquille Indian Tribe. Such agreement may provide for the Tribe to carry out all or a portion of the forest management for the Coquille Forest.

(A) Prior to entering such an agreement, and as a condition of maintaining such an agreement, the Secretary must find that the Coquille Tribe has entered into a binding memorandum of agreement (MOA) with the State of Oregon, as required under paragraph 7.

(B) The authority of the Secretary to rescind the Indian self-determination agreement shall not be encumbered.

(i) The Secretary shall rescind the agreement upon a demonstration that the Tribe and the State of Oregon are no longer engaged in a memorandum of agreement as required under paragraph 7.

(ii) The Secretary may rescind the agreement on a showing that the Tribe has managed the Coquille Forest in a manner inconsistent with this subsection, or the Tribe is no longer managing, or capable of managing, the Coquille Forest in a manner consistent with this subsection.

(7) MEMORANDUM OF AGREEMENT.—The Coquille Tribe shall enter into a memorandum of agreement (MOA) with the State of Oregon relating to the establishment and management of the Coquille Forest. The MOA shall include, but not be limited to, the terms and conditions for managing the Coquille Forest in a manner consistent with paragraph (5) of this subsection, preserving public access, advancing jointly-held resource management goals, achieving Tribal restoration objectives and establishing a coordinated management framework. Further, provisions set forth in the MOA shall be consistent with federal trust responsibility requirements applicable to Indian trust lands and paragraph (5) of this subsection.

(8) PUBLIC ACCESS.—The Coquille Forest shall remain open to public access for purposes of hunting, fishing, recreation and transportation, except when closure is required by state or federal law, or when the Coquille Indian Tribe and the State of Oregon agree in writing that restrictions on access are necessary or appropriate to prevent harm to natural resources, cultural resources or environmental quality; Provided That, the State of Oregon's agreement shall not be required when immediate action is necessary to protect archaeological resources.

(9) JURISDICTION.—

(A) The U.S. District Court for the District of Oregon shall have jurisdiction over actions against the Secretary arising out of claims that this subsection has been violated. Any affected citizen may bring suit against the Secretary for violations of this subsection, except that suit may not be brought against the Secretary for claims that the MOA has been violated. The Court has the authority to hold unlawful and set aside actions pursuant to this subsection that are arbitrary and capricious, an abuse of discretion, or otherwise an abuse of law.

(B) The U.S. District Court for the District of Oregon shall have jurisdiction over actions between the State of Oregon and the Tribe arising out of claims of breach of the MOA.

(C) Unless otherwise provided for by law, remedies available under this subsection shall be limited to equitable relief and shall not include damages.

(10) STATE REGULATORY AND CIVIL JURISDICTION.—In addition to the jurisdiction described in paragraph 7 of this subsection, the State of Oregon may exercise exclusive regulatory civil jurisdiction, including but not limited to adoption and enforcement of administrative rules and orders, over the following subjects:

(A) management, allocation and administration of fish and wildlife resources, including but not limited to establishment and enforcement of hunting and fishing seasons, bag limits, limits on equipment and methods, issuance of permits and licenses, and approval or disapproval of hatcheries, game farms, and other breeding facilities: *Provided* That, nothing herein shall be construed to permit the State of Oregon to manage fish or wildlife habitat on Coquille Forest lands;

(B) allocation and administration of water rights, appropriation of water and use of water;

(C) regulation of boating activities, including equipment and registration requirements, and protection of the public's right to use the waterways for purposes of boating or other navigation;

(D) fills and removals from waters of the State, as defined in Oregon law;

(E) protection and management of the State's proprietary interests in the beds and banks of navigable waterways;

(F) regulation of mining, mine reclamation activities, and exploration and drilling for oil and gas deposits;

(G) regulation of water quality, air quality (including smoke management), solid and hazardous waste, and remediation of releases of hazardous substances;

(H) regulation of the use of herbicides and pesticides; and

(I) enforcement of public health and safety standards, including standards for the protection of workers, well construction and codes governing the construction of bridges, buildings, and other structures.

(11) SAVINGS CLAUSE, STATE AUTHORITY.—

(A) Nothing in this subsection shall be construed to grant Tribal authority over private or State-owned lands.

(B) To the extent that the State of Oregon is regulating the foregoing areas pursuant to a delegated Federal authority or a Federal program, nothing in this subsection shall be construed to enlarge or diminish the State's authority under such law.

(C) Where both the State of Oregon and the United States are regulating, nothing herein shall be construed to alter their respective authorities.

(D) To the extent that federal law authorizes the Coquille Indian Tribe to assume regulatory authority over an area, nothing herein shall be construed to enlarge or diminish the Tribe's authority to do so under such law.

(E) Unless and except to the extent that the Tribe has assumed jurisdiction over the Coquille Forest pursuant to Federal law, or otherwise with the consent of the State, the State of Oregon shall have jurisdiction and authority to enforce its laws addressing the subjects listed in subparagraph 10 of this subsection on the Coquille Forest against the Coquille Indian Tribe, its members and all other persons and entities, in the same manner and with the same remedies and protections and appeal rights as otherwise provided by general Oregon law. Where the State of Oregon and Coquille Indian Tribe agree regarding the exercise of tribal civil regulatory jurisdiction over activities on the Coquille Forest lands, the Tribe may exercise such jurisdiction as is agreed upon.''

(12) In the event of a conflict between Federal and State law under this subsection, Federal law shall control.

TITLE VI—BULL RUN WATERSHED PROTECTION

SEC. 601. The first sentence of Section 2(a) of Public Law 95–200 is amended after ''referred to in this subsection (a)'' by striking ''2(b)'' and inserting in lieu thereof ''2(c)''.

SEC. 602. The first sentence of Section 2(b) of PL 95–200 is amended after ''the policy set forth in subsection (a)'' by inserting ''and (b)''.

SEC. 603. Section 2(b) of PL 95–200 is redesignated as ''2(c)''.

SEC. 604. (a) Public Law 95–200 is amended by adding a new subsection 2(b) immediately after subsection 2(a), as follows:

''(b) TIMBER CUTTING.—

''(1) IN GENERAL.—Subject to paragraph (2), the Secretary of Agriculture shall prohibit the cutting of trees in that part of the unit consisting of the hydrographic boundary of the Bull Run River Drainage, including certain lands within the unit and located below the headworks of the city of Portland, Oregon's water storage and delivery project, and as depicted in a map dated July 22, 1996 and entitled ''Bull Run River Drainage''.

''(2) PERMITTED CUTTING.—

''(A) IN GENERAL.—Subject to subparagraph (B), the Secretary of Agriculture shall prohibit the cutting of trees in the area described in paragraph (1).

''(B) PERMITTED CUTTING.—Subject to subparagraph (C), the Secretary may only allow the cutting of trees in the area described in paragraph (1)—

''(i) for the protection or enhancement of water quality in the area described in paragraph (1); or

''(ii) for the protection, enhancement, or maintenance of water quantity available from the area described in paragraph (1); or

''(iii) for the construction, expansion, protection or maintenance of municipal water supply facilities; or

''(iv) for the construction, expansion, protection or maintenance of facilities for the transmission of energy through and over the unit or previously authorized hydroelectric facilities or hydroelectric projects associated with municipal water supply facilities.

''(C) SALVAGE SALES.—The Secretary of Agriculture may not authorize a salvage sale in the area described in paragraph (1).''

(b) Redesignate subsequent subsection of PL 95–200 accordingly.

SEC. 605. REPORT TO CONGRESS.

(a) The Secretary of Agriculture shall, in consultation with the city of Portland and other affected parties, undertake a study of that part of the Little Sandy Watershed that is within the unit (hereinafter referred to as the ''study area''), as depicted on the map described in Section 604 of this title.

(b) The study referred to in (a) shall determine—

(1) the impact of management activities within the study area on the quality of drinking water provided to the Portland Metropolitan area;

(2) the identity and location of certain ecological features within the study area, including late successional forest characteristics, aquatic and terrestrial wildlife habitat, significant hydrological values, or other outstanding natural features; and

(3) the location and extent of any significant cultural or other values within the study area.

(c) The study referred to in subsection (a) shall include both legislative and regulatory recommendations to Congress on the future management of the study area. In formulating such recommendations, the Secretary shall consult with the city of Portland and other affected parties.

(d) To the greatest extent possible, the Secretary shall use existing data and processes to carry out this study and report.

(e) The study referred to in subsection (a) shall be submitted to the Senate Committees on Energy and Natural Resources and Agriculture and the House Committees on Resources and Agriculture not later than one year from the date of enactment of this section.

(f) The Secretary is prohibited from advertising, offering or awarding any timber sale within the study area for a period of two years after the date of enactment of this section.

(g) Nothing in this section shall in any way affect any State or Federal law governing appropriation, use of or Federal right to water on or flowing through National Forest System lands. Nothing in this section is intended to influence the relative strength of competing claims to the waters of the Little Sandy River. Nothing in this section shall be construed to expand or diminish Federal, State, or local jurisdiction, responsibility, interests, or rights in water resources development or control, including rights in and current uses of water resources in the unit.

SEC. 606. Lands within the Bull Run Management Unit, as defined in PL 95–200, but not contained within the Bull Run River Drainage, as defined by this title and as depicted on the map dated July 1996 described in Section 604 of this title, shall continue to be managed in accordance with PL 95–200.

TITLE VII—OREGON ISLANDS WILDERNESS, ADDITIONS

SEC. 701. OREGON ISLANDS WILDERNESS, ADDITIONS.

(a) In furtherance of the purposes of the Wilderness Act of 1964, certain lands within the boundaries of the Oregon Islands National Wildlife Refuge, Oregon, comprising approximately ninety-five acres and as generally depicted on a map entitled ''Oregon Island Wilderness Additions—Proposed'' dated August 1996, are hereby designated as wilderness. The map shall be on file and available for public inspection in the offices of the Fish and Wildlife Service, Department of Interior.

(b) All other Federally-owned named, unnamed, surveyed and unsurveyed rocks, reefs, islets and islands lying within three geographic miles off the coast of Oregon and

above mean high tide, not currently designated as wilderness and also within the Oregon Islands National Wildlife Refuge boundaries under the administration of the U.S. Fish and Wildlife Service, Department of Interior, as designated by Executive Order 7035, Proclamation 2416, Public Land Orders 4395, 4475 and 6287, and Public Laws 91–504 and 95–450, are hereby designated as wilderness.

(c) All Federally-owned named, unnamed, surveyed and unsurveyed rocks, reefs, islets and islands lying within three geographic miles off the coast of Oregon and above mean high tide, and presently under the jurisdiction of the Bureau of Land Management, are hereby designated as wilderness, shall become part of the Oregon Islands National Wildlife Refuge and the Oregon Islands Wilderness and shall be under the jurisdiction of the U.S. Fish and Wildlife Service, Department of the Interior.

(d) As soon as practicable after this title takes effect, a map of the wilderness area and a description of its boundaries shall be filed with the Senate Committee on Energy and Natural Resources and the House Committee on Resources, and such map shall have the same force and effect as if included in this title; *provided, however*, that correcting clerical and typographical errors in the map and land descriptions may be made.

(e) Public Land Order 6287 of June 16, 1982, which withdrew certain rocks, reefs, islets and islands lying within three geographical miles off the coast of Oregon and above mean high tide, including the ninety-five acres described in subsection (a), as an addition to the Oregon Islands National Wildlife Refuge is hereby made permanent.

TITLE VIII—UMPQUA RIVER LAND EXCHANGE STUDY

SEC. 801. UMPQUA RIVER LAND EXCHANGE STUDY: POLICY AND DIRECTION.

(a) IN GENERAL.—The Secretaries of the Interior and Agriculture (Secretaries) are hereby authorized and directed to consult, coordinate and cooperate with the Umpqua Land Exchange Project (ULEP), affected units and agencies of State and local government, and, as appropriate, the World Forestry Center and National Fish and Wildlife Foundation, to assist ULEP's ongoing efforts in studying and analyzing land exchange opportunities in the Umpqua River basin and to provide scientific, technical, research, mapping and other assistance and information to such entities. Such consultation, coordination and cooperation shall at a minimum include, but not be limited to:

(1) working with ULEP to develop or assemble comprehensive scientific and other information (including comprehensive and integrated mapping) concerning the Umpqua River basin's resources of forest, plants, wildlife, fisheries (anadromous and other), recreational opportunities, wetlands, riparian habitat and other physical or natural resources;

(2) working with ULEP to identify general or specific areas within the basin where land exchanges could promote consolidation of timberland ownership for long-term, sustained timber production; protection and improvement of habitat for plants, fish and wildlife (including any Federally listed threatened or endangered species); protection of drinking water supplies; recovery of threatened and endangered species; protection and improvement of wetlands, riparian lands and other environmentally sensitive areas; consolidation of land ownership for improved public access and a broad array of recreational uses; and consolidation of land ownership to achieve management efficiency and reduced costs of administration; and

(3) developing a joint report for submission to the Congress which discusses land exchange opportunities in the basin and outlines either a specific land exchange proposal or proposals which may merit consideration by the Secretaries or the Congress, or ideas and recommendations for new authorizations, direction, or changes in existing law or policy to expedite and facilitate the consummation of beneficial land exchanges in the basin via administrative means.

(b) MATTERS FOR SPECIFIC STUDY.—In analyzing land exchange opportunities with ULEP, the Secretaries shall give priority to assisting ULEP's ongoing efforts in—

(1) studying, identifying and mapping areas where the consolidation of land ownership via land exchanges could promote the goals of long term species protection, including the goals of the Endangered Species Act of 1973 more effectively than current land ownership patterns and whether any changes in law or policy applicable to such lands after consummation of an exchange would be advisable or necessary to achieve such goals;

(2) studying, identifying and mapping areas where land exchanges might be utilized to better satisfy the goals of sustainable timber harvest, including studying whether changes in existing law or policy applicable to such lands after consummation of an exchange would be advisable or necessary to achieve such goals;

(3) identifying issues and studying options and alternatives, including possible changes in existing law or policy, to insure that combined post-exchange revenues to units of local government from state and local property, severance and other taxes or levies and shared Federal land receipts will approximate pre-exchange revenues;

(4) identifying issues and studying whether possible changes in law, special appraisal instruction, or changes in certain Federal appraisal procedures might be advisable or necessary to facilitate the appraisal of potential exchange lands which may have special characteristics or restrictions affecting land values;

(5) identifying issues and studying options and alternatives, including changes in existing laws or policy, for achieving land exchanges without reducing the net supply of timber available to small businesses;

(6) identifying, mapping, and recommending potential changes in land use plans, land classifications, or other actions which might be advisable or necessary to expedite, facilitate or consummate land exchanges in certain areas; and,

(7) analyzing potential sources for new or enhanced Federal, state or other funding to promote improved resource protection, species recovery, and management in the basin.

SEC. 802. REPORT TO CONGRESS.

(a) No later than February 1, 1998, ULEP and the Secretaries shall submit a joint report to the Committee on Resources of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate concerning their studies, findings, recommendations, mapping and other activities conducted pursuant to this title.

SEC. 803. AUTHORIZATION OF APPROPRIATIONS.

(a) In furtherance of the purposes of this title, there is hereby authorized to be appropriated the sum of $2 million, to remain available until expended.

THE BANKRUPTCY TECHNICAL CORRECTIONS ACT OF 1996

HEFLIN AMENDMENT NO. 5151

Mr. STEVENS (for Mr. HEFLIN) proposed an amendment to the bill (S. 1559) to make technical corrections to title 11, United States Code, and for other purposes; as follows:

On page 9 of the Committee amendment, strike lines 11 through 17 and insert the following:

(1) in subsection (f)(1)(A)—

(A) in the matter preceding clause (i), by striking ''; or'' at the end; and

(B) in clause (ii), by striking the period at the end and inserting ''; or''; and

(2) in subsection (g)(2), by striking ''subsection (f)(2)'' and inserting ''subsection (f)(1)(B)''.

COVERDELL AMENDMENT NO. 5152

Mr. STEVENS (for Mr. COVERDELL) proposed an amendment to the bill, S. 1559, supra; as follows:

At the appropriate place in the Committee amendment, insert the following new section:

SEC. . ENFORCEMENT OF CHILD SUPPORT.

Section 362(b)(1) of title 11, United States Code is amended by inserting before the semicolon the following: ''(including the criminal enforcement of a judicial order requiring the payment of child support)''.

KOHL AMENDMENT NO. 5153

Mr. STEVENS (for Mr. KOHL) proposed an amendment to the bill, S. 1559, supra; as follows:

At the appropriate place, insert the following new section:

SEC. . LIMITATION.

Section 522 of title 11, United States Code, as amended by section 9, is further amended—

(1) in subsection (b)(2)(A), by inserting ''subject to subsection (n),'' before ''any property''; and

(2) by adding at the end the following new subsection:

''(n) As a result of electing under subsection (b)(2)(A) to exempt property under State or local law, a debtor may not exempt an aggregate interest of more than $500,000 in value in—

''(1) real or personal property that the debtor or a dependent of the debtor uses as a residence;

''(2) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence; or

''(3) a burial plot for the debtor or a dependent of the debtor.''.

GRASSLEY (AND LOTT) AMENDMENT NO. 5154

Mr. STEVENS (for Mr. GRASSLEY, for himself and Mr. LOTT) proposed an amendment to the bill, S. 1559, supra; as follows:

SECTION 1.

''Section 27'', on page 15, line 3, is redesignated ''Section 28''.

SEC. 2.

On page 15, line 3 insert the following:

"SEC. 27. STANDING TRUSTEES."

(a) Section 330 of Title 11 of the United States Code is amended by adding to the end thereof the following:

''(e) Upon the request of a trustee appointed under Section 586(b) of Title 28, and after all available administrative remedies have been exhausted, the district court in the district in which the trustee resides shall have the exclusive authority, notwithstanding Section 326(b) of this title, to review the determination of the actual, necessary expenses of the standing trustee. In reviewing

the determination, the district court shall accord substantial deference to the determination made by the Attorney General, and may reverse the determination only if the Attorney General has abused his or her discretion.''

(b) Section 324 of Title 11, United States Code, is amended by adding to the end thereof the following:

''(c)(1) Notwithstanding any provision of Section 586 of Title 28, in the event the United States Trustee ceases assigning cases to a trustee appointed under Section 586(b) of Title 28, the trustee, after exhausting all available administrative remedies, may seek judicial review of the decision in the district court in the district in which the trustee resides. The district court shall accord substantial deference to the determination made by the United States Trustee, and may reverse the determination only if the United States Trustee has abused his or her discretion.

''(2) Notwithstanding any other provision of law, the district court may order interim relief under this paragraph only if the court concludes, viewing all facts most favorably to the United States Trustee, that there was no basis for the United States Trustee's decision to cease assigning cases to the trustee. The denial of a request for interim relief shall be final and shall not be subject to further review.''.

THE IMPACT AID TECHNICAL AMENDMENTS OF 1996

KASSEBAUM (AND OTHERS) AMENDMENT NO. 5155

Mr. STEVENS (for Mrs. KASSEBAUM, for herself, Mr. PRESSLER, Mr. D'AMATO, Mr. KERREY, Mr. MOYNIHAN, Mr. SIMPSON, and Mrs. FRAHM) proposed an amendment to the bill (H.R. 3269) to amend the Impact Aid program to provide for a hold-harmless with respect to amounts for payments relating to the Federal acquisition of real property and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. HOLD-HARMLESS AMOUNTS FOR PAYMENTS RELATING TO FEDERAL ACQUISITION OF REAL PROPERTY.

Section 8002 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7702) is amended by adding at the end the following new subsections:

''(g) FORMER DISTRICTS.—

''(1) IN GENERAL.—Where the school district of any local educational agency described in paragraph (2) is formed at any time after 1938 by the consolidation of two or more former school districts, such agency may elect (at any time such agency files an application under section 8005) for any fiscal year after fiscal year 1994 to have (A) the eligibility of such local educational agency, and (B) the amount which such agency shall be eligible to receive, determined under this section only with respect to such of the former school districts comprising such consolidated school districts as such agency shall designate in such election.

''(2) ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—A local educational agency referred to in paragraph (1) is any local educational agency that, for fiscal year 1994 or any preceding fiscal year, applied for and was determined eligible under section 2(c) of the Act of September 30, 1950 (Public Law 874, 81st Congress) as such section was in effect for such fiscal year.

''(h) HOLD-HARMLESS AMOUNTS.—

''(1) IN GENERAL.—Except as provided in paragraph (2)(A), the total amount that the Secretary shall pay under subsection (b) to a local educational agency that is otherwise eligible for a payment under this section—

''(A) for fiscal year 1995 shall not be less than 85 percent of the amount such agency received for fiscal year 1994 under section 2 of the Act of September 30, 1950 (Public Law 874, 81st Congress) as such section was in effect on September 30, 1994; or

''(B) for fiscal year 1996 shall not be less than 85 percent of the amount such agency received for fiscal year 1995 under subsection (b).

''(2) RATABLE REDUCTIONS.—(A)(i) If necessary in order to make payments to local educational agencies in accordance with paragraph (1) for any fiscal year, the Secretary first shall ratably reduce payments under subsection (b) for such year to local educational agencies that do not receive a payment under this subsection for such year.

''(ii) If additional funds become available for making payments under subsection (b) for such year, then payments that were reduced under clause (i) shall be increased on the same basis as such payments were reduced.

''(B)(i) If the sums made available under this title for any fiscal year are insufficient to pay the full amounts that all local educational agencies in all States are eligible to receive under paragraph (1) after the application of subparagraph (A) for such year, then the Secretary shall ratably reduce payments under paragraph (1) to all such agencies for such year.

''(ii) If additional funds become available for making payments under paragraph (1) for such fiscal year, then payments that were reduced under clause (i) shall be increased on the same basis as such payments were reduced.''.

SEC. 2. APPLICATIONS FOR INCREASED PAYMENTS.

(a) PAYMENTS.—Notwithstanding any other provision of law—

(1) the Bonesteel-Fairfax School District Number 26–5, South Dakota, and the Wagner Community School District Number 11–4, South Dakota, shall be eligible to apply for payment for fiscal year 1994 under section 3(d)(2)(B) of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such section was in effect on September 30, 1994); and

(2) the Secretary of Education shall use a subgroup of 10 or more generally comparable local educational agencies for the purpose of calculating a payment described in paragraph (1) for a local educational agency described in such paragraph.

(b) APPLICATION.—In order to be eligible to receive a payment described in subsection (a), a school district described in such subsection shall apply for such payment within 30 days after the date of enactment of this Act.

(c) CONSTRUCTION.—Nothing in this section shall be construed to require a local educational agency that received a payment under section 3(d)(2)(B) of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such section was in effect on September 30, 1994) for fiscal year 1994 to return such payment or a portion of such payment to the Federal Government.

SEC. 3. PAYMENTS FOR ELIGIBLE FEDERALLY CONNECTED CHILDREN RESIDING ON MILITARY INSTALLATION HOUSING UNDERGOING RENOVATION.

(a) IN GENERAL.—Section 8003(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(a)) is amended by adding at the end the following new paragraph:

''(4) MILITARY INSTALLATION HOUSING UNDERGOING RENOVATION.—For purposes of computing the amount of a payment for a local educational agency for children described in paragraph (1)(D)(i), the Secretary shall consider such children to be children described in paragraph (1)(B) if the Secretary determines, on the basis of a certification provided to the Secretary by a designated representative of the Secretary of Defense, that such children would have resided in housing on Federal property in accordance with paragraph (1)(B) except that such housing was undergoing renovation on the date for which the Secretary determines the number of children under paragraph (1).''.

(b) EFFECTIVE DATE.—Paragraph (4) of section 8003(a) of the Elementary and Secondary Education Act of 1965, as added by subsection (a), shall apply with respect to fiscal years after fiscal year 1995.

SEC. 4. COMPUTATION OF PAYMENTS FOR ELIGIBLE FEDERALLY CONNECTED CHILDREN IN STATES WITH ONLY ONE LOCAL EDUCATIONAL AGENCY.

(a) IN GENERAL.—Section 8003(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(b)) is amended by adding at the end the following new paragraph:

''(3) STATES WITH ONLY ONE LOCAL EDUCATIONAL AGENCY.—

''(A) IN GENERAL.—In any of the 50 States of the United States in which there is only one local educational agency, the Secretary shall, for purposes of paragraphs (1)(B), (1)(C), and (2) of this subsection, and subsection (e), consider each administrative school district in the State to be a separate local educational agency.

''(B) COMPUTATION OF MAXIMUM AMOUNT OF BASIC SUPPORT PAYMENT AND THRESHOLD PAYMENT.—In computing the maximum payment amount under paragraph (1)(C) and the learning opportunity threshold payment under paragraph (2)(B) for an administrative school district described in subparagraph (A)—

''(i) the Secretary shall first determine the maximum payment amount and the total current expenditures for the State as a whole; and

''(ii) the Secretary shall then—

''(I) proportionately allocate such maximum payment amount among the administrative school districts on the basis of the respective weighted student units of such districts; and

''(II) proportionately allocate such total current expenditures among the administrative school districts on the basis of the respective number of students in average daily attendance at such districts.''.

(b) EFFECTIVE DATE.—Paragraph (3) of section 8003(b) of the Elementary and Secondary Education Act of 1965, as added by subsection (a), shall apply with respect to fiscal years after fiscal year 1994.

SEC. 5. DATA AND DETERMINATION OF AVAILABLE FUNDS.

(a) DATA.—Paragraph (4) of section 8003(f) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(f)) is amended—

(1) in the heading, by striking ''CURRENT YEAR'';

(2) by amending subparagraph (A) to read as follows:

''(A) shall use student, revenue, and tax data from the second fiscal year preceding the fiscal year for which the local educational agency is applying for assistance under this subsection;''; and

(3) in subparagraph (B), by striking ''such year'' and inserting ''the fiscal year for which the local educational agency is applying for assistance under this subsection''.

(b) DETERMINATION OF AVAILABLE FUNDS.—Paragraph (3) of section 8003(f) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(f)) is amended—

(1) in the matter preceding subclause (I) of subparagraph (A)(iii), by inserting '', except

as provided in subparagraph (C),'' after ''but''; and

(2) by adding at the end the following new subparagraph:

''(C) DETERMINATION OF AVAILABLE FUNDS.—When determining the amount of funds available to the local educational agency for current expenditures for purposes of subparagraph (A)(iii) for a fiscal year, the Secretary shall include, with respect to the local educational agency's opening cash balance for such fiscal year, the portion of such balance that is the greater of—

''(i) the amount that exceeds the maximum amount of funds for current expenditures that the local educational agency was allowed by State law to carry over from the prior fiscal year, if State restrictions on such amounts were applied uniformly to all local educational agencies in the State; or

''(ii) the amount that exceeds 30 percent of the local educational agency's operating costs for the prior fiscal year.''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply with respect to fiscal years after fiscal year 1996.

SEC. 6. PAYMENTS RELATING TO FEDERAL PROPERTY.

Section 8002 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7702) (as amended by section 1) is further amended by adding at the end thereof the following new subsection:

''(i) PRIORITY PAYMENTS.—Notwithstanding subsection (b)(1)(B), and for any fiscal year beginning with fiscal year 1997 for which the amount appropriated to carry out this section exceeds the amount so appropriated for fiscal year 1996, the Secretary shall first use such excess amount to increase the payment that would otherwise be made under this section to not more than 50 percent of the maximum amount determined under subsection (b) for any local educational agency that—

''(1) received a payment under this section for fiscal year 1996;

''(2) serves a school district that contains all or a portion of a United States military academy;

''(3) serves a school district in which the local tax assessor has certified that at least 60 percent of the real property is federally owned; and

''(4) demonstrates to the satisfaction of the Secretary that such agency's per-pupil revenue derived from local sources for current expenditures is not less than that revenue for the preceding fiscal year.''.

SEC. 7. TREATMENT OF IMPACT AID PAYMENTS.

(a) IN GENERAL.—The Secretary of Education shall treat any State as having met the requirements of section 5(d)(2)(A) of the Act of September 30, 1950 (Public Law 874, 81st Congress) for fiscal year 1991 (as such section was in effect for such fiscal year), and as not having met those requirements for each of the fiscal years 1992, 1993, and 1994 (as such section was in effect for fiscal year 1992, 1993, and 1994, respectively), if—

(1) the State's program of State aid was not certified by the Secretary under section 5(d)(2)(C)(i) of the Act of September 30, 1950 (Public Law 874, 81st Congress) for any fiscal year prior to fiscal year 1991;

(2) the State submitted timely notice under that section of the State's intention to seek that certification for fiscal year 1991;

(3) the Secretary determined that the State did not meet the requirements of section 5(d)(2)(A) of such Act for fiscal year 1991; and

(4) the State made a payment to each local educational agency in the State (other than a local educational agency that received a payment under section 3(d)(2)(B) of such Act for fiscal year 1991) in an amount equal to the difference between the amount such agency received under such Act for fiscal year 1991 and the amount such agency would have received under such Act for fiscal year 1991 if payments under such Act had not been taken into consideration in awarding State aid to such agencies for fiscal year 1991.

(b) REPAYMENT NOT REQUIRED.—Notwithstanding any other provision of law, any local educational agency in a State that meets the requirements of paragraphs (1) through (4) of subsection (a) and that received funds under section 3(d)(2)(B) of the Act of September 30, 1950 (Public Law 874, 81st Congress) for fiscal year 1991 (as such section was in effect for such fiscal year) shall not, by virtue of subsection (a), be required to repay those funds to the Secretary of Education.

SEC. 8. SPECIAL RULE RELATING TO AVAILABILITY OF FUNDS FOR THE LOCAL EDUCATIONAL AGENCY SERVING THE NORTH HANOVER TOWNSHIP PUBLIC SCHOOLS, NEW JERSEY, UNDER PUBLIC LAW 874, 81ST CONGRESS.

The Secretary of Education shall not consider any funds that the Secretary of Education determines the local educational agency serving the North Hanover Township Public Schools, New Jersey, has designated for a future liability under an early retirement incentive program as funds available to such local educational agency for purposes of determining the eligibility of such local educational agency for a payment for fiscal year 1994, or the amount of any such payment, under section 3(d)(2)(B) of the Act of September 30, 1950 (Public Law 874, 81st Congress), as such section was in effect for such fiscal year.

SEC. 9. CORRECTED LOCAL CONTRIBUTION RATE.

(a) COMPUTATION.—The Secretary of Education shall compute a payment for a local educational agency under the Act of September 30, 1950 (Public Law 874, 81st Congress) for each of the fiscal years 1991 through 1994 (as such Act was in effect for each of those fiscal years, as the case may be) using a corrected local contribution rate based on generally comparable school districts, if—

(1) an incorrect local contribution rate was submitted to the Secretary of Education by the State in which such agency is located, and the incorrect local contribution rate was verified as correct by the Secretary of Education; and

(2) the corrected local contribution rate is subject to review by the Secretary of Education.

(b) PAYMENT.—Using funds appropriated under the Act of September 30, 1950 (Public Law 874, 81st Congress) for fiscal years 1991 through 1994 that remain available for obligation (if any), the Secretary of Education shall make payments based on the computations described in subsection (a) to the local educational agency for such fiscal years.

SEC. 10. STATE EQUALIZATION PLANS.

Subparagraph (A) of section 8009(b)(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7709(b)(2)) is amended by striking ''more than'' and all that follows through the period and inserting ''more than 25 percent.''.

THE U.S. TOURISM ORGANIZATION ACT

PRESSLER AMENDMENT NO. 5156

Mr. STEVENS (for Mr. PRESSLER) proposed an amendment to the bill (S. 1735) to establish the U.S. Tourism Organization as a nongovernmental entity for the purpose of promoting tourism in the United States; as follows:

On page 7, line 8, strike ''46'' and insert ''48''.

On page 9, beginning in line 3, strike ''Retail Travel Agents Association;'' and insert ''Association of Retail Travel Agents;''.

On page 9, between lines 6 and 7, insert the following:

(L) 1 member elected by the National Trust for Historic Preservation.

(M) 1 member elected by the American Association of Museums.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that a full committee hearing has been scheduled before the Energy and Natural Resources Committee to receive testimony on S. 1852, the Department of Energy Class Action Lawsuit Act.

The hearing will take place on Thursday, September 5 at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

Those wishing to testify or submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please contact Kelly Johnson or Jo Meuse at (202) 224–6730.

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. CRAIG. Mr. President, I would like to announce for the public that at the hearing scheduled before the Subcommittee on Forests and Public Land Management of the Committee on Energy and Natural Resources, to receive testimony regarding S. 931, S. 1564, S. 1565, S. 1649, S. 1719, S. 1921, measures relating to the Bureau of Reclamation, the subcommittee will also receive testimony regarding S. 1986, the Umatilla River Basin Project Completion Act, and S. 2015, To convey certain real property located within the Carlsbad Project in New Mexico to the Carlsbad irrigation district. The hearing will take place on September 5, 1996, at 2 p.m., in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

For further information, please call James Beirne, senior counsel at (202) 224–2564 or Betty Nevitt, staff assistant at (202) 224–0765 of the subcommittee staff.

SUBCOMMITTEE ON PARKS, HISTORIC PRESERVATION, AND RECREATION

Mr. CAMPBELL. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Parks, Historic Preservation, and Recreation of the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, September 12, 1996 at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to review S. 150, a bill to authorize an entrance fee surcharge at the Grand Canyon National Park; S. 340, a bill to direct the Secretary of the Interior to conduct a study concerning equity regarding entrance, tourism, and recreational fees for the use of Federal lands and facilities; and S. 1695, a bill to authorize the Secretary of the Interior to assess up to $2 per person visiting the Grand Canyon or other national park to secure bonds for capital improvements to the park.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Subcommittee on Parks, Historic Preservation, and Recreation, Committee on Energy and Natural Resources, United States Senate, 364 Dirksen Senate Office Building, Washington, DC. 20510–6150.

For further information, please contact Jim O'Toole of the subcommittee staff at (202) 224–5161.

SUBCOMMITTEE ON PARKS, HISTORIC PRESERVATION, AND RECREATION

Mr. CAMPBELL. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Parks, Historic Preservation, and Recreation of the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, September 19, 1996, at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to review S. 1539, a bill to establish the Los Caminos del Rio National Heritage area along the Lower Rio Grande Texas-Mexico border; S. 1583, a bill to establish the Lower Eastern Shore American Heritage area; S. 1785, a bill to establish in the Department of the Interior the Essex National Heritage Commission; and S. 1808, a bill to amend the act of October 15, 1966 (80 Stat. 915), as amended, establishing a program for the preservation of additional historic property throughout the Nation.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Subcommittee on Parks, Historic Preservation, and Recreation, Committee on Energy and Natural Resources, U.S. Senate, 364 Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information, please contact Jim O'Toole of the subcommittee staff at (202) 224–5161.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. DEWINE. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Friday, August 2, 1996, at 10 a.m. to hold a hearing on White House access to FBI background summaries.

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

SUBCOMMITTEE ON SOCIAL SECURITY AND FAMILY POLICY

Mr. DEWINE. Mr. President, the Finance Committee requests unanimous consent for the Subcommittee on Social Security and Family Policy to conduct a hearing on Friday, August 2, 1996, beginning at 10 a.m. in room SD–215.

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

ADDITIONAL STATEMENTS

LEGISLATION TO AMEND THE COMMODITY EXCHANGE ACT

• Mr. LUGAR. Mr. President, today Senator LEAHY and I announced that we will propose legislation to amend the Commodity Exchange Act, which establishes the ground rules for commodity futures trading in the United States. Our decision to proceed with legislation follows a public hearing on June 5 and extensive discussions with industry and federal regulators.

I commend Senator LEAHY for his bipartisan cooperation in this as in so many other matters. In order that our colleagues and the general public may understand the legislation we plan to introduce, I ask that a statement issued earlier today by the two of us be printed in the RECORD. I further ask that a letter signed by the two of us and addressed to Acting CFTC Commissioner Tull also be printed in the RECORD.

The material follows:

REFORMING AND UPDATING THE COMMODITY EXCHANGE ACT: OUTLINE OF PLANNED LEGISLATION

The Commodity Exchange Act has benefited the American economy. It has helped encourage a dynamic, world-class futures trading industry that allows farmers, ranchers and other business operators to manage risk, provides investment opportunities and offers protection to consumers of its services. From time to time, Congress has re-examined the Act to bring it up to date with changing markets. Such an update is now opportune.

On June 5, the Committee on Agriculture, Nutrition, and Forestry heard testimony on the need to update the Commodity Exchange Act. Since then, committee staff have consulted extensively with federal agencies and private industry, seeking to explore the implications of legislative proposals by various groups.

As a result of this thorough process, we have decided to introduce legislation to amend the Commodity Exchange Act. Because it is late in the legislative session, it is unlikely the bill we introduce will become law this year. We intend it to spark discussion, with the aim of completing work on revisions to the Act in 1997.

In considering possible legislation, we have been ably advised by CFTC staff. While the CFTC is unconvinced that new legislation is needed, commission officials have cooperated with our staff whenever they have been asked. We want to thank them publicly for this assistance.

In addition, commission staff have been receptive to addressing some issues through administrative action. Although some reforms we propose are beyond the scope of the commission's current statutory authorities, others could be resolved without legislation. We encourage the CFTC to work toward this end.

There is a public interest in a strong, competitive U.S. futures industry because of its critical role in price discovery and business risk management. This public interest implies, and requires, a degree of regulation. In recent years, U.S. futures exchanges have also faced increasing competition from foreign exchanges and from over-the-counter derivative products.

U.S. exchanges face some regulatory costs that are not borne by their competitors. The Act, and the Commodity Futures Trading Commission's actions to implement its requirements, must strike an appropriate balance between prudent regulation and the need for a cost-competitive industry.

We will introduce legislation in September. The reason for delaying introduction is a provision of the Act called the ''Treasury amendment.'' The amendment excludes certain transactions from the CFTC's jurisdiction and has been the subject of varying interpretations since it was first enacted. Many firms and associations have requested that Congress clarify the Treasury amendment, and we agree that clarification is in order.

The CFTC and the Treasury Department have been working to arrive at a common interpretation of the Treasury amendment. We believe it is wise to give them, and other relevant agencies, a chance to complete these discussions before making a legislative proposal. Therefore, we are writing to Secretary Rubin and Acting Chairman Tull to encourage their agencies to complete their discussions and advise us of their progress. If these conclusions suggest a need to modify the Treasury amendment, we will strongly consider incorporating those modifications into the bill we introduce.

In order for our colleagues to have an opportunity to examine the legislation before this session of Congress ends, we will need to introduce the bill in the first week Congress returns from the August recess, that is the week ending September 6. Therefore, we would like to receive the Administration's counsel before the Labor Day holiday.

It is premature to propose a specific change to the Treasury amendment. However, we can say that we do not intend for the CFTC to become involved in markets where it does not now have any significant role. An example is the ''when-issued'' market in Treasury securities.

We invite public comment during August on the legislative proposals we will outline in this statement. The bill we introduce in September will be a discussion document. It might subsequently be scaled back, but it also might be expanded to make additional changes to the Act. It will be neither an opening gambit nor a least common denominator. It will represent our best judgment of how the Act should prudently be changed, but our minds remain open to other approaches.

The committee's work on the Commodity Exchange Act has been bipartisan and collegial. Like the 1996 farm bill, the landmark food safety legislation now on the President's desk, and other important laws originated by the committee, this legislative effort is one on which we will work together.

A summary of planned legislative provisions follows.

Considerations required in regulatory actions.—For each significant regulation it imposes (not including enforcement, emergency and similar actions), the CFTC will be directed to take into account both the anticipated costs and the anticipated benefits of the action it contemplates, and to explain publicly its evaluation of the various costs and benefits. In weighing costs and benefits, CFTC will consider whether the proposed action, taken as a whole, will promote customer protection, market integrity and efficiency, fair competition and sound risk management. The provision will apply to actions commenced after the date of enactment, and will require an evaluation, not a cost-benefit analysis in the strict, quantitative sense.

Audit trail.—The bill will clarify the intent of Congress that the audit trail statute does not mandate the development or adoption of any particular technology, but establishes a performance standard. This clarification will be consistent with 1995 Senate testimony by then-Chairman Mary Schapiro.

Contract designation.—The legislation will end the requirement that proposed futures contracts be pre-approved by the CFTC before trading can commence. Instead, the bill will provide that exchanges must submit information about contracts they intend to trade to the CFTC, which will have a reasonable but limited period to examine the proposed contract terms. The CFTC will analyze the information with a presumption in favor of allowing the contract to trade. However, within the examination period, the CFTC may require additional information, or delay the start of trading for a limited time, if it finds reason to believe the contract is susceptible to manipulation, violates the Act or is contrary to the public interest. Ultimately, the CFTC would have the ability to prevent a contract from trading, but only after instituting proceedings to disallow the exchange from commencing trading. Comments are invited on the appropriate length for the periods specified above.

Similar procedures would apply to other proposed exchange rules. Committee report language will direct the CFTC to report, on an ongoing basis, its evaluation of how well exchange governing bodies meet the statutory requirement for meaningful representation of a diversity of interests.

Disciplinary actions and penalties.—The bill will state the sense of Congress that, in deploying enforcement resources, the CFTC should avoid unnecessary duplication of effort in areas where self-regulatory organizations also have enforcement duties, while ensuring a CFTC presence and role sufficient to safeguard market integrity and customer interests. The CFTC will be directed to report to Congress on its enforcement program. The report is to include an analysis of the CFTC's performance in preventing, deterring and disciplining violations of the CEA that involve fraud against individual investors through ''bucket shops'' and similar abuses. The report will be due a year after enactment, and may follow one or more commission round tables on the subject.

Exemptive authority.—The bill will direct the CFTC to re-evaluate its Part 36 Rules (which allow exchanges to set up less-regulated professionals-only markets in certain limited circumstances) in light of the need to provide equitable competitive conditions among various participants in derivative product markets. Any revisions to the rules would remain within the CFTC's discretion. The bill will also state the sense of Congress that any revisions should ensure the financial integrity of markets and customer protection. The CFTC will be encouraged to convene a round table meeting or meetings to receive public input on possible improvements in Part 36 Rules.

Swaps exemption.—The statute will be amended to enhance the legal certainty of contracts involving swaps and similar products. Products meeting the requirements of the CFTC's 1993 swaps exemption will be exempt from the Act's provisions to the same extent as at present. The provision will not diminish the CFTC's authority to grant additional exemptions. In addition, the bill will end the current prohibition on granting an exemption from CEA regulation to any transactions subject to the Shad-Johnson accord (which establishes CFTC and SEC jurisdiction on such products as stock index futures). Instead, the bill will allow the CFTC to exempt such products, but only with the concurrence of the Securities and Exchange Commission. Comments are invited on additional or alternative means of enhancing the legal certainty of contracts while assuring market integrity.

Definition of a hedge.—The statute will be amended to clarify that a hedge may be established to reduce risks other than price risks. The bill will make clear that the change does not affect the ability of exchanges and the CFTC to establish speculative limits, require reporting of large trader positions and otherwise discharge their responsibilities.

Delivery by Federally licensed warehouses.—The bill will repeal an outdated provision that allows any federally licensed warehouse to deliver grain against a futures contract, even if it is not a designated delivery point. The current statute could allow market manipulation in some circumstances.

Delivery points for foreign futures contracts.—The CFTC will be directed to commence negotiations with appropriate foreign agencies which regulate exchanges that have established delivery points in the U.S., with the goal of securing adequate assurance (through improvements in the foreign regulatory scheme or other means) that the presence of U.S. delivery points for foreign exchange contracts does not create the potential for market manipulation or other disruptions of U.S. markets. The CFTC will also be granted additional powers, if necessary, to obtain needed information on such delivery points. Comments are invited on the appropriate scope of additional authorities, if any, required by the CFTC to ensure that U.S. markets are not subject to manipulation.

Delegation of authority.—The bill will state the sense of Congress that the CFTC should review its authorities with a view to delegating additional duties to the National Futures Association or other self-regulatory bodies, requiring a report one year after enactment on the results of the review. Report language will state that among the duties the CFTC may consider delegating are the review of disclosure documents and reparations procedures. The statute will further state the sense of Congress that in making any additional delegations, the CFTC should establish a procedure of spot checks, random audits or other means of ensuring adequate performance, and may also make the delegation on a pilot basis.

Treasury amendment.—The bill's provisions to modify the Treasury amendment (an exemption from CEA regulation for the interbank currency markets and some other markets) will be drafted following review of suggestions received by the Administration.

Technical changes.—The bill may also include technical changes to the Act such as those suggested by the National Futures Association in its June 5 testimony.

U.S. SENATE, COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY,
Washington, DC, August 1, 1996.

Hon. JOHN TULL,
Acting Chairman, Commodity Futures Trading Commission, Washington, DC.

DEAR MR. CHAIRMAN: We were heartened to learn that the Commodity Futures Trading Commission and the Treasury Department have been discussing the so-called ''Treasury amendment'' to the Commodity Exchange Act, with a view toward arriving at a common interpretation of the provision. At a hearing our committee held June 5, the Treasury amendment was cited by several witnesses as a provision of the Act that needed review and clarification.

We intend to introduce legislation that will make a number of changes to the Act, and believe it is appropriate to address the Treasury amendment in that bill. It would be highly desirable to have the benefit of the Treasury and the CFTC's joint advice in this regard.

In order for our colleagues to have adequate opportunity to review the bill this fall, we intend to introduce it in the first week Congress returns from its August recess, that is the week ending September 6, 1996. We would appreciate hearing from relevant federal agencies their views on the Treasury amendment before the Labor Day holiday, if possible. However, we are confident you share our strong hope that agencies will resolve any differences by that time and arrive at a common understanding, so that the statute's provisions and scope can be made clear.

Thank you for your assistance in this matter. A similar letter has been sent to Secretary Rubin.

Sincerely yours,

PATRICK J. LEAHY,
Ranking Democratic Member.

RICHARD G. LUGAR,
Chairman.●

CONNECTICUT SUPREME COURT JUSTICE T. CLARK HULL

● Mr. DODD. Mr. President, I rise today to pay tribute to one of Connecticut's most colorful and witty politicians, Connecticut State Supreme Court Justice T. Clark Hull. Known for his penetrating intelligence and passion for justice—and perhaps better known for his warmth and good spirit—T. Clark Hull, had the rare distinction of serving at the top levels of all three branches of state government—executive, legislative and judicial.

Born in Danbury, CT in 1921, T. Clark Hull attended many prestigious academic institutions including Philips Exeter Academy, Yale University and Harvard Law School, and yet he always retained the perspective of a common man.

His political career spanned some 33 years, beginning with his election to the Connecticut State Senate in 1962. He was known as a liberal Republican who charmed many conservatives, and his Irish humor and zest for public service eventually earned him the

nomination for Lieutenant Governor in 1970. He went on to win the election as the running mate of THOMAS J. Meskill and served until his appointment to the Connecticut Superior Court. After serving for 10 years, he was nominated by Governor William A. O'Neill to the Appellate Court and served for 4 years before becoming a justice on the highest court in Connecticut on September 25, 1987.

Justice Hull's political career earned him the reputation for being a gifted writer and captivating speaker and a colleague once said his decisions would ''forever enrich the literature of the law.'' Justice Hull had great aspirations for the people of Connecticut and was one of the few politicians who managed to be well-liked on both sides of the aisle. Throughout his illustrious career, he maintained an optimistic activism that continually propelled the interests of Connecticut and its people forward. Justice Hull was a dedicated public servant who ''had an enthusiasm for public office that was contagious.''

Justice Hull was a champion of the people and was one of the few to truly believe that government and politics should be ''positive, energizing celebrations of life.'' Although he was small in stature, T. Clark Hull's charming personality and exuberance for serving the public made him a giant in the eyes of others. Upon retiring from the State Supreme Court in 1991, when he reached the mandatory retirement age of 70, Justice Hull continued to serve the public as a State referee and as co-chairman of a commission to study government efficiency. The commission made many recommendations to streamline government, and under the chairmanship of Justice Hull, Connecticut underwent the biggest reorganization in state government in nearly two decades.

T. Clark Hull has doubtless had a distinguished career. While he gained prominence as a life-long Connecticut politician, Justice Hull gained the respect of his colleagues and the general public for his good humor, exuberance for life, and his love of public service. The people of Connecticut are truly blessed to be able to call T. Clark Hull one of their own.

My thoughts and prayers go out to his wife Betty Jane, and his three sons Steven, Josh, and Treat.●

U.S.S. ''LANDING CRAFT INFANTRY''(G) 450

● Mr. BROWN. Mr. President, I rise today to recognize the members of the U.S.S. *Landing Craft Infantry* (G) 450. This ship was commissioned August 26, 1943 and participated in three major campaigns in the South Pacific during World War II. The U.S.S. *Landing Craft Infantry* (G) 450 was originally designed to carry troops, run up the beach, disembark the assault troops, and then release itself from the beach. This troop carrier was later converted to a gunboat, indicated by the symbol (G) in its name. As a gunboat, its primary mission was to approach the beach and engage the enemy with rockets and deck guns in support of its landing forces. Of the three major campaigns that the 450 was a part of, the ship was damaged only once. For their actions during the Marshall and Marianas campaign, the crew was awarded the Navy Unit Citation. The crew also received the Presidential Unit Citation for their outstanding performance at Iwo Jima. Five crewmembers received the Bronze Star, and its captain received the Navy Cross. Mr. President, these men are brave soldiers, and true Americans, who deserve to be remembered and honored for their actions in defense of this great country.●

THE 50TH ANNIVERSARY OF THE VERMONT AIR NATIONAL GUARD

● Mr. LEAHY. Mr. President, on July 1, 1946, 27 World War II veterans formed the nucleus of a new military unit, and the Vermont Air National Guard was born. Today, when the 158th Fighter Wing pilots strap into the technological marvel that is the F–16, the Revolutionary War soldier painted on the tail stands as a stark reminder to us all: There is a direct lineage between the militia tradition that our Nation was founded on and which is very much alive today here in Vermont.

The original Green Mountain Boys were mostly farmers who left their homes in the 1700's to defend against encroaching New Yorkers and then fought enthusiastically against the British in the Revolutionary War. The Vermonters wore homespun civilian clothes, often with only a sprig of evergreen in their caps to identify each other in the field.

But the Green Mountain Boys were citizen soldiers, and throughout most of our history the American people have relied on the militia to defend them. It has only been in the recent past that we have created a large peacetime standing army. Now with the former Soviet Union gone, we are seeing a renewed emphasis on National Guard and Reserve forces as the Nation's premier insurance against worldwide aggression.

When I go to Vermont in the coming weeks, I will be giving the Vermont Air National Guard a token of my appreciation for the tremendous service that they have shown over the last 50 years. The list of aircraft that have been flown by the Vermont Air Guard reads like a who's who of American air power—the P–47 Thunderbolt, the P–51 Mustang, the F–94 Starfighter, F–89 Scorpion, the F–102 Delta Dagger, the EB–57, the F–4 Phantom, and now the F–16 Falcon. Those who have served in Vermont have different memories depending on the aircraft and people of the time, but the sense of duty has remained constant over the years.

Having said that, Randy Green, one of America's most renowned aviation artists, has painted a very special picture that perfectly captures the spirit of the Vermont Air Guard. Entitled, ''Vermont Thunder'' it is a depiction of a Vermont F–16 flying into a stormy sunset. To me it represents the great contrasts of flying military aircraft; the beauty of flight is tempered by the responsibility and danger of military service. It is my sincere hope that this painting will serve as a small reminder to future Air Guard members of our State's proud past.

As the ultimate reminder of that past, it is fitting that we remember here on the floor of the U.S. Senate the memories of those who paid the ultimate sacrifice for their service. The following is a list of Vermont Air National Guardsmen who have died in the line of duty since 1946:

Lieutenant Thomas A. Mundy, Major Carroll A. Phylblo, Lieutenant John Williamson, Lieutenant Francis W. Escott, Colonel Robert P. Goyette, Lieutenant Jeffrey B. Pollock, Major John J. Ulrich, Captain John A. Harrell, Captain Bertrand R. White, Jr., Captain Charles W. Diggle III, Captain Robert W. Noble, Lieutenant Stephen L.C. Taylor.●

WELFARE REFORM

● Mr. BROWN. Mr. President, I rise today to speak on behalf of the welfare reform bill that passed this body yesterday.

Much has been said on the House and Senate floor and in the media about the impact of this bill on children and the working poor. Those who have spoken out against the bill have called it, draconian, and legislative child abuse. Well, I disagree.

For the past 61 years we have allowed a program originally designed to help families through a difficult time to become a welfare program that discourages able-bodied citizens from working. The current welfare system takes away the dignity and self respect that comes from earning an honest living and has replaced it with generation after generation of families dependant on public assistance.

In the past 61 years instead of teaching our children about work ethics, responsibility, hard work and determination, we have taught them how easy it can be to live off public assistance. Now, ladies and gentlemen, that is abuse.

Everyday men and women get up in the morning, dress their children and get them ready for the day. After the morning routine, these same men and women get into their cars and negotiate traffic on their way to work. Everyday these people work long hours to provide for their families, pay the bills and if they are lucky put a little money away in a college or retirement fund. All this bill asks is that those who are able to work try to perform a service for their benefits.

The working men and women of America have been doing their part for

61 long years. Now we have the golden opportunity to respond to the working men and women who believed us when we said we would reform the welfare program and to the States that have proven that they can handle the task of administering their own welfare programs. By returning some of the power to the States we make it possible to help people out of poverty.

Colorado is initiating a Personal Responsibility and Employment Program. There are innovative and insightful people in my State as there are in others. These State leaders have shown that there are alternatives to Federal control and that they can meet the needs of the residents of the State. The States have the best chance of moving people to work and restoring their self respect.

This bill included an amendment concerning the State Appropriation of Block Grant Funds. It ensures States expend block grant funds in the same way in which a State expends its own funds. Consequently, both the legislative and executive branch in the State share control of block grant funds through the appropriations process.

In addition, the bill included an amendment that places a 15 percent cap on administrative costs. Funds for welfare programs should go to individuals who need help, not to bureaucratic administrators.

When the 104th Congress convened in January 1995, we made a promise to the American people. We promised to reform the welfare program and rein in runaway entitlement spending. I must commend the work of my colleagues for enabling us to keep our word and follow through on our commitment to reform welfare.●

CAPT. JOHN WILLIAM KENNEDY

● Mr. ROBB. Mr. President, today, at Arlington National Cemetery, the remains of Capt. John William Kennedy, U.S. Air Force, will be laid to rest with full military honors. Captain Kennedy's mother, brother, relatives and friends will join a grateful Nation in paying final tribute to a courageous American who gave his life for his country.

This day and this ceremony are long overdue, Mr. President, because Captain Kennedy lost his life over the Quangtin Province of the Republic of Vietnam. Though his family was told he was missing in action on August 16, 1971, he was not confirmed killed in action until May 1996.

Mr. President, this brings back sad memories for me, because during my own time in Vietnam, families of many of the young men who served under my command received word that their loved ones would not be coming home. But as difficult as this notification was, it was even more difficult for the families who could not learn with certainty the fate of their loved ones. The most painful ordeal was ultimately the seemingly endless uncertainty of MIA families.

With mixed emotions, I note that the terrible ordeal of the Kennedy family of Arlington, VA, is at last resolved. A sorrowful peace has finally been found.

So I rise today, Mr. President, to honor the service rendered to our country by Capt. John William Kennedy.

Captain Kennedy was serving as a forward air controller with the 20th Tactical Air Support Squadron based in Chu Lai. On August 16, 1971, Captain Kennedy failed to check in during normal radio checks while flying a visual reconnaissance mission over the Quangtin Province. He was listed as missing in action until July 1978, when his status was changed to presumed killed in action. Finally, in May of this year, after using new DNA identification techniques, Captain Kennedy's family was notified that his remains have been recovered for burial.

Captain Kennedy graduated from the Virginia Military Institute in 1969 and then joined the U.S. Air Force. He graduated from pilot training in October 1970, where he was first in his class and was awarded the Undergraduate Pilot Training Office Training Award. He then reported to O–2A pilot training, and from there was assigned to the 20th Tactical Air Support Squadron in South Vietnam. He was serving there when his plane disappeared.

Captain Kennedy's awards include the Distinguished Flying Cross, the Purple Heart, the Air Medal with two Oak Leaf Clusters, the National Defense Service Medal, the Vietnam Service Medal, and the Republic of Vietnam Campaign Medal.

Mr. President, Captain Kennedy's distinguished service to his country clearly represents the very best of America. I believe I can speak for my colleagues in the U.S. Senate when I pay tribute to his service today—and when I convey our gratitude to his family for sharing their exceptional son with us.●

THE ARREST OF TWO TAIWAN STUDENTS IN ATLANTA

● Mr. CRAIG. Mr. President, I had the pleasure of meeting for the first time yesterday with the new representative from the Taipei Economic and Cultural Representative Office in the United States, Dr. Jason Chih-chiang Hu. While it was a good opportunity to discuss areas of mutual interest, I was concerned to learn about an incident that occurred recently at the Olympic Games in Atlanta.

On July 31, two Taiwan students—one currently studying at Georgia Tech, the other a recent graduate of a university in Dallas—were arrested during the gold medal table tennis match between the People's Republic of China and Taiwan. It is my understanding that the incident was sparked when one of the students waived the national flag of the Republic of China during the hotly contested championship match. The other individual was arrested when trying to assist his fellow student in resisting police arrest.

Mr. President, what began as an innocent, outward show of pride in his country ended with what would appear to be an excessive response. It is my hope that officials in Atlanta will carefully consider this situation and work toward a fair and equitable remedy that will not unduly punish these students.

Nationalism and love of flag and country are something we as Americans can appreciate. As we look around the various venues at the Olympics, I think we all feel a source of pride to see the stars and stripes waiving in the stands and being carried by our athletes. What we may not understand is some of the history behind the conditions under which the Republic of China on Taiwan is able to participate in the Olympics.

Athletes from Taiwan were banned from participating in the International Olympic Games in the 1970's due to controversies over the name, flag, and national anthem of their team. Later in that decade the International Olympic Committee amended its charter by striking out all references to national flags and national anthems. Instead, committee flag and committee song of the National Olympic Committee of each individual nation are used to describe the flag and anthem each nation's team uses. While almost all National Olympic committees use their national flag and anthem, the Republic of China, referred to in the Olympics as ''Chinese Taipei,'' are not allowed to use their flag and song.

Mr. President, this prohibition applies to the Chinese Taipei Olympic team—not its fans. It is my understanding that the charter does not contain references to restrictions on individuals participating as spectators in the audience.

Mr. President, while I do not have all the final details of this situation, I felt it was worthy of our notice. One purpose of the Olympic Games is for the world of nations to gather together in an event that allows us to rise above our differences. While that purpose is not always achieved, it is certainly a worthy goal. Therefore, it is my hope that we will see a swift and equitable resolution to this unfortunate situation.●

UKRAINIAN INDEPENDENCE DAY

● Mr. LEVIN. Mr. President, this year has been an historic one for the nation of Ukraine. Ukraine has adopted a new constitution, has taken part in its first Olympic games, and will celebrate the fifth anniversary of its independence from the former Soviet Union.

Ukrainian Independence Day, August 24, is a time to remember Ukraine's past and to look to its future. Since Ukrainian independence in 1991, the country has made great strides in many important areas.

On June 28, the Verkhovna Rada of Ukraine adopted a new Ukrainian constitution. The new Constitution establishes Ukraine as an independent,

democratic nation. The constitution also clearly divides power between the executive and legislative branches.

Ukraine has exhibited much economic potential. Working with the International Monetary Fund, Ukraine is making significant gains in halting hyperinflation and securing an efficient and cost-effective source of energy for the country. A partnership has been established with the European Union which will give Ukraine most-favored-nation status and other trade advantages, and opens the possibility of a free trade agreement after 1998. Ukraine's natural resources, its heavy industry, and its innovative and hard-working people promise to transform the country into a successful economic partner in the world marketplace.

Ukraine has now become a nuclear-free state. Ukraine has faithfully followed guidelines for the elimination of nuclear weapons under the START I Treaty and it has ratified the Non-Proliferation Treaty. And, in joining the Partnership for Peace Program for NATO membership, Ukraine has positioned itself to become a member of the strongest military alliance in the world.

Ukraine's transition to a democratically-governed, free-market economy has not been without its problems. But these strains are natural. The recent assassination attempt on Prime Minister Pavlo Lazarenko is troubling. However, we expect that the government of Ukraine will take the necessary steps to see that the rule of law is upheld. Ukraine has shown strong leadership in the face of such turmoil by pledging itself to adhere to the principles of the Helsinki Final Act. This should help ensure that whatever problems Ukraine may encounter in the future, it will continue to be an example of respect for civil and human rights in the region.

This year, Ukraine joined the world athletic community by fielding its first Olympic team. It was heartening to see the joy on the faces of Ukraine's athletes as they represented their country in this year's centennial Olympic games. Ukraine's fine athletes graciously represented the Ukrainian people.

The people of Ukraine deserve our admiration and support for the fine work they have done during the past 5 years. I know that the Ukrainian-American community in Michigan is in the front ranks of such support. United States-Ukraine relations are, and will continue to be, an important part of our national interests.

This is an historic time for Ukraine, one in which it is possible to witness its citizens decide for themselves what kind of government and what kind of future they want for their country. I know my Senate colleagues join me in honoring Ukraine on the fifth anniversary of its independence.●

ROGER TORY PETERSON

● Mr. DODD. Mr. President, I rise today to pay tribute to the life of one of Connecticut's pioneers. Roger Tory Peterson devoted his life to the study of birds. Peterson's ''A Field Guide to the Birds,'' published in 1934, revolutionized the concept of field guides by intricately depicting distinguishable characteristics of thousands of birds. Often referred to as the ''birder's bible,'' this handbook brought the once eccentric hobby of bird watching to the mainstream.

Born 122 years after John James Audubon, Roger Tory Peterson was the definitive expert on birds in this century. Many people believe he began the environmental movement by bringing tens of millions of bird watchers outdoors to study birds. Any avid bird watcher looking for the illusive bird would not dare go out without one of Peterson's guides in their pocket.

A master of detail, Roger photographed, painted, and identified thousands of birds throughout his 60-year career. His descriptions, both in words and drawings, were done with such clarity and precision that the birds came to life on paper. Even today, I continue to marvel at his prints, several of which hang in my home in Connecticut.

A world renown artist, naturalist, and environmentalist, Peterson believed that any serious study of natural history would lead people to care about and protect the environment. This philosophy is the backbone of the legacy he leaves behind. The Roger Tory Peterson Institute of Natural History in Jamestown, NY, is dedicated to educating the public and teaching young and old alike about natural history. This center and the guidebooks used by millions of hikers everyday will continue to promote environmental awareness for years to come.

The people of Connecticut were proud to have Dr. Peterson reside in Old Lyme for over 40 years. My parents were honored to know him as a neighbor and friend. We will all miss his work and remember him fondly.●

COACH DON CASEY

● Mr. KERRY. Mr. President, I rise today concerning one of the most beloved sports figures in Boston, Mr. Don Casey, assistant coach of the Boston Celtics. Coach, as he is known to the thousands whose lives he has touched, is leaving the Celtics to take on new challenges with the New Jersey Nets.

Since arriving in Boston, Coach has had an inspiring influence on the fans of the Boston Celtics. Through various charitable endeavors, Coach has affected the lives of thousands of people across the Nation. Most recently, Coach was selected to the Committee of Friends of the Secret Service, an organization dedicated to raising funds for the surviving family members of those Federal agents killed in the tragic Oklahoma City bombing. Even the White House has recognized Coach Casey's contributions to the world of sports by selecting him to serve on the President's Council on Physical Fitness and Sports.

Coach Casey has a long and storied career shaping the minds of basketball players of all ages and talent levels. At the age of 20, Coach landed his first coaching post at Bishop Eustace High in Pennsauken, NJ. He led his team to two State championships and was selected South Jersey Coach of the Year at age 24. Many of the players he coached at Bishop Eustace went on to successful college careers. Soon after achieving remarkable success at the high school level, Coach started his own impressive college career by being appointed to the head coach slot at Temple University. He led the Owls to several postseason tournament berths, including an NIT Championship over Boston College in 1966. Coach participated in the first NCAA college basketball game played outside of the United States when his Owls traveled to Tokyo, Japan, to take on the UCLA Bruins.

Coach broke into the National Basketball Association in 1982 as an assistant coach with the Chicago Bulls. The next year, he move to the Los Angeles Clippers in the same post. In 1984, Coach became head coach for an Italian league team. He returned to the NBA and the Los Angeles Clippers as an assistant coach, and in 1989 he was promoted to the head coach slot. He soon traveled to Boston where he has been the assistant coach for six seasons.

As Coach prepares to leave the city of Boston, his friends prepare for everyday life without him. Many joggers will be left to find new running mates, the Boston Celtics' employees will be listening for, but not hearing, the familiar vibrant, bellowing voice that shakes the hallways every morning with warm greetings, and the wait staff at his favorite restaurant, Ciao Bella on Newbury Street, will miss the energetic presence that so often electrified the ambience there.

Coach Casey is leaving our beloved Boston Celtics to start a new chapter in his basketball story. The players, the fans, and the staff of the New Jersey Nets are lucky to get him. I wish him the best of luck and the greatest success with his new team, unless, of course, the Nets ever meet the Celtics in the playoffs.●

MOVEMENT TO BAN JUNK GUNS GAINS STRENGTH

● Mrs. BOXER. Mr. President, earlier this year I introduced legislation with Senators JOHN CHAFEE and BILL BRADLEY to prohibit the manufacture and sale of junk guns—or as they have also been called, saturday night specials. These cheap, poorly constructed, easily concealable firearms pose such a great threat to public safety that their sale and manufacture should be prohibited.

Nearly 20 years ago, Congress prohibited the importation of junk guns, but allowed their domestic manufacture to soar virtually unchecked. Today, 8 of the 10 firearms most frequently traced at crime scenes are junk guns that cannot legally be imported. My view is that if a gun represents such a threat to public safety that it should not be imported, its domestic manufacture should also be restricted. A firearm's point of origin should be irrelevant.

Since the introduction of my legislation, a strong grassroots movement has developed to help get these weapons off the streets. Thousands of volunteers have worked to educate local, State, and Federal elected officials about the issues. The emerging coalition against junk guns includes law enforcement officials, physicians, children's advocates, and religious organizations. More than two dozen California police chiefs, including those from California's largest cities, have endorsed my legislation.

The movement to get these junk guns off the streets is clearly gaining steam. Many of California's largest cities, such as San Francisco, Oakland, and San Jose, have enacted local ordinances prohibiting the sale of junk guns. Two weeks ago, the mayors of more than a dozen cities from California's East Bay pledged to push for local junk gun prohibitions in each of their jurisdictions, creating the one of the largest junk-gun-free zones in the country.

I am dedicated to working hard on this issue in the 104th Congress and beyond. We will get these killer guns off our streets. When Senators return to their States over the August recess, I encourage them to discuss this issue with their constituents. I believe they will find that citizens do not support the current junk gun double standard, allowing poor quality weapons to be produced domestically, but not imported.●

JAPAN CONSTRUCTION PRACTICES

● Mr. MURKOWSKI. Mr. President, I rise to speak about an item that is not in the news right now. But that could have significance for United States construction companies and for United States-Japan trade relations. It has come to my attention that the Japanese Government is building a new airport near Nagoya, Japan called the Chubu International Airport. This multibillion-dollar project will be that country's largest public works effort for the next decade. The first flights are planned for the year 2005.

As many of my colleagues are already aware, American construction companies must be included in any list of our most competitive international industries. These companies have particular expertise in building large airports, having constructed the international airports in Hong Kong and Seoul, Korea, among others. Curiously, only in Japan have they been unsuccessful.

This is not for lack of trying. American construction, architecture, and design engineering firms have been trying to participate in the Japanese market for over a decade, with limited success. I have taken to the Senate floor many times to complain about how United States companies were blocked from participating in any meaningful way in the construction of the Kansai International Airport, despite numerous promises from the Japanese Government to allow their participation.

But Mr. President, my purpose here is not to recount the sorry tale of closed construction markets in Japan. I will just note that we have gone through years of negotiations to try to open Japan's construction market and break their corrupt dango system. In 1994, in the face of United States sanctions under title VII, Japan agreed to adopt an action plan to eliminate the numerous barriers to foreign participation in their public works market.

And I must say, Mr. President, that the first two reviews of the action plan have been very disappointing. In fiscal year 1995, foreign firms won only one construction project, out of a total of 613 let out for bid, and one design project, out of 20. The dedicated commerce officials monitoring Japan's performance indicate that United States companies still face unsatisfactory restrictions on the size and scope of joint-venture consortia that can bid on major procurement projects and still face discriminatory prequalification criteria.

But you don't get anywhere crying over lost opportunities, so today I instead want to use my remarks to point out to the Japanese Government that the Chubu project presents an opportunity for the Government to demonstrate its openness to foreign participation. And, it gives Japan the opportunity to enjoy a world class international airport.

In order to make this happen, the procurement agency for Chubu should immediately move to adopt open and competitive bidding procedures as called for under the United States-Japan bilateral understandings.

Mr. President, I will be watching very closely and I fully expect United States firms to be given equal opportunity to participate, commensurate with their ability.

I understand that our Commerce Department officials will travel to Japan again in September for further consultations, and I hope that they will receive positive news on the Chubu project.●

BOSNIA POLICY

Mr. FEINGOLD. Mr. President, the deployment to Bosnia of the International Force [IFOR] has passed its midway mark and I would like to review with my colleagues what I believe has been accomplished to date, the many questions yet unanswered by the Administration, as well as the dangerous pitfalls I see on the road ahead.

Mr. President, I was one of those who voted against the deployment of U.S. troops to Bosnia, to take part in the NATO-led effort to enforce the military provisions of the Dayton Accord. I was skeptical then, and remain so today, of Administration assertions that U.S. strategic interests in Central Europe or in the ''future of NATO'' justified this costly investment of troops and resources abroad. I took with a grain of salt Administration promises that U.S. troops would be out of Bosnia in a year's time and Administration assurances that it would work to level the military playing field between Serbs and Muslims.

I maintained then—I reiterate today—that it is the Congress—the Congress—which had to authorize the deployment, after thorough consultation with the Administration. From all reports coming out of Bosnia, we are now paying the piper for moving without the careful deliberation and consideration of pros and cons that a real policy debate would have engendered. If the Administration had truly consulted with the Congress—and not simply presented us with a fait accompli—we might have been able to anticipate many of the problems now facing IFOR and its parallel civilian institutions. I recognize that the issues and problems are complex and I do not mean to suggest that I or the Senate would have all or even some of the answers.

But I did pose a number of questions to the Administration during last year's all-too-brief hearings on the deployment and in the subsequent cursory debate on the Senate floor, in an attempt to focus priorities and anticipate problems. But as you know, the decision had already been made to move forward and the Congress sidelined, a sad fact I blamed as much on our timidity as the Administration's circumvention of constitutional process.

I recognize, Mr. President, that the Dayton Accord and the IFOR deployment to enforce its provision has not been without some real benefit. We can all be grateful that people are no longer dying en masse in Bosnia; U.S. and other IFOR troops are to be applauded for having largely succeeded in enforcing the military aspects of the agreement.

The head of the Defense Intelligence Agency [DIA], Lt.Gen. Patrick Hughes, testified earlier this year that he expected that the parties would continue generally to comply with the military aspects of the Dayton Accord and with IFOR directives. Hughes ''did not expect'' U.S. or allied forces to face organized military resistance; any ''modest'' threat remained limited to mines and sporadic low-level violence, such as terrorism. NATO commander Joulwan recently confirmed that many of the peacekeeping tasks delegated to IFOR have been completed, including overseeing the transfer of territory, the demobilization of troops and the storage of heavy weapons.

But there are disturbing signs, Mr. President, that the progress is transitory and perhaps even an illusion.

Compliance is begrudging; ''the spirit of Dayton'' encouraged at the point of NATO arms.

In an October 19, 1995 letter to Secretary Perry, I asked just how durable an IFOR-enforced peace would be. Specifically, I asked for some assurance that the Serbs had abandoned their quest for a ''Greater Serbia'' and that the territorial integrity of Bosnia would be protected.

The facts on the ground provide the disturbing answer. General Hughes, for one, was troubled by the ''fundamentally'' unchanged strategic political goals of the former warring factions; that is, eventual permanent partition. Upon IFOR's withdrawal, Hughes foresaw: Bosnian Serbs seeking political confederation with Yugoslavia; Bosnian Croats with Zagreb; resistance by Serbs and Croats to efforts of the Muslim-led government to assert its authority; collapse of the ''Federation'' of Croats and Muslims, intended as a counterweight to the Serbian entity created by Dayton, under the mutual hostility of Muslim and Croat; and delay or stymie of civil affairs, such as elections.

In short, Mr. President, there is the real possibility that after a nearly $2.8 billion investment just for the deployment of our troops to Bosnia, we will be back at square one: hostile, ethnically-divided factions facing off at tenuous borders under unstable military, economic and social conditions.

In my letter to Secretary Perry and during floor debate, I also raised the question of cost, especially in light of how this expensive deployment would undermine efforts to balance the budget. In December, the Congress was told the cost would be roughly $2.0 billion. I predicted then that the bill would be a lot more. Now, because of unexpected costs and delay associated with a winter deployment, intelligence gathering and engineering efforts, the most recent DoD estimate of which I am aware is for $2.8 billion. Just how reliable is this estimate, or will there be more unexpected costs? I suspect it is hardly prophetic if I venture that the tab presented to the American taxpayer—just for the military side of this adventure—will top $3 billion, if not more.

I asked the Administration back in October if the U.S. would withdraw regardless of whether the mission was a success. I asked because I had my doubts that the stated goal—ending the fighting and raising an infrastructure capable of supporting a durable peace—was doable in twelve months time. I foresaw a danger that conditions would remain so unsettled that it would then be argued that it would be folly—and waste—to withdraw on schedule.

It should be no surprise then, Mr. President, that European diplomats are questioning whether IFOR should exit on schedule—claiming success—if the ''fundamental'' nation-building task of elections has not been completed. We know from press reports that the Europeans are pressuring the U.S. to stay on as well, in an undefined role and for an uncertain period of time.

While I welcomed Vice President GORE's declaration that our troops would be withdrawn on schedule, I also note that only yesterday Secretary of State Christopher testified before the SFRC that ''final decisions'' on withdrawal would have to await the results of the September elections and then qualified that by stating the military mission would be completed ''roughly'' by the 1-year deadline. In short, the very spectre I envisioned 7 months ago may be coming to haunt us.

Speculation that IFOR (and U.S. troops) will extend beyond one year is worrisome, given the assurances we heard last December that this deployment was limited in time. Even the weak resolution passed by the Senate accepting the deployment did not envision an open-ended affair. I urge the Administration to heed the sage observation of Joint Chiefs of Staff Chairman General Shalikashvili, who has reiterated that U.S. troops will be out of Bosnia by December. He said that if the factions wanted peace, then a one year IFOR deployment was enough; an extended mission would not alter the intentions of the parties.

In any event, the Pentagon has also apparently modified the President's promise that our troops would be home by December 20. Now, I understand, exit will begin on or around that date, ensuring that some of our men and women will be in Bosnia well into 1997. Another option I have heard mentioned is having a reduced IFOR force—principally British and French troops—remain in Bosnia after December, under U.S. air cover.

Let me say now, Mr. President, that I am opposed to the continued deployment of U.S. ground forces in Bosnia after December 1996. I do not think they should be there now and I expect the Pentagon to brief us on its plans for a timely exit.

That said, I am not necessarily opposed to a limited U.S. support role. I remain deeply concerned that Dayton produced a Muslim geographic entity essentially DOA. If ethnic partition is inevitable, the Muslim rump state likely to emerge will have no coastline, be an economic basketcase for the foreseeable future, and remain surrounded by hostile neighbors.

Our political, moral, financial and strategic investment in Dayton and in IFOR requires that we not allow the Muslim entity to wither on the vine. The dividends—stability in Europe, enhanced credibility in the Muslim world, undermining Iranian inroads, economic opportunities for U.S. business—outweigh the costs.

Which brings me, Mr. President, to the next question I raised in October: what provision had the Administration made for the arming and training of Bosnia's Muslims? I have argued almost from the moment I first entered the Senate that we should arm and train the Muslims, permitting them to adequately defend themselves. If we had done so three years ago, we would likely not have found ourselves in a position of enforcing a peace that the factions may not want.

I am pleased to note President Clinton's July announcement that the military assistance program for the Bosnian-Muslim federation is finally scheduled to begin. A contingent of Bosnian soldiers—all Muslims—reportedly arrived in Turkey in June for training and $98.4 million in U.S. arms are scheduled to be shipped to the Bosnian army, including M60 tanks, armored personnel carriers and antitank weapons in the next several weeks. Turkey has reportedly matched the U.S. pledge and U.S private contractors will assist the Turks in improving command-and-control and other military procedures. I hope that this marks the genesis of a Muslim force capable of defending itself against the better-armed Serbs, should the peace collapse, a not unforeseeable possibility.

But I wonder, Mr. President, where are our European allies? Even with the U.S. and Turkish pledges, there remains a $600 million shortfall on the amount needed to adequately equip and train the Muslims. The Europeans—especially the French and British—have contributed nothing and their support for Dayton Accord provisions calling for adequate arming and training of the Muslims, are lukewarm, at best. Yet while they continue to view sending Western arms to Bosnia as destabilizing, they do not seem to object to having Iran—an otherwise hostile state with which they wish to trade—arm the Muslims.

I had thought that we had received assurances from the Europeans that they would support the arm and train provisions of Dayton. Have we been bamboozled? What is the Administration doing to press the issue?

Yet another question I asked of Secretary Perry last year regarded U.S. treatment of indicted war criminals, such as General Mladic and Mr. Karadzjic. The issue of dealing with persons today government officials responsible for effecting Dayton's provisions, but who yesterday were mass murderers, is not an easy one. All the factions in Bosnia harbor such men and each of the ethnic communities—especially the Muslims—suffered grievously at their hands.

Some argue that the process of reconciliation would be better served by putting the past behind us. I disagree wholeheartedly. The international community has made a judgment that those involved in genocide must be brought before a court of justice. Certainly in investigating these cases and prosecuting these men we risk exacerbating old wounds. But I believe the healing process is better served by bringing these crimes out into the light of day and punishing those responsible. Otherwise, the victims families will allow the resentments to fester and the cycle of violence inevitably erupt anew.

I understand the view of the IFOR military commanders, who are reluctant to involve themselves and their troops in this sort of distasteful civilian task and in the dangers of ''mission creep.'' In a cauldron such as Bosnia, the last thing the peace enforcers want is to be perceived as taking sides.

But I believe that the higher moral and practical obligation involved requires that IFOR troops vigorously protect those seeking to uncover evidence of these crimes. The presence of a protective cordon of IFOR troops at Srebrenica, where the first solid evidence of mass murder and atrocities on an appaling scale is now being exhumed, is a welcome development. I note, however, that the two most prominent war criminals, Karadzic and Mladic, continue to flout their disdain for such pronouncements. Karadzic, for example, dismissed the moderate Serbian prime minister, Rajko Kasagic, in mid-May.

That act seems to me to be an act of real political power and certainly not in keeping with State Department assessments that the man is being ''sidelined.'' Karadzic's June 30 transfer of power to a political flunky was merely another transparent attempt to avoid punishing economic sanctions. And despite Ambassador Holbrooke's efforts last month to strip Karadzic of political influence, I think we all understand that Karadzic continues to call the shots, which are aimed at the underpinnings of Dayton.

There are other problems, of course. Carl Bildt, the High Representative for implementation of Dayton has noted that while the formal structures of civilian implementation are in place, the political will to make Dayton work is clearly missing. Conditions are nowhere near settled enough to conduct ''free and fair'' elections; absent are freedom of movement, freedom of association, a balanced media, and the right to vote in secret near one's home.

Ambassador Frowick, the Organization of Security and Cooperation in Europe (OSCE) mission head in Bosnia, even went so far as to admit July 29 that, at best, the elections could be expected to be ''reasonably democratic,'' adding that ''free and fair is a stretch.'' Frankly, I'm puzzled as to how elections neither free nor fair can ever be reasonably democratic.

Yet, the OSCE certified June 25 that such elections can be held by September 14. The chief of staff of the OSCE, William Steubner, resigned in June, reportedly over a disagreement as to whether Bosnia is anywhere near being ready for an election. The continued influence of thugs such as Karadzic, the reports that Serbian goons are preventing Serbs from voting in the their former home districts—one Serb official reportedly dismissed objections by stating: ''Who cares where they want to vote; they'll vote where we say.'' It was only in June that another 100 Muslims were forced out of their homes in Bosnian Serb territory. In the suburbs of Sarajevo and in countless villages across the former Yugoslavia the triumph of ethnic cleansing is apparent. All prisoners of war have not been released, as required by Dayton. Foreign forces remain in Bosnia long after the deadline for their departure; indeed, despite the Administration's certification that these people have left, the Washington Post reported July 8 that some Islamic fighters are burrowing in, creating mischief and posing a potential threat to IFOR troops. If true, how will this affect the Administration's pledge that the arm and train program will not come up to speed until those forces are gone?

These political problems—which certainly threaten the long term health of Dayton—are compounded by economic difficulties. A question I did not ask in October, but which looms now over the process, is that of paying for the reconstruction of Bosnia? How realistic is the expectation that the international community will pony up the estimated $5.1 billion necessary over three years to put Bosnia back on the road to recovery? In April, in Brussels, World Bank and EU officials requested $1.8 billion in reconstruction aid for 1996. Donors have pledged barely one-third of that amount and the World Bank has received only one-half (or $300 million) of that in actual commitments. Is it any wonder that the Sarejevo government may look again to Tehran, which recently offered $50 million in assistance?

Which leads me Mr. President, in a roundabout way back to the first and most important question I put to Secretary Perry back in October, and which I discussed at length during the December floor debate: why would the Administration not seek Congressional approval and support for the deployment to Bosnia? As I said then, it is through the authorization process—a procedure mandated by the Constitution—that a deployment is explained and refined; that questions are answered; fears alleviated; and the American people given an opportunity to air their views on what the mission is worth to them.

This first and last question, Mr. President, has never been answered. The result has been uncertainty and more questions. To date, we have been fortunate that the results have not been more tragic, the sad circumstances surrounding Secretary Brown's mission notwithstanding.

I remain unconvinced that the IFOR-imposed ceasefire masks anything more than an inevitable slide towards permanent partition; if that is the case—and I hope I am wrong—then I and the American people want to know how this costly deployment furthered the national interest. Mr. President, I hope we will have public hearings soon on the status of the deployment and that the Administration will answer the questions I put forward in October and repeated here today. I acknowledge again the Congress' own culpability in not forcing the issue and asserting its constitutional authority and responsibility on the deployment. I hope that the lessons learned here will lead to more backbone in the future.●

CENTERS FOR DISEASE CONTROL AND PREVENTION: 50th ANNIVERSARY

● Mrs. KASSEBAUM. Mr. President, this summer, the eyes of the world are turned toward Atlanta, the host of the centennial Olympic games. But a careful look reveals another anniversary taking place in Atlanta—an anniversary that we should herald as well. On July 1, 1996, the Centers for Disease Control and Prevention [CDC] reached a milestone: The agency turned 50 years old. What began during World War II as a program to stop the spread of malaria among U.S. military personnel has become a world-renowned scientific agency the mission of which is to prevent and control disease, disability, and injury. With time-tested expertise in communicable disease control, the agency has led efforts in developing a strategy to address the newly emerging infectious diseases of today. The Senate Committee on Labor and Human Resources, which I am honored to chair, has held hearings on this major global public health issue and the role which the United States plays in fighting the spread of communicable diseases, and I am personally committed to this battle. Recently, President Clinton, recognizing the threat that infectious diseases present, issued a Presidential Decision Directive on Emerging Infectious Diseases. In recognition of CDC's golden anniversary, I would like to summarize the problem, along with the prevention strategy that CDC has developed.

ADDRESSING EMERGING INFECTIOUS DISEASE THREATS: A PREVENTION STRATEGY FOR THE UNITED STATES

Two to three decades ago, many scientists believed that infectious diseases could and would be eliminated as a public health problem in their lifetimes. Today, those very same diseases remain the leading cause of death worldwide, and a major cause of illness, death, and escalating medical costs in the United States.

More and more Americans recognize the threat that emerging and re-emerging infectious diseases pose to domestic and global health. Accordingly, they understand the need to improve surveillance and response capacity inside and outside our borders—infectious microbes know no borders and disregard immigration laws.

Several dramatic changes in our behavior and environment have contributed to the resurgence of infectious diseases. Across the globe, explosive population growth has led to unprecedented migration of people across borders. These population shifts are aggravated by rapidly changing technology and increasing international travel.

The widespread misuse of anti-microbial drugs has accelerated the emergence of new drug-resistant microorganisms. In addition, scientists are identifying, with remarkable frequency, a growing number of new infectious diseases along with microorganisms that cause previously unexplained chronic diseases.

In response to the threat of emerging infectious diseases, CDC developed a plan designed to safeguard our Nation's health. Entitled ''Addressing Emerging Infectious Disease Threats: A Prevention Strategy for the United States'', 1994, the plan was developed in cooperation with local and State public health officials, various Federal agencies, medical and public health professional associations, infectious disease experts from academia and clinical practice, and international and public service organization. The plan lays down CDC's domestic and international strategy for addressing emerging and re-emerging infectious disease threats. The plan has four goals:

First, surveillance and response. The first goal is to improve the detection, investigation, and monitoring of emerging pathogens, the diseases they cause, and the factors influencing their emergence. Essential to this goal is an adequate laboratory capacity that assures accurate diagnosis of infectious diseases.

Second, research. The second goal is to integrate laboratory science with surveillance to optimize public health practice. CDC, in partnership with pubic agencies, universities, and private industry, will support research programs to address a number of pressing issues. They include: development and application of modern and rapid laboratory techniques for identification of new pathogens and drug-resistant organisms; determination of how behavioral factors influence emerging infections; and evaluation of the economic benefit of prevention and control strategies.

Third, prevention and control. The third goal is to enhance communication of public health information about emerging diseases. This would ensure prompt implementation of prevention strategies.

Fourth, infrastructure. The fourth goal is to strengthen infrastructure at local, State, and Federal public health levels. This includes plans for addressing the diminished capacity of health agencies to respond to infectious diseases. Critical losses in personnel over the past years have resulted in dangerous limitations in laboratory expertise. To respond to these losses, CDC has placed a top priority on building and maintaining expertise in rare or unusual diseases through the establishment of appropriate training programs for young health professionals.

CDC's initial efforts have focused resources on improving the capacity of the United States to address emerging infectious diseases through collaborations among State and local health departments and academic institutions. Thus far, CDC has provided funds through cooperative agreements to 14 States and two large local health departments to enhance their ability to monitor and respond to infectious diseases, including foodborne disease, drug-resistant infections, and a variety of other infectious disease public health programs. Health departments have used these funds to improve State health laboratories, build epidemiologic capacity to investigate outbreaks, and develop electronic technology for disease reporting and tracking.

CDC has also begun developing a national network of emerging infections programs. This network will conduct special surveillance projects and develop and improve surveillance methods. Emerging infections programs [EIP] address a variety of infectious disease problems, including food- and water-borne disease caused by E. coli and cyptosporidium, tickborne diseases such as Lyme disease, and the newly recognized ehrlichiosis, and antibiotic resistance.

Through cooperative agreements with State health departments and their collaborators in local health departments and academic institutions, CDC has provided funds to establish the first four such programs in health departments in California, Connecticut, Minnesota, and Oregon; a fifth EIP will be initiated this year. As resources permit, CDC will institute three additional EIPs in fiscal year 1997 in other State health departments.

With new microbe threats confronting us daily, CDC had developed a public health microbiology fellowship program in partnership with the Association of State and Territorial Pubic Health Laboratory Directors. CDC has also reinstituted an extramural research program that is focusing initially on tickborne disease and antibiotic resistance.

Although extensive work to address emerging infections has begun, substantial further effort is needed to strengthen defenses against potential disasters caused by infectious microorganisms. Long-term cooperation and partnerships are needed with clinicians, microbiologists, public agencies, universities, private industry, and communities. It is indeed critical that we all work together to ensure rapid, comprehensive responses to the microbial risks challenging the health of the world's population. I commend CDC on their 50th anniversary and on their outstanding effort to control and eliminate emerging infectious diseases.

DOMESTIC VIOLENCE/GUNS BILL

• Mr. LAUTENBERG. Mr. President, this morning we had a discussion on the floor about legislation I am sponsoring to prohibit people convicted of domestic violence from owning guns.

My bill stands for the simple proposition that wife beaters and child abusers should not have guns. It says: Beat your wife, lose your gun. Abuse your child, lose your gun. It's that simple. And it's really little more than common sense.

Mr. President, for many months, I had tried to include my proposal as part of the stalking bill. And, finally, on July 25, after agreeing to several changes at the request of my Republican colleagues, my legislation passed the Senate by voice vote.

Mr. President, the compromise we worked out was supported by the most ardent progun Members of this body. And we had an understanding that the leadership on both sides of the aisle would work to get the legislation passed promptly in the House.

Now we have just learned that the stalking bill has been inserted into the conference report on the DOD authorization bill—but without my amendment to keep guns away from wife beaters.

Mr. President, given the understanding that we had with the leadership, this news came as something as a shock to me.

Earlier this morning, there was a suggestion that somehow I was not respecting an agreement we had on this matter. And now this.

Mr. President, this is not how we should be doing business in this body.

Mr. President, I continue to be amazed at just how far the NRA and their supporters are willing to go to let wife beaters and child abusers get guns.

And I think the American people would share my outrage at this. Every year, thousands of women and children die at the hands of family members. And 65 percent of the time, these murderers use a gun.

There is no reason why wife beaters and child abusers should have guns. Only the most progun extremists could possible disagree with that. Unfortunately, these same extremists have incredible power here in the Congress.

Mr. President, I want to make clear to my colleagues that I am not going to let this issue die. The lives of thousands of women and children are at stake. And I'm going to continue this battle for as long as it takes.

Members of Congress on both sides of Capitol Hill need to be held accountable on this. The public has got to know what's going on here.

Mr. President, I'm convinced that the overwhelming majority of Americans would agree.

Wife beaters should not have guns. Child abusers should not have guns.•

SALUTE TO THE WORLD'S GREATEST ATHLETE

• Mr. KEMPTHORNE. Mr. President, I rise to pay tribute today to an Idahoan who has overcome adversity to become an Olympic champion.

Dan O'Brien of Moscow last night won the Olympic decathlon gold medal and set an Olympic record with a score of 8,824 points, the sixth best mark

ever. Success is not new to Dan, but neither is bitter disappointment. He has been very successful on the national and even the world level, but his dream, an Olympic gold medal, has eluded him.

By now most sports fans around the world have heard the story of how, 4 years ago, Dan was one of the favorites for the Barcelona games and how he failed to qualify by not clearing any height in the pole vault at the Olympic trials in New Orleans.

Since that crushing result, Dan has shown the determination, hard work and drive that embodies the American spirit. He trained like he had never trained before. He won the world championships three times since the 1992 trials and set the world decathlon record with a score of 8,891 points just weeks after the Barcelona games.

At the Olympics in Atlanta, Dan seized his opportunity. He started out well, and claimed the lead after the first day of the 10-event competition. The eighth event was his old nemesis, the pole vault. Learning the lessons of 4 years ago, Dan cleared a cautious 14 feet, 9 inches. Gaining in confidence, he vaulted past the height he missed at the 1992 trials, and then wound up clearing 16 feet, 4¾ inches to score 910 points in the event.

The ninth event pretty much clinched the gold medal. In his final javelin throw, O'Brien recorded his only personal best of the competition, with a toss of 219 feet, 6 inches. That gave Dan a 209-point lead heading into the final event, the 1,500 meters.

Dan has never liked this race, and although he didn't need to run a particularly fast race, he did pick up around the final turn and sprint to the finish line. He could then claim redemption for 1992's performance.

Immediately after finishing, Dan broke down in tears. I am sure they were tears of joy and triumph. He had finally answered all his critics and those who doubted him. He had proven to himself and the world that his determination and commitment to be the best would prevail.

Mr. President, to this fine young man, who I am proud to say graduated from the University of Idaho and lives and trains in Moscow, I extend my heartfelt congratulations. I know the people of Idaho join me in saying ''Well done, Dan'' to the Olympic gold medal champion in the decathlon, the world's greatest athlete, Dan O'Brien.●

RETIREMENT OF MR. ROBERT DAVID YOUNG, OF SAGINAW, MI

● Mr. LEVIN. Mr. President, I am pleased to have the opportunity to salute Robert David Young on his retirement from the Great Lakes Sugar Beet Growers Association.

I have appreciated Bob's long service as the Executive Vice-President for the Great Lakes Sugar Beet Growers. He has been an excellent source of information regarding agriculture policy, and particularly the sugar program. In his capacity with the association, he has effectively represented not only growers but all the communities of the Thumb and Bay areas of Michigan. And, in fact, he did that officially as a formidable State Senator of the 35th District for many years. Because of his skill and experience, Bob's counsel and expertise have helped me and the people he has served.

We have worked together for many years, through flood and drought, and through several Farm Bills and sometimes excessive USDA red tape. Our different party affiliations have not intruded on a joint desire to produce good, pragmatic agriculture policy that would benefit Michigan.

I will be sad to see Bob retire. However, I salute his accomplishments and recognize that he has earned some time off. The people of Michigan owe him a debt of gratitude.●

THE SENATE'S WORLD WIDE WEB SITE ON THE INTERNET

● Mr. WARNER. Mr. President, earlier this week a Washington Post editorial entitled ''Wiring Congress'' implied that the Senate has not embraced the idea of providing legislative information in electronic format. I am here today to set the record straight.

This past fall, in one of my first initiatives as chairman of the Senate Committee on Rules and Administration, Senator FORD and I announced the availability of the Senate's World Wide Web site on the Internet. This site, which is continuously updated with information about the Senate, is also the public's gateway to legislative information. Today, using the Senate Web site and linking through the Government Printing Office, the American public have electronic access to bills, resolutions, filed committee reports, and the CONGRESSIONAL RECORD.

In addition, we are working hard to develop a centralized system that will allow committee chairmen to also post committee hearings and prints on the Government Printing Office access system.

The Rules Committee has also been holding a series of hearings to address the issues concerning public access to Government information in the 21st century. I am well aware of how important it is that in our quest to provide information in electronic format, we do not lose sight of our responsibility to maintain a public record and to assure access to Government information for those who do not have access to the information highway.

The Rules Committee is taking an aggressive approach toward ensuring the Senate—and the American public—have timely and complete access to all legislative information.●

MODIFICATION OF PENSION NONDISCRIMINATION RULES

● Mr. CONRAD. Mr. President, I rise today as an original cosponsor of legislation to modify the application of pension nondiscrimination rules to governmental pension plans. This legislation will provide relief to State and local governments from unnecessary and overly burdensome Federal regulations.

Pension nondiscrimination laws enacted by the Federal Government ensure that workers at all levels of employment are given access to the benefits of tax-exempt pension plans. As employers, State and local governments employ a wide range of workers, from judges to firefighters to teachers. Each occupation requires that its unique circumstances be considered when determining pension benefits. Laws that were created by the Federal Government do not adequately address the needs of the diverse work force of State and local governments.

Public pension plans are negotiated by popularly elected governments and subject to public scrutiny. They do not require a high degree of Federal review. The process of enacting these plans promotes fair benefits for governmental employees. Public pension plans have been given temporary exemption from nondiscrimination laws for almost 20 years, and the result is that full-time public employees enjoy almost twice the pension coverage rate of their counterparts in the private sector. It is time to make this temporary exemption permanent.

This bill enjoys a wide range of support from State and local governments, as well as public employee representatives. I urge my colleagues to join Senator HATCH and myself, along with a bipartisan group of Senators, to ease the burden of Federal regulation on State and local governments. I look forward to this bill's consideration in committee and on the Senate floor.●

TRIBUTE TO CAMP NATARSWI, BAXTER STATE PARK, ME

● Ms. SNOWE. Mr. President, I would like to recognize the 60th anniversary of Camp Natarswi in Baxter State Park, ME.

In August, Girl Scouts from Maine and across the United States will reunite to mark this occasion, exemplifying the strong bond of friendship that young women gain through their Girl Scout experiences. Such relationships are vital for young women and foster an appreciation for helping others whether it be in the community, at school, or at home. It is clear that these women have cherished the spirit of the Girl Scout tradition as they now gather 60 years later to renew their friendships.

Before this land in Baxter State Park became Camp Natarswi in 1936, it was used to house Civilian Conservation Corps workers who were building a road from Togue Pond to Roaring Brook. The property was leased from Great Northern Paper until 1975 when the paper company designated ownership to the Girl Scouts. Conducive to

camping and scenic views, the young girl scouts found themselves inspired by this natural habitat while learning lessons on the environment and work ethics that would accompany them on their future endeavors.

For the alumnae from 12 States as far away as California, Camp Natarswi will forever be a place where friendships flourished and lessons were learned about life and the importance of our natural resources. Most of all, these women were instilled with the Girl Scout tradition, something they have passed down to their children and grandchildren. I am pleased to recognize the 60th anniversary of this very special place for so many of my fellow Mainers.●

PEACETREES VIETNAM

● Mrs. MURRAY. Mr. President, I rise today to describe a project being undertaken by a remarkable organization in my home State of Washington. PeaceTrees Vietnam, the 20th international PeaceTrees Program sponsored by the Earthstewards Network, represents the dedicated work of individuals working to promote peace on a local and global scale.

For over a decade, Earthstewards has worked around the world to foster dialog between peoples of various countries, and to contribute to communities around the world. Earthstewards has organized PeaceTrees Programs in many communities, including Capetown, South Africa; Auroville, South India; Bluefields, Nicaragua; and Tacoma, WA. Now, this organization is embarking on a project in Vietnam.

Every week in Vietnam, a child is killed or maimed by the explosion of an antipersonnel landmine. At this time, there are over 58,000 leftover landmines and unexploded ordnance in the Quang Tri Province of Vietnam, the DMZ during the Vietnam war. PeaceTrees Vietnam seeks to eliminate the threat of these devices by removing landmines, planting trees, raising community awareness, and reducing the dangers of landmines in Vietnam and across the globe.

This important program has several phases. First, beginning this summer, landmines will be removed near the old Khe May military base in the town of Dong Ha in Quang Tri Province. American and Canadian retired military experts as well as Vietnamese local militia will extract these destructive weapons of war. Then, in November, a Friendship Forest will be planted in this area. Not only will this serve as a cooperative effort of the Westerners and Vietnamese who plant these trees, it will help set up a buffer to stop the dry, hot winds from Laos and restore life to deforested terrain.

Next, construction of a Landmine Awareness Education Center will begin. Educational displays will be created, so children and adults may understand how to identify potentially unsafe areas, and what to do if a landmine is encountered. Mine clearance will continue through 1997 in the thousands of hectares of the surrounding farm and forest land. This will allow citizens to productively and effectively utilize the land again, and will help reforest the area.

As a member of the PeaceTrees Vietnam International Advisory Board, I am pleased to have the opportunity to assist efforts to make this landmine-ridden area safe again, and to raise awareness of the global problem of landmines. I applaud the work of all those who have helped organize and implement PeaceTrees Vietnam. Efforts such as theirs truly make a difference in the lives of countless individuals around the world.●

CELEBRATE HOSIERY WEEK—AUGUST 5–11, 1996

● Mr. HELMS. Mr. President, next week, August 5–11, marks the 23d annual observance of Celebrate Hosiery Week. It always gives me great pride to join in recognizing an industry which has contributed so much to the free enterprise system of our country and so much to the economy of North Carolina.

Mr. President, National Hosiery Week is of special importance to me because North Carolina is the leading hosiery State in the Nation. North Carolina is proud of the leadership of the hosiery industry and the fine quality of life that it has provided for so many people.

In fact, the hosiery industry plays a substantial role in the economy of more than half of the States of the Union. There are 343 companies in the hosiery business, operating 456 plants employing 62,300 people in 28 States. The statistics are staggering: these 62,300 people produce and distribute 22 million dozens pairs of hosiery a year. They contributed a record $7.2 billion to the U.S. economy in 1995.

The hosiery industry has made great strides in improving productivity and the quality of its product. These efforts to make the hosiery industry more competitive have resulted in significant technological and design improvements in the manufacture of hosiery.

As a result, the hosiery industry has likewise made enormous gains in the area of foreign trade. Exports in 1995 grew by 9 percent over 1994 levels to 22 million dozen pairs—and that, Mr. President, is a lot of hosiery exports.

Mr. President, my hat's off to the hosiery industry because it is making a real difference in many small communities where the hosiery plant is often the main employer, providing good, stable jobs for its employees.

I extend my sincere thanks and congratulations to the hosiery industry and to its many thousands of employees for their outstanding contribution to our State and Nation.●

HIGH RUSSIAN HONOR TO IOWAN JOHN CHRYSTAL

● Mr. HARKIN. Mr. President, John Chrystal, an outstanding Iowan, is one of only two Americans to be awarded the Order of Friendship, the highest honor that the Government of Russia can bestow on a noncitizen. This award, which was given at the behest of Russian President Boris Yeltsin, was presented at a ceremony in Des Moines, IA, by the Russian Ambassador to the United States, Yuli M. Vorontsov. It has been my privilege to have John as a close personal friend for many years, and I am extremely proud of his achievement in receiving this high and well-deserved honor.

Under Russian law, the Order of Friendship, which was established in 1994 by President Yeltsin, ''is awarded to persons for significant contribution to strengthening friendship and cooperation between nations and nationalities, for helping the development of the Russian economy, for especially fruitful activities in scientific development, for bringing together and mutually enriching the cultures of nations and nationalities, and for strengthening peace and friendship between nations.'' John was honored for all of these reasons and in recognition of his 70th birthday, which was December 11 of last year.

John has had a long and distinguished career as a farmer and banker, and is recognized as a leading expert on agricultural, trade and economic matters involving the former Soviet Union. He has long worked to improve trade relations between our nation and the countries of the former Soviet Union and to help those countries modernize and restructure their agriculture and food systems. As a farmer himself, John has real credibility when he talks with farmers in Russia, Ukraine or one of the other countries of the NIS.

John has traveled to Russia, Ukraine, Georgia, and other nations of the former Soviet Union some 50 to 60 times since 1959, representing our State of Iowa and our Nation as a private-citizen ambassador of good will and understanding. In addition, he has been remarkably generous in hosting many exchanges and delegations from those countries to our Nation and our State of Iowa. John has known personally all of the recent leaders of the Soviet Union and Russia and is well known among farmers and policy makers in the countries of the former Soviet Union.

We Iowans are tremendously proud of all the good work that John Chrystal has done over the years to help improve food and agriculture systems in the former Soviet Union and to foster stronger ties and a deeper level of understanding among our peoples.

Mr. President, I ask that a number of articles pertaining to the awarding of the Order of Friendship to John Chrystal be printed in the RECORD.

The article follows:

[From the Carroll, IA, Daily Times Herald, June 24, 1996]

CHRYSTAL EARNS HIGH RUSSIAN HONOR

(By Butch Heman)

John Chrystal jokes that dozens of times he's gone to Russia, ''one of the few major nations in the world that we've never had a war with,'' and apparently hasn't angered anybody there yet.

Russia honored the rural Coon Rapids man today with its highest honor bestowed on a foreigner: the Order of Friendship.

Russia's ambassador to the United States, Yuli Vorontsov, presented the award during a ceremony at The Des Moines Club in Des Moines.

President Boris Yelstin established the Order of Friendship in 1994. It is warded to persons for significant contributions toward ''strengthening friendship and cooperation between nations and nationalities, for helping the development of the Russian economy, for especially fruitful activities in scientific development, for bringing together and mutually enriching the cultures of nations and nationalities, and for strengthening the peace and friendship between nations.''

The Russian Embassy in Washington, D.C., said Chrystal was being honored for activities in all those areas, according to a press release.

The other American to receive it was astronaut Norman Thagard, the first U.S. citizen to live aboard the Russian space station Mir.

Chrystal, who has been visiting Russia, the Ukraine, Georgia and other parts of the former Soviet Union for 36 years, was chosen for the award at the urging of Yeltsin.

Since 1959 he has been helping those countries modernize farming and agriculture infrastructure.

Chrystal has known all Russian leaders—from Nikita Khrushchev through Yeltsin—and most of their agricultural ministers.

''I've traveled from the Baltic States to Vladivostok, from the permafrost to palm trees. I'm more widely traveled in Russia than I am in the U.S.,'' he said with a chuckle.

He observed the evolution from collective state-owned farms to ''a modern attempt at democracy that has not yet been achieved.''

Chrystal teasingly says he's done more criticizing of Russian agriculture than assisting.

''I've always been anxious to better our relations with Russia because I think it can become an economic partner with the U.S.,'' he said.

Russia is not a third world nation by any means. Chrystal said, describing it as a place with vast natural resources and a very well-educated populace that survived 1,000 years of autocracy under the czars and communism.

The country has some grave faults, mainly no management of culture by competitive ideas and no cash, he said.

''And they are having a social, political and economic revolution simultaneously and without blood, which is certainly one of the first times in the history of the world,'' Chrystal said.

A big problem for Russia is that change has to happen quickly, he said.

''When I was growing up on the farm we had a two-row planter, and when the neighbor had a four-row planter, boy that was a big deal and we had to have one too,'' Chrystal said.

''Imagine these 44-row planters we have today and a satellite that tells you when to increase fertilizer. It's the beginning of a new era, and the Russians are going to have to run faster if they want to be in the same place. It's a really difficult but exciting time for them.''

''I suppose it will be another decade or generation before they achieve the goals that I hold dear, but I have no doubt they'll achieve them.''

Chrystal said that despite the fall of communism, less stability exists in the region. Communism, although a government by edict, maintained control, he said.

''That's not to say this isn't a much better situation,'' he said, noting that while the Soviet Union might be dead but economic relationships among its former members exist.

America has an opportunity to form friendly relations with the newly independent countries, and Iowa, because of its agriculture, has a special chance, Chrystal said.

His goals are to have the federal government encourage American business to form joint ventures with Russian firms. Chrystal already services on the Overseas Private Investment Corp., a government agency that helps developing nations.

''I think our foreign aid ought to be practical rather than theoretical,'' he said. ''Countries that are hard-up think less about democracy than they do about tomorrow.''

Chrystal recently spoke about agribusiness at a seminar in Moscow.

''I detect already a substantial change in attitude,'' he said. ''. . . The tone of the participants was something new. They were talking about competition, efficiencies, cropping and ventures that were either new or in cooperation with various aspects of the economy.''

Even through he's visited exotic locales and rubbed elbows with international dignitaries, Chrystal says he gets the most happiness out of what he sees right here in Carroll County.

''I think the most successful thing I've done is seeing farmers in Carroll County entertain Soviets, Russians and Ukrainians. The hosts have fallen in love with these people and even traveled to their homes. That's really thrilling to see Americans develop great relationships with them,'' He said.

The 70-year-old Chrystal is a native of Coon Rapids. Chairman of Iowa Savings Bank of Coon Rapids and Carroll and a director at several rural Iowa banks as well as Bankers Trust Co. of Des Moines. Chrystal was president of Bankers Trust from 1984–86.

For many years he was a grain and cattle farmer and is still a partner in his family's farm operation.

Chrystal is a former state banking superintendent, former member of the Iowa Board of Regents and former president of the Iowa Bankers Association and the Iowa Civil Liberties Union. He is also a trustee of Grinnel College and a director of F.M. Hubbell and Sons Co.

''I really don't know how I was chosen for this award, but I'm very honored and I certainly haven't expected it,'' her remarked.

''I was always afraid I'd make the Russians mad, but obviously I haven't,'' he added with a laugh. ''And who would've though a fella from Coon Rapids would get to know all these Russian leaders?''

Among the other recipients of the Russian Order of Friendship is South Africa President Nelson Mandela.

Chrystal said some of the Russian officials attending today's ceremony would be staying in Iowa for several days and he hopes to bring some to a Carroll Chamber of Commerce reception Friday night at Iowa Savings Bank in Carroll.

[From the Des Moines Register, June 25, 1996]

RUSSIAN FRIENDSHIP HONOR TO CHRYSTAL

(By Jerry Perkins)

John Chrystal, Iowa banker and longtime agricultural adviser to the Soviet Union and Russia, received on Monday the Order of Friendship, the highest honor Russia can bestow on a foreigner.

Chrystal, 70, of Coon Rapids is one of two Americans to receive the award, which also has been given to heads of state such as South African president Nelson Mandela.

Yuli Vorontsov, Russian ambassador to the United States, praised Chrystal for his many years of advising first the Soviet Union and now Russia.

''This is the highest Russian civilian award,'' Vorontsov said, ''It is for leaders of nations and leading citizens. It is highly regarded in Russia. We appreciate him very much in Russia.''

Chrystal has made frequent visits to the former Soviet Union and Russia for 36 years.

In an interview at The Des Moines Register, Vorontsov predicted that Russian President Boris Yeltsin will win re-election easily on July 3 when Russians vote in a runoff election.

On June 16, Yeltsin narrowly defeated Communist Gennady Zyuganov, 35 percent to 32 percent, in the first round of voting but didn't garner enough votes to prevent a runoff.

Yeltsin has been endorsed by the third-place finisher, Alexander Lebed, who has joined Yeltsin's government, and the fourth-place finisher, Grigory Yavlinsky, an economic reformer.

Those two endorsements should deliver enough votes to give Yeltsin a comfortable 55 percent to 45 percent victory over Zyuganov, Vorontsov said.

After the July 3 runoff, Yeltsin will reshuffle his government, go to work on the social problems confronting Russia and work to make it possible for Russian citizens to own land, Vorontsov said.

A decree issued by Yeltsin to make it possible for Russians to own land has been stopped in the Russian parliament, he said.

Yeltsin hopes to be able to push the measure through the parliament after his re-election.

If he wins, Yeltsin will serve his second four-year term. Russian law prevents a president from serving more than two terms.

''Economic reform in Russia will continue, but we will not be in a rush,'' Vorontsov said. ''We will analyze before making changes and bad things should be thrown away.''

It is unrealistic to expect change to come swiftly, he said.

Five to seven years will be needed to turn around the industrial economy and 10 years will be needed before agriculture is put on track.

Chrystal said Russian agriculture reforms have been hurt by a lack of infrastructure, including credit, roads and machinery.

Vorontsov agreed.

''We've made very meager progress'' in agriculture, he said. ''It's not as we should have done and that's where we should concentrate now.''

Developing a market-oriented economy has been slower than the Russian government has wanted, Vorontsov said, but changes have been made.

''Some seeds of a new market economy have been sown,'' he said.

Vorontsov said corruption is not being punished in Russia and it will be very hard to stamp out because of the well-entrenched Russian bureaucracy.

''Corruption is unpunishable now,'' he said. ''Corrupt people should be sent to jail, but it will be very difficult. The bureaucracy is still there.''

However, Vorontsov said foreign investment is needed in the Russian economy.

''Participate with us'' in the Russian economy, he said.

[From the Des Moines Register, June 26, 1996]

A MARK OF FRIENDSHIP

There are corn and hogs, but a lesser known state hallmark is Iowa's long-term relationship with the former Soviet Union that has continued with present-day Russia.

The essential ingredient: people—Russians and Iowans who have moved to a productive common ground where international bridges are built from a shared interest in agriculture and progress.

Among the Iowans is John Chrystal, a 70-year-old Coon Rapids resident, Iowa banker and agricultural adviser to the Soviet Union and now Russia.

Chrystal is a charming and insightful fountain of memories about meetings with Mikhail Gorbachev, observations of Soviet communism and of Russians coming up to him just to touch the fabric of his—at the time—all-polyester wardrobe.

On Monday, Chrystal was given the highest award that Russians bestow on foreigners: the Order of Friendship.

Praised by the Russian ambassador to the United States, Yuli Vorontsov, Chrystal joins a noted group of Order of Friendship honorees that includes South African President Nelson Mandela.

It's proud recognition for Chrystal, but also for Iowa and its contribution to the futures of two great nations.

[From the Nebraska World-Herald, July 7, 1996]

RUSSIA FOUND A GOOD FRIEND IN OUTSPOKEN IOWAN

(By Rainbow Rowell)

COON RAPIDS, IOWA.—A statue of Lenin that once sat in Russian President Mikhail Gorbachev's office now sits in John Chrystal's Coon Rapids farmhouse.

It's as much of a surprise to see it there as it is to meet an agricultural adviser and friend of the Russian people in this small Iowa town.

Chrystal has spent 36 years cultivating a relationship with the former Soviet Union. Last month, Russia awarded him the Order of Friendship, the highest honor it bestows on foreigners.

Chrystal has become an expert on the affairs of the Soviet Union. He said he's an accidental expert. He never had any particular interest in the nation, never was especially interested in foreign affairs.

And he certainly didn't expect the Russians to ask for his help. Yet that's almost exactly what happened.

Chrystal folded his 6-foot-2-inch frame into a living room chair last week and started talking about the history of his unique friendship.

A Soviet delegation came to Iowa in 1956, looking for trade. They found Chrystal's uncle, Roswell ''Bob'' Garst, and a whole lot of seed corn. Garst visited the Soviet Union a few times but didn't feel like going when he was invited in 1960.

So Garst sent Chrystal, who never had been east of South Bend, Ind., in his place.

Chrystal thought that first visit would be his last, he said. Communist officials took him on a tour of the country's key agricultural areas and he was critical of their farming methods.

Surely, Chrystal recalled, the Soviets wouldn't ask him to return. But they did, again and again.

And after every trip, he wondered if there would be another invitation, never really counting on it.

Chrystal didn't quit his many day jobs to become a diplomat. When he wasn't visiting the Soviet Union—or later, Russia and the other independent states—Chrystal worked as partner on the family farm, a successful banker and a Democratic party leader.

''I've been very fortunate,'' Chrystal said. ''People that I've been associated with let me do other things. Maybe they wanted to get rid of me. That never occurred to me until this second.''

Slim chance. His colleagues described Chrystal as a rare patriot, a man who is at once intelligent and humble, able and energetic. At 70, he is chairman of the Iowa Savings Bank in Coon Rapids and serves on many boards.

Bill Hess, the bank's president, said Chrystal is ''Tops. Mr. Integrity, spelled with capital T's.''

''He's a wonderful human being,'' Valentina Slater Fominykh said. ''Your country must be very proud.''

Ms. Fominykh, who now lives in Des Moines, first met Chrystal in 1989. She was a Soviet foreign-language professor, part of a delegation to Iowa.

She described Chrystal as a fair man who isn't afraid to express his opinions.

People respect that, Dale Dooley said. Dooley of Johnston, Iowa, worked with Chrystal to help form Iowa Transfers System, now Shazam Inc.

The company almost failed, Dooley said, but Chrystal's confidence, contacts and know-how saved it.

''It amazed me,'' he said, ''the depth of that man's knowledge and complexity.''

Chrystal has vision, Ms. Fominykh said, and that vision helped him foresee major changes in the Soviet Union.

''He was a loyal friend when friendships with the Soviet Union were not in vogue yet,'' she said.

Chrystal downplays any risks he may have taken by befriending the communist nation. When he talks about the Cold War, it hardly seems like enough to send Americans scrambling for their bomb shelters.

''I don't think we were ever going to attack Russia,'' Chrystal said. ''I don't think we're an attacking country, and Russia is isolationist.''

He said he never hated communists, never thought they were an evil people. He saw their empire as one on the cusp of great change.

''I never questioned what I was doing,'' Chrystal said. ''I never questioned that they would have to change and would be an enormous market for us.''

His willingness and frankness made him a valued adviser to the rapidly changing Soviet government. Chrystal is widely known and well-respected there, Ms. Fominykh said.

''People listen to what Chrystal has to say,'' she said.

The Soviets respected his opinion because they knew he was independent from the U.S. government, that he was speaking only for himself, Chrystal said.

That respect brought him close to leaders such as former Soviet Premier Nikita Khrushchev and Gorbachev. He speaks easily about the two and their roles in history. He speaks with confidence and with the insight of an eyewitness.

Chrystal never counted his many visits. Some years, he didn't visit at all. Other years, he made three or four trips. He figures he has spent about a year and a half there total.

Yet he never learned to speak Russian. He has picked up some. If the conversation is about agriculture, he probably can follow along.

''I never thought that I would be going back so much,'' Chrystal said, explaining why he never learned. ''I was a farmer and a banker and I would have had to drive to Ames to take lessons. Maybe I was lazy.''

Chrystal said he sees his role as agricultural adviser coming to an end.

''I don't think I have as much to offer anymore,'' he said.

Russia will get along fine without him, he said. The country is becoming more and more stable. Those who predict a return to communism, he said, should consider all the nation has accomplished since the Soviet Union dissolved.

The still-struggling government needs independence, he said.

''I think they'll succeed, and I think they'll succeed on their own. The faster the better for us.''

He already sees that independence growing, he said, giving as an example an agribusiness seminar he attended in Moscow in May.

''For the first time, I met young people who were talking a new kind of economic language,'' who were ambitious and determined.

After an hour of talking and tracing the history of his ties to Russia, Chrystal looked around his living room, at the many gifts and souvenirs from his travels—at the paintings, the carved clock and the colorful rug. He has many Russian friendships that will outlife his official relationship with the government.

''My impression is that there will be a new critic,'' he said, smiling, ''which is fine.''●

SALUTE TO NATIONAL REHABILITATION WEEK

● Mr. FRIST. Mr. President, I rise today to salute the founding and success of National Rehabilitation Week which celebrates the accomplishments of people with disabilities and focuses on continuing efforts to improve the lives of people with disabilities. This year marks the 20th anniversary of National Rehabilitation Week, and as we celebrate this week, it is important that we take time to applaud the individuals who live, work, and succeed with these disabilities everyday. National Rehabilitation Week serves as a reminder that it is our responsibility, as legislators, to insure that those individuals with disabilities are able to enjoy the same freedoms and privileges as all Americans.

While National Rehabilitation Week is normally held in September, it was moved up this year to August 15–25 to coincide with the Paralympic Games being held in Atlanta. Both events bring together Americans who strive to overcome barriers and herald the victories of Americans with disabilities.

The Paralympic Games-which have coincided with the Olympic Games since their inception in 1960-were started by Dr. Ludwig Guttmann, a doctor in Post World War II London who dreamed that sports could be used to improve the quality of life for people with spinal cord injuries. It took him 12 years to achieve his goal of creating a worldwide sports competition like the Olympics for disabled men and women.

Like the Paralympics in which more than 4,000 athletes from over 100 countries will compete this year, National Rehabilitation Week will celebrate the strength of human perseverance over

physical disabilities. As chairman of the Senate Subcommittee on Disability Policy, I have been fortunate to have witnessed that strength firsthand.

The last 20 years have brought many milestones for Americans with disabilities. We have learned the value of rehabilitation for the disabled, and we have seen the glory of a dream coming true with the help of a rehab professional and sheer determination. We have also watched as perceptions of people with disabilities have been shattered by the perseverance of those people with disabilities and rehabilitation professionals who never shied away from a challenge.

Mr. President, please join me in saluting the 49 million Americans with disabilities and the countless rehabilitation professionals who take the time and care to reach for these dreams and shatter the myths. National Rehabilitation Week continues to gain momentum. This year, more than 5,000 organizations are observing this event nationwide, including Health-South Hospitals in my home state of Tennessee. This is a week to applaud the accomplishments of people with disabilities and to recognize what still must be done.●

CRIME PREVENTION

● Mr. KOHL. Mr. President, I rise today to discuss the growing problem of juvenile crime, and the failure of this Congress to adequately address it. As the former chairman of the Senate Subcommittee on Juvenile Justice, I am particularly alarmed by the growth of juvenile violence today, and the fact that we are doing little to slow this trend with investments in our young people.

At a time when crime is generally falling, a growing number of young people are becoming the perpetrators—and victims—of violence in America. Juvenile offenders are now responsible for 14 percent of all violent crime and 25 percent of all property crime. Criminologists report that 14 to 24-year-old-black males, who represent just 1 percent of the population, comprise 17 percent of all homicide victims and 30 percent of all offenders. Arguments that used to be solved with fists in a school yard are now being settled with Uzi's and Tech 9 semi-automatic weapons. Some schools are starting to resemble prisons, with metal detectors, armed guards, and bars on the windows.

This is not the healthy environment that will nurture a new generation. Instead, this is a recipe for disaster—a formula for creating an army of young criminals whose only future is to commit more heinous and vicious crimes with each passing year. And this army is likely to expand: there are now more pre-teenagers in America—39 million under 10 years old—than at any other time in the past generation.

There are many ways that society can combat this juvenile crime trend—and I support all of them. First, we can get tough on the most violent juveniles—trying them as adults and locking them up—so that serious crimes receive serious punishment. Second, we can improve our ability to catch all juvenile offenders through more vigilant law enforcement. Accomplishing these goals requires more prisons and more police, and Congress is providing billions to build penitentiaries and fund 100,000 new police officers through the Crime Act of 1994.

However, a third part of the Crime Act calls for a different approach. Instead of spending all the money on prisons and police, Congress wanted some of it, about 20 percent, to be spent on preventing crime before it happens.

Now, crime prevention used to be a dirty phrase in Washington, something that so-called liberals touted and conservatives criticized as a strategy for coddling criminals. I hope we have moved past those simplistic arguments and are prepared to recognize the value of crime prevention programs. For years we have heard evidence about the value of investing some funds in crime prevention, and the fact that these programs measurably reduce crime. More recently, numerous studies have documented how small investments in a troubled young person's life will not only save that child from a life of crime and misery, but will also save society thousands of dollars in court costs and prison fees. Most important, these investments protect the lives of citizens and prevent tragic crimes before they occur.

There are literally hundreds of examples—I'll note only two here. A few years ago Fort Worth, TX, initiated a program called Code Blue. The program offered year round structured social, education and recreational activities for young people. Kids not only engaged in sports, but received homework assistance and help with college and GED preparation. Five community centers were established to help young people get on the right track and make a difference in the local neighborhoods.

According to the Fort Worth Police Department, crime dropped by 28 percent within a one mile radius of each center. Gang crimes declined by 30 percent city wide in the first 6 months of 1995. This was achieved at a cost of $10 a year per student—that compares with the $40,000 a year it costs to incarcerate a juvenile offender.

The results are the same across the country. A program called Children-At-Risk [CAR] coordinates social service agencies, police, and school officials to target intensive education, counseling, and family services at 11–13 year olds. A National Institute of Justice quasi-experimental study in five cities found that the CAR test group had almost half the number of contacts with police as the non-participant control group, and had less than half the number of contacts with the juvenile court as the control group.

We have seen these kinds of case studies proving the value of crime prevention programs for years. But, Mr. President, we are now seeing comprehensive reports demonstrating the cost-effectiveness of crime prevention. Last month the Rand Corp. released a 2-year study comparing the value of investing in crime prevention versus tougher penalties and incarceration. It compared prevention programs such as graduation incentives, delinquent supervision, and parent training to a ''three-strikes-and-you're-out'' law. The study found that crime prevention was three times more cost-effective than increased punishment.

The study concluded that a State government could prevent between 157 and 258 crimes a year by investing $1 million in crime prevention, compared with preventing 60 crimes by investing the same amount in incarceration.

Law enforcement officers—the troops on the front lines in this battle—are also calling on Congress to fund prevention programs. A recent Northeastern University survey of more than 500 police chiefs and sheriffs found that three-quarters of them believe the best way to reduce crime and violence is to increase investment in prevention programs. This is not surprising: it confirms what we found out last year when we polled Wisconsin police chiefs and sheriffs: almost 90 percent supported the Crime Act's prevention programs. These front line crime fighters know—better than anyone else—that crime prevention works.

Mr. President, let me be clear on this point. I am not advocating that we commit all our resources to crime prevention and no money to punishment and incarceration. Like the police chiefs and sheriffs, I support the Crime Act funding formula which allocates 80 percent for punishment, tougher penalties, and more police, as well as 20 percent for crime prevention.

Unfortunately, in the last 2 years since that legislation was passed, Congress has not lived up to its promise to adequately fund crime prevention programs and is actually moving toward eliminating the few programs that it has funded. Just this week, two bills were reported out of Committee which either defund or eliminate virtually all effective prevention programs. As a member of both relevant committees, I spoke out against these cuts in committee, and will work to reverse them on the Senate floor.

First, the Senate Appropriations Committee voted out the Commerce, State, Justice appropriations funding measure for 1997. Despite mounting evidence of the cost effectiveness of crime prevention, this bill fails to fund more than $500 million in prevention programs authorized under the Crime Act. While I commend the drafters for appropriating $20 million for Boys and Girls Clubs, this is a fraction of the prevention Congress authorized 2 years ago.

During the same week, the Senate Judiciary Committee passed the new 4-year authorization for the Juvenile

Justice and Delinquency Prevention Act. The legislation eliminates all crime prevention grants and uses that money for ''research and evaluation.'' Mr. President, I am a strong advocate of research and evaluation, and have introduced a bill with Senator BILL COHEN of Maine that would require federally funded prevention programs to set aside money for rigorous, independent evaluation. But this proposed reauthorization funds research at the expense of all crime prevention programs. That is unacceptable.

Mr. President, at a time when juvenile crime is on the rise, when law enforcement officials are asking for more prevention funds, and when case studies and statistical evidence are proving that we can prevent crimes, protect citizens, and save money in the long run—how can this Congress cut funding for crime prevention and eliminate these programs?

When I walk the streets with police officers in Wisconsin and I tell them what Congress is considering, they are shocked. These people know what works and they want our help. We should not turn our backs on America's police officers and future generations, and resign ourselves to even more prisons and police. We have other alternatives that we should fund—cost effective measures which can prevent crime before it happens.

Mr. President, I look forward to working with my colleagues in a bipartisan fashion to correct the lack of juvenile crime prevention in the proposed versions of the Justice Department's funding bill and the Juvenile Justice and Delinquency Prevention Act. This is not a partisan issue—members from both parties recognize the common sense of spending at least a small portion of federal funds on prevention. As these bills come to the floor, I hope more colleagues see the tremendous progress we can make if we just move past the simplistic arguments and recognize the value of a small investment in crime prevention programs. •

SALUTE TO BRISTOL TREE CITY USA BOARD

Mr. FRIST. Mr. President, I rise today to commend the Bristol TN, Tree City USA Board, which was founded 6 years ago to enhance the natural beauty of the Bristol area.

Under the leadership of Dr. Donald Ellis, the tree board has embarked on a massive reforestation project in their area. Since the effort began, Tennesseeans have volunteered one by one to plant trees around Bristol with the goal of planting 1 million trees by the Tennessee bicentennial this year. Mr. President, I'm proud to say that these volunteers have not only reached their goal, but they will gather together on September 6 to plant tree number 1 million and one.

This is truly an example of the spirit that has made the Volunteer State great for 200 years, and it's fitting that the 1 million and first tree will be planted this year by a volunteer.

In celebration of the bicentennial, my family and I also planted a tree—in Washington DC. Earlier this summer, Karyn, the boys and I planted a tulip poplar—the Tennessee State tree —on the grounds of the U.S. Capitol Building. This bicentennial tree will serve as the official Tennessee State tree on the Capitol grounds and as a testament to the contagious nature of beautification efforts like Tree City USA.

Mr. President, I commend Tree City USA for its dedication to the community of Bristol. Projects like Tree City USA not only benefit the people of Bristol, but all Americans. I would also like to commend the people of Bristol, TN and thank them for their efforts. Tree City USA could not reach its goal without the hard work of these community-minded citizens.

• Mr. KERREY. Mr. President I would like to express my appreciation to the managers of the FY1997 Agriculture Appropriations bill, the Senior Senator from Mississippi Mr. COCHRAN and the Senior Senator from Arkansas Mr. BUMPERS. Both Senators worked very hard to see that a well balanced bill came out of Conference. I would also like to note my appreciation that the conferees made a very wise decision to fully fund the Food Safety Inspection Service. Full funding for FSIS allows our food safety inspectors to do their job of protecting the nation's meat and poultry. I also rise to engage Mr. BUMPERS in a colloquy regarding the importance of food safety research done by the Agricultural Research Service. Understanding the enormous role that research plays in agriculture, I believe it is important to note that by increasing funding for food safety research the conferees laid the groundwork for a safe food supply well into the next century.

Mr. BUMPERS. Mr. President, I also rise in support of the conferees decision to increase spending on food safety research through the Agricultural Research Service. This research is a very important part of the Federal Government's effort to protect the nation's food supply. The FY1997 Agriculture Appropriation's Conference Report sets spending for ARS Food Safety Research at $5.5 million. By increasing funding for this research the Conferees took an important step toward ensuring that our food supply meets our highest expectations.

Mr. KERREY. Mr. President, I appreciate Senator BUMPERS' support of this important issue. I would like to talk about several particular food safety research initiatives. I strongly support, along with the Conferees, three important components of pre-harvest and post-harvest food safety research proposed by the Agricultural Research Service. The Conferees made the right decision to fund research of methodologies for Hazard Analysis and Critical Control Points (HACCP) validation, host-pathogen relationships and rapid on-farm DNA-based diagnostic testing.

ARS should emphasize research on the genetic basis for host-pathogen relationships. Scientists already know that exposure, infection, and contamination of live animals by certain bacteria and parasites can result in pathogens in our meat-based foods. Further research in this area will enable scientists to develop methods to identify and select animals that are resistant to foodborne pathogens.

Along with studying the host-pathogen relationship, it is important that researchers develop rapid, specific, and sensitive DNA-based diagnostic tests that will allow identification of pathogens in live animals and their production environment. By developing technologies and techniques that make this identification possible, we will be able to prevent meat and poultry contamination problems in the early stages of production.

It is also very important that ARS develop on-line methodologies for HACCP validation. HACCP involves the systematic identification and prevention of safety hazards in food production processes. I applaud the administration's decision to implement this program and once again would like to emphasize the importance of the Conferee's decision to fully fund the Food Safety Inspection Service so that the benefits of HACCP can be recognized. Does the Senator agree that the three research areas I just described are important to the agricultural community and as a result deserve the funding we allocated to that purpose?

Mr. BUMPERS. I thank the Senator from Nebraska for his question. I support the Conferees decision to fund research of host-pathogen relationships, rapid on- farm DNA-based diagnostic testing and improved methodologies for HACCP validation. These three areas have been targeted by the administration as priority research that should be carried out by the Agricultural Research Service, and I support that prioritization.

By supporting research to elucidate the relationship between livestock and pathogens, we will lay the foundation for breeding livestock that are resistant to foodborne pathogens and developing effective on-farm diagnostic tests. In this manner, scientists can improve our food production systems in the earliest stages before the meat ever reaches the processor. Furthermore, effective methodologies for HACCP validation will help federal food safety inspectors to ensure that our meat and poultry is not contaminated. The Conferees sent a strong message that they support food safety research at the Agricultural Research Service and I am pleased that the bill provides increased funding for this purpose.

TRIBUTE TO SERVICE CORPS OF RETIRED EXECUTIVES CHAPTER NO. 38 ON THEIR 30TH ANNIVERSARY

• Mr. SMITH. Mr. President, I rise today to pay tribute to Service Corps of Retired Executives Chapter No. 38. This year, Chapter 38 celebrates 30 years of service to the Laconia area. As a former small business owner myself, I am proud to extend my warmest congratulations to this outstanding business advocacy organization on this momentous occasion.

SCORE is a volunteer program sponsored by the Small Business Administration which helps New Hampshire's small businesses to establish themselves, expand, and create jobs in our communities. It is a nationwide service organization with 13,000 volunteers. There are 383 locally organized and self-administered chapters, all of which work in or near their home communities and offer their services at no charge. SCORE has been helping American small businesses to prosper since 1964.

SCORE matches volunteers with small businesses that need expert advice. They share management skills and technical advice with prospective and present small business owners. Their in-depth counseling and training helps business owners identify management problems and find solutions. Most of SCORE's volunteers are retired executives, but some are still employed full time. New Hampshire Chapter 38's 24 active members have worked tirelessly, handling one of the largest caseloads in the state. One member, Horace Walsh, for example, has been with Chapter 38 for 25 years. This outstanding record of service is the epitome of the Granite State community spirit and entrepreneurship.

SCORE is an excellent example of community service at its finest. It gives people the opportunity to share their expertise with others, that they may find the same measure of success. Such service allows executives to give back to the community that supported them. By helping small businesses grow, they are contributing to the growth of their local economy and providing more opportunities for the community.

New Hampshire is fortunate to have an organization like SCORE helping small businesses. I commend SCORE and each one of their committed and dedicated volunteers for their tremendous community service as they celebrate their 30th anniversary.•

CONGRATULATIONS TO PATRICIA MACK

Mr. WELLSTONE. Mr. President, I rise to pay tribute to my constituent, Patricia Mack, an outstanding Housing and Urban Development [HUD] employee and housing activist. Over the years, she has accomplished a great deal in her work in the area of public housing.

In 1971, Patricia began her first job in the housing field in the Chicago Regional Office of the Department of Housing and Urban Development [HUD]. She worked as an Urban Renewal Representative, advocating for and advancing the cause of civic renewal projects in the Chicago area.

In October 1971, HUD established an office in Patricia's home State of Minnesota. Patricia moved back to the Twin Cities to serve as a Metropolitan Development Representative where she worked closely with metro-area communities to use HUD grant funds for water and sewer projects, neighborhood facilities, parks, and historical preservation initiatives. She played crucial roles in both the Minnesota Valley Restoration Project and the Hennepin County Park Reserve District.

In July 1974, Patricia's career path took her to Alexandria, VA, to serve as assistant to the director of the Alexandria, VA, Planning Department. Working primarily on housing issues, she helped to lay the groundwork for Alexandria's Housing Assistance Program.

In February 1976 she returned to Minnesota to the Minnesota HUD Office as Housing Assistance Specialist. She worked with Minnesota communities on the implementation of the Housing Assistance Program much as she had in Virginia.

In 1985, Patricia was named Special Assistant to the Field Office Manager, a position in which she handled responsibilities ranging from public and congressional affairs to HUD special projects like the affirmative action plan. In this capacity, Patricia played a key role in assuring that adequate minority participation was utilized in the construction of the new Federal building that was being built in downtown Minneapolis.

In the last decade, Patricia has continued to become actively and centrally involved in many programs pertaining to housing and the homeless. Patricia's dedication, leadership, and spirit have been instrumental in countless successes as a volunteer with Habitat for Humanity and in working with the Metropolitan Interfaith Community for Affordable Housing,

In 1995, Patricia was the first Government official to receive a well-deserved award from the Minnesota Coalition for the Homeless.

Today, Patricia continues her work helping to address such serious and complex issues as homelessness and the availability, quality, and affordability of public housing on behalf of Minnesotans and their communities.

It is a privilege for me to recognize and applaud Patricia Mack for her fine work and many contributions over the years. She is an inspiration, and I wish her continued future success.

RECIPIENTS OF EDISON ELECTRIC INSTITUTE'S 1996 COMMON GOALS AWARDS

• Mr. McCAIN. Mr. President, I am proud to announce that two local electric companies in Arizona recently were honored as recipients of the Edison Electric Institute's 1996 Common Goals Awards.

The Arizona Public Service Company received a Special Distinction Award for energy efficiency from Edison Electric Institute for their work on electrical efficiency in architectural design. Specifically, Arizona Public Service Co. was honored for its design of an Environmental Showcase Home that uses 60 percent less electricity and water than standard energy efficient homes built in Arizona today. Increased energy efficiency is of great importance to Arizona and the Nation. I commend Arizona Public Service Co. for its efforts to achieve greater energy efficiency in our homes and encourage other utilities across the country to follow their lead in working toward more energy efficient architectural designs.

I also want to congratulate the Tucson Electric Power Co. for their work on a project entitled ''Driving Drunk Will Put Your Lights Out.'' The Tucson Electric Power Co. received a Community Responsibility-Special Needs Award from the Edison Electric Institute for this successful project to combat drunk driving. Their efforts were recognized for producing dramatic results, including a 60-percent decline in alcohol-related traffic incidents in Pima County after ten months. The national conscience has been raised to the need for community involvement in order to eliminate the preventable deaths associated with drunk driving. Tucson Electric Power Co. is to be commended for working to meet the special needs of their community and getting involved in such a worthwhile cause.

Energy efficiency and meeting the special needs of our communities to prevent the harms caused by drunk driving are important public matters and I am very proud that Arizona companies have been recognized for their leadership in those areas.•

U.S. INTELLIGENCE RESPONSE TO TERRORISM

• Mr. KERREY. Mr. President, when I took to the floor to discuss the bombing at Khobar Towers several weeks ago I stated someone is making war on us. I would like to reiterate that point.

We are in active conflict, Mr. President, and this is not the time for politicians safe behind secure barriers to publicly snipe at the way our Government is fighting this battle. Yet I note the Speaker of the House of Representatives is accusing the administration of having undermined and crippled one of our principal weapons against terrorism, the human intelligence capabilities of the Central Intelligence Agency.

This charge is baseless, Mr. President. In fact, the greatest build-up of our human intelligence capability occurred under the bipartisan leadership

of Senators Boren and COHEN several Congresses ago. They understood that growing stronger in human intelligence is a long-term enterprise. It involves the recruitment and development of people over many years, and it is one of the activities of government which are not much affected by sudden infusions of money.

The Speaker's inference that the Clinton administration has allowed the nation's intelligence capabilities to deteriorate is not supported by the facts. He has clearance, as does every Member, to examine the budget numbers and see that the Clinton administration has requested, and Congress has generally supported, a very robust intelligence capability for the United States.

Mr. President, the Speaker's comments are an effort to draw short-term political advantage out of some of the painful events in a long-term conflict.

I would suggest another approach: To take a long view of why we Americans are vulnerable to attack, why this war is being waged, and to examine whether our adversaries are having much effect.

We are likely terrorist targets for at least four reasons.

First, more than any other country, we are uniquely present in the world. We are the only superpower, our military is by far the most deployed military on earth, and our businesses are also present everywhere. I trust the Speaker is pleased with America's forward presence; I certainly am. It is both a sign of, and an essential component of, our power.

Second, we are a country that takes strong positions in foreign policy matters. Strong positions buy you enemies, and some of those enemies are terrorists. We stand up for Israel, the only democracy in its area. That buys us enemies. We are publicly allied with Turkey, another embattled democracy in a tough neighborhood. That, Mr. President, buys us more enemies. We are leading the global fight against international narcotics trafficking, and some violent people take umbrage at that. We should be proud of these strong policy positions. I am.

Third, we are the most open society in the world, which is a main reason it is such a delight to live in this country. I do not advocate changing our openness—but it does make us more vulnerable to terrorism.

Fourth, we are the world's greatest capitalist nation. We represent the power to make life better by improving your material circumstances, and by enjoying the wealth you produce by your own labor. To many fundamentalists—not all of them Moslem—that makes us the ''great Satan.'' Still, I trust no politician would want to change this element of our character, even though it does buy us enemies.

Mr. President, despite this vulnerability, I submit we Americans are still safer from terrorism than any other people on earth. When it comes to terrorism and political violence, I challenge anyone to name a safer country. As for Americans abroad, I do not constitute that our people overseas are in any greater risk from terrorism than they have ever been in peacetime in our history. Why this anomaly, when we see how uniquely vulnerable we are?

One reason is our superb intelligence. It is present everywhere in the world, working closely with our allies to actively track terrorist organizations and individuals far from atrophying under the Clinton administration, it is a potent instrument to keep Americans safe.

Rather than fear of failure, we should recognize we are living in a period of successful action against terrorism. We should praise the Americans involved in this shadowy struggle and support them, and continue to give them what they need. Saying they are crippled is neither constructive nor accurate, although it may give false comfort to our enemies.●

TRIBUTE TO MARGUERITE'S PLACE OF NASHUA, NEW HAMPSHIRE

● Mr. SMITH. Mr. President, I rise today to pay tribute to Marguerite's Place, a support home for disadvantaged women and children in Nashua, NH. This outstanding service organization, sponsored by the Sisters of Charity, provides a very welcome service in New Hampshire. The Grey Nuns have worked hard to ensure the success of this very special place.

Marguerite's Place is designed to provide a fresh start for women in abusive or other disadvantaged situations. It is unique because it allows women to keep and continue to care for their children, promoting strong family values. It is also a long-term support program that teaches women how to put their lives back together. Sisters Sharon Walsh and Elaine Fahey, who manage Marguerite's Place, previously ran a similar program in inner city Philadelphia that had a very high success rate. Between them they have 20 years experience helping poor women restructure their lives.

Marguerite's Place can accommodate seven women and their children and provides vital support services like day-care. Women may stay in Marguerite's Place for up to 2 years and have access to continuing day-care for 5 years through the aftercare program. While Marguerite's Place does provide some necessary services, the sisters are determined not to do anything for the women that they are capable of doing for themselves. During their stay, the women must pay rent and utilities, buy and prepare their own food, and are responsible for the maintenance of their quarters. The Grey Nuns' philosophy for Marguerite's Place is to empower women to move forward into the future with hope.

The sisters are tough about the rules of Marguerite's Place, but they provide a safe environment for women who need time to heal. For example, no men are allowed in the building at any time and there is a security system. They employ drug testing if necessary and allow the women only one slip or relapse before removing them from the program. A thorough screening finds women who can demonstrate a commitment to the program and improving their lives and the lives of their children.

Marguerite's Place enjoys a tremendous amount of state and community support from the citizens of Nashua. It received funds from the Office of Alcohol and Drug Prevention for the purchase and rehabilitation of the building and from the Department of Housing and Urban Development as a continuum care program. They now receive operational funding from the United Way for their program, and local religious groups have been invaluable. Community youth help Marguerite's Place through events such as the United Way Youth Day of Caring and Rivier College, which sends staff out to discuss health issues with the women.

Marguerite's Place is the type of program that this country needs because it not only provides people with an immediate opportunity but teaches them how to improve their lives. The women are given a chance and the responsibility to make something of it. By giving them this responsibility, they empower these women. Their success rate shows that this type of program, combining aid with responsibility, works. I commend Marguerite's Place for an excellent job meeting community needs. The caring of Sisters Sharon and Elaine has given hope to women in desperate situations and provided a way out of that situation. I am proud to thank them of behalf of the Granite State.●

NEED FOR PRIVACY PROTECTION IN CONNECTION WITH COMPUTERIZATION OF HEALTH CARE INFORMATION

● Mr. LEAHY. Mr. President, for the past several years, I have been engaged in efforts to make sure that Americans' expectations of privacy for their medical records are fulfilled. I do not want advancing technology to lead to a loss of personal privacy and do not want the fear that confidentiality is being compromised to deter people from seeking medical treatment or stifle technological or scientific development.

The former Republican Majority Leader Bob Dole put his finger on this problem when he remarked that a ''compromise of privacy'' that sends information about health and treatment to a national data bank without a person's approval would be something that none of us would accept. Unfortunately, the former Republican majority leader's worst nightmare, and mine, is being facilitated by provisions inserted by the House into this conference report that require the development of a national health information system.

The conference report includes provisions that require a system of health

care information exchanges by computers and through computer clearinghouses and data networks. These are provisions that were not included in the Senate bill and have not been separately considered by the Senate.

The Senate sponsors of a similar bill, which is pending without action before the Senate Finance Committee, acknowledged the need to establish standards not just for accomplishing electronic transactions but also for the privacy of medical information. Unfortunately such standards are not included in this bill.

I worked during Senate consideration of the Kennedy-Kassebaum bill in April to include such protections. Indeed, along with Senators KASSEBAUM, KENNEDY, BOND and BENNETT, we were able to reach agreement on an amendment that would have combined administrative simplification provisions with critical privacy protection provisions. Our proposal was, unfortunately, not included in the Senate bill due to an objection from the staff of the Senate Finance Committee. This was especially troubling since similar provisions had been included in the Finance Committee bill reported in the last Congress and in Republican Leader Dole's bill—as well as in the Labor Committee bill and Democratic Leader Mitchell's bill and in the bill produced by the mainstream group.

Now we are confronted with a conference report that calls for nationwide data networks to be established within 18 months but contemplates delay of the promulgation of any privacy protection for 42 months. That is not the way to proceed. When the American people become aware of what this law requires and allows by way of computer transmission of individually identifiable health information without effective privacy protection, they should demand, as I do, prompt enactment of privacy protection.

I have long felt that health care computerization will only be supported by the American people if they are assured that the personal privacy of their health care information is protected. Indeed, without confidence that one's personal privacy will be protected, many will be discouraged from seeking help from our health care system or taking advantage of the accessibility that we are working so hard to protect. These are among the serious problems being created by the conference report provisions that do not enact or require promulgation of effective privacy protection.

The American public cares deeply about protecting their privacy. Louis Harris polling indicated that almost 80 percent of the American people expressed particular concern about computerized medical records held in databases used without the individual's consent. The American people know that confidentiality of medical records is extremely important.

The Commerce Department released a report earlier this year on Privacy and the NII. In addition to financial and other information discussed in that report, there is nothing more personal than our health care information. We must act to apply the principles of notice and consent to this sensitive, personal information. It is time to accept the challenge and legislate so that the American people can have some assurance that their medical histories will not be the subject of public curiosity, commercial advantage or harmful disclosure. There can be no doubt that the increased computerization of medical information has raised the stakes in privacy protection. The nationwide, comprehensive computerization represented by the administrative simplification provisions of this conference report makes the enactment health care privacy legislation essential.

Three years ago, I began a series of hearings before the Technology and the Law Subcommittee of the Judiciary Committee. We explored the emerging smart card technology and opportunities being presented to deliver better and more efficient health care services, especially in rural areas. Technology can expedite care in medical emergencies and eliminate paperwork burdens. But it will only be accepted if it is used in a secure system protecting confidentiality of sensitive medical conditions and personal privacy. Fortunately, improved technology and encryption offer the promise of security and confidentiality and can allow levels of access limited to information necessary to the function of the person in the health care treatment and payment system. Unfortunately, the conference report fails to include technological or legal protections for patients' privacy.

In January 1994, we continued our hearings before that Judiciary Subcommittee and heard testimony from the Clinton Administration, health care providers and privacy advocates about the need to improve upon privacy protections for medical records and personal health care information.

As I focussed on privacy needs, I was shocked to learn how catch-as-catch-can is the patchwork of State laws protecting privacy of personally identifiable medical records. A few years ago we passed legislation protecting records of our videotape rentals, but we have yet to provide even that level of privacy protection for our personal and sensitive health care data.

As policymakers, we must remember that the right to privacy is one of our most cherished freedoms—it is the right to be left alone and to choose what we will reveal of ourselves and what we will keep from others. Privacy is not a partisan issue and should not be made a political issue. It is too important.

I am encouraged by the fact that the Clinton administration has understood that ''health security'' must include assurances that personal health information will be kept private, confidential and secure from unauthorized disclosure. Early on the administration's health care reform proposals provided that privacy and security guidelines would be required for computerized medical records. The administrations's Privacy Working Group of its NII Task Force has been concerned with the formulation of principles to protect our privacy. In these regards, the President is to be commended.

The difficulty I had with the initial provisions of the President's Health Security Act I now have with this conference report. We cannot delay enactment of laws to protect our health care privacy for several more years. This bill will require that personal health care information be available for electronic transmission without proper protection and without any effective way for a patient to object or withhold consent from such insecure transmission. The two-track system for establishing national computer networks of health care information within 18 months and getting to the fundamental issue of privacy protection some 2 or 3 years later is unacceptable and wrong-headed.

Having introduced health care privacy legislation in the last Congress, I joined with Senator BENNETT and others in introducing the Medical Records Confidentiality Act, S. 1360, in this Congress. Our bill establishes in law the principle that a person's health information is to be protected and to be kept confidential. It creates both criminal and civil remedies for invasions of privacy for a person's health care information and medical records and administrative remedies, such as debarment for health care providers who abuse others' privacy.

This legislation would provide patients with a comprehensive set of rights of inspection and an opportunity to add corrections to their own records, as well as information accounting for disclosures of those records.

The bill creates a set of rules and norms to govern the disclosure of personal health information and narrows the sharing of personal details within the health care system to the minimum necessary to provide care, allow for payment and to facilitate effective oversight. Special attention is paid to emergency medical situations and public health requirements.

We have sought to accommodate legitimate oversight concerns so that we do not create unnecessary impediments to health care fraud investigations. Effective health care oversight is essential if our health care system is to function and fulfill its intended goals. Otherwise, we risk establishing a publicly-sanctioned playground for the unscrupulous. Health care is too important a public investment to be the subject of undetected fraud or abuse.

Those who have been working with us on the issue of health information privacy include the Vermont Health Information Consortium, the Center for Democracy and Technology, the American Health Information Management

Association, the American Association of Retired Persons, the AIDS Action Council, the Bazelon Center for Mental Health Law, the Center for Medical Consumers, the New York Public Interest Group, the National Association of Retail Druggists, the Legal Action Center, IBM Corp., and the Blue Cross and Blue Shield Association. They have worked tirelessly to achieve a significant consensus on this important matter.

The Labor Committee conducted hearings last year on this legislation that showed significant support for the measure. Senators KASSEBAUM and KENNEDY have worked hard on this matter and helped us to revise and improve the provisions of the bill. The working version of the bill now includes several important changes from the language originally introduced. We have tried to make it more patient centered and sensitive. We have eliminated the section on and references to a health information service. We would require informed consent for use of individually identifiable health information for research.

It is with this in mind that I am troubled by indications in the conference report discussion that research is viewed by some as an area where privacy rights should be sacrificed and consent not required for use of individually identifiable health information. I feel strongly to the contrary and believe that research should include consent consistent with current, recognized professional standards and codes of conduct for clinical research. We need not and should not weaken those standards and protections through poorly conceived Federal mandates.

It is unfortunately that criticism of S. 1360 from some quarters tended to obscure its purpose and impede its progress. Some critics were unwilling to work with us to improve the bill. Their recalcitrance helped create the threat we face in this conference report of federally mandated computer networks of sensitive health information without simultaneous enactment of privacy protection.

I know that these are important matters about which many of us feel very strongly. It is never easy to legislate about privacy. Those of us who care about protecting privacy have no acceptable alternative and must pull together to achieve that which has always been our goal—prompt enactment of effective privacy protection for health care information.

When I testified before the Labor Committee earlier this year I suggested that our critics look at the bill against the backdrop of the lack of protection that now exists in so many places and in so many ways and the computerization of medical information. Indeed, in 1995 the House had buried within its budget reconciliation bill provisions that would have required the development and use of protocols ''to make medical information available to be exchanged electronically.'' I was the only Member of Congress to protest the inclusion of those provisions without any attention to privacy protection last year. Fortunately, others are now beginning to recognize the need for action.

During the last few days we have been able to improve the conference report, but only slightly to the point that it is now. Initially, it would have expressly preempted all States' laws that provide privacy protection for health information and records and made it virtually impossible later to add privacy protection measures. Now, there is at least an exception to the Federal preemption language for State laws relating to the privacy of individually identifiable health information. This is only a start because, as I have noted, the State laws are not sufficiently protective or comprehensive in the protections they seek to provide.

Senator BENNETT and I have been trying to respond to suggestions for improvements to our bill as originally introduced. We have been working closely with the Chair and Ranking Democrat of the Labor Committee, Senators KASSEBAUM and KENNEDY, and with all interested parties.

I deeply regret that we have not been able to develop a complete consensus to enable privacy provisions to be included in this measure at this time. When supporters of measures to standardize and require the electronic exchange of health care information insisted that administrative simplification mandates be included in this conference report without any significant privacy protection, we could only obtain a limited opportunity to include privacy protection somewhere down the road. While the conference report provides express protection for business trade secrets and confidentiality for commercial information, it all but ignores personal privacy and provides no current protection for individually identifiable health information.

I will continue to work on this important issue. We are still engaged in discussions with some who have come forward with concerns very recently and have yet to offer suggestions for improvements or alternative language. Our fervent desire to make the Medical RECORDS Confidentiality Act the best bill it can be should not be doubted. I come forward today to declare that further delay by critics cannot and will not be tolerated. If they have suggestions for improvements to the bill, they need to make them without delay. Our window of opportunity is closing.

The conference report allows the Secretary 12 months to make recommendations. She has been engaged in this process from the outset so we need and expect her recommendations immediately. Congress must get about the job of enacting tough, effective privacy protection before mandated computer transfers of medical information become effective. We cannot risk the loss of privacy in the interim. Moreover, it will be near impossible to include appropriate privacy protection in the future. We must rededicate ourselves to act at the earliest moment. I hope we can do so before adjourning this year. Privacy was left off the table at this House-Senate conference. It must be given a central place and highest priority if this scheme for technological development is to proceed.

I would ask all to join with us in a constructive manner to create the best set of protections possible at the earliest possible time. With continuing help from the Administration, health care providers and privacy advocates we can enact provisions to protect the privacy of the medical records of the American people and make this part of health care security a reality for all. ●

TRIBUTE TO NEW HAMPSHIRE BOY SCOUTS OF AMERICA TROOP NO. 135 AS THEY CELEBRATE THEIR 50TH ANNIVERSARY

Mr. SMITH. Mr. President, I rise today to pay tribute to New Hampshire Boy Scouts of America Troop No. 135 as they celebrate their 50th anniversary. I am proud to congratulate such an outstanding organization as they observe this impressive milestone. Troop 135 has a long history of achievement and service to their community.

Boy Scout Troop 135 was founded in 1946 by seven men with Leo Leclerc as their Scoutmaster. Among the founding members was Albert Bellemore, whose son Raymond is the current Scoutmaster for the troop. Raymond, who has served for 34 years is the holder of the Catholic Diocese St. George Award of Merit, the Boy Scout Silver Beaver Award from the National Council of Boy Scouts of America, and was the first in the state to receive the National Eagle Scout Association Scoutmaster's Award.

Troop 135's 50 year history is marked by distinction and achievement like Raymond's. More than 968 Boy Scouts have been members of Troop 135 over the years and 81 of them have attained the rank of Eagle Scout. To become an Eagle Scout, a young man must earn badges for citizenship in the community, citizenship in the nation, and citizenship in the world. This is an important recognition for a young man.

Troop 135 has been involved in numerous Scout activities and won many prestigious awards over the years. They have participated in many High Adventure trips and every National Boy Scouts Jamboree since the troops founding. Troop 135 has won the Klondike Derby district and statewide trophy almost every year for the past 20 years. Many of Troop 135's 968 members have been very decorated Scouts. Many alumni of Troop 135 are returning for the anniversary celebration festivities on the weekend of August 16–18. They will hold a reunion, an open house, and a formal court of honor for Scoutmasters and Eagle Scouts.

The Boy Scouts of America promotes good citizenship, character-building,

and community service among the boys of this country. Troop 135 of Sacred Heart Parish has built a reputation for providing the youth of the community with the leadership skills needed to be successful in today's society. Boy Scouts of America provides good, solid role models for the youth of our Nation and teaches them to be community minded. In this organization, they learn valuable skills that will serve them for a lifetime. I am proud to have such an outstanding Boy Scout troop here in the Granite State. Congratulations on reaching this tremendous milestone.

THE QUALITY OF MERCY

Mr. LAUTENBERG. Mr. President, I ask that an excellent article about welfare, ''The Quality of Mercy'', by James McQueeny, be printed in the RECORD.

Mr. President, I had the good fortunate of benefiting from Jim McQueeny's competence and compassion when he served as my press secretary several years ago. These same qualities are evident in his article, which is an eloquent statement about what it means to be on welfare, and what the welfare reform bill will mean for real people.

I urge all my colleagues to read the article.

The article follows:

[From the New Jersey Monthly, July 1995]

THE QUALITY OF MERCY—MANY NEW JERSEYANS BELIEVE THAT WELFARE IS A WASTE. ONE MAN—NOW A SUCCESSFUL EXECUTIVE—WHO'S LIVED ON IT DISAGREES

(By James McQueeny)

I'm not a member of any obvious minority group (being the son of an Irish immigrant no longer counts), although these days I might qualify as out of the mainstream because I am a Democrat. My views on welfare seem to place me even more squarely in the minority. And I am very concerned about what we as a society are saying and doing about that issue.

We in New Jersey, the second richest state in the nation, are in the best position possible to do something about poverty and welfare reform, yet we're going about it with the worst possible attitude. The very success of New Jersey's post-war suburbanization has fueled what some pollsters call the Drawbridge Mentality—the mindset of people who find their castle and pull up the drawbridge on everybody and everything else. And who in suburbia actually lives near someone in poverty or on welfare? C'mon, I mean really knows them. By face. By name.

I do. I was one of them. So I've always been aware of poverty slights, and they're on the increase. I've cringed at a ''progressive'' suggestion by a prominent New Jersey business leader who told me he wants to help the poor ''get off their asses.'' As if these people wake up every morning looking for ways to make themselves poorer. Or the Democratic politician who was trying to rationalize reforming welfare by not extending benefits to additional children of welfare mothers. As if the child had a choice of mother and neighborhood.

As someone who has lived at the extreme ends of the economic spectrum in New Jersey, I know firsthand the frightening reality of life in poverty. I grew up on welfare, in a well-off town in Bergen County, one of the wealthiest counties in the state. I worked my way up through the ranks of New Jersey's largest newspaper, covering every county and the statehouse in Trenton, and eventually I became the paper's Washington bureau chief. Later, I was a television reporter for New Jersey Network, and I was the spokesman for one of our United States senators. I am now the president and an owner of a multimillion dollar company.

I point this out only to emphasize that I cobbled together a professional life after starting out poor—and on welfare—in New Jersey. And now, a day hardly goes by without a personal incident or a public headline reminding me how we're making it harder in New Jersey for the disadvantaged to follow a similar path of opportunity. And that upsets me.

Several months ago, I was at Menlo Park Mall conducting voter interviews with a camera team for a weekly political commentary I do for NJN. Person after person in these opulent surroundings railed against big government. The phrase ''welfare cheats'' was usually the caboose on their long trains of lament, mostly about the economy.

As I stood before them, I reverted to a habit I've had since poverty. I looked at the shoes of the people I was talking to. Why? Probably because my four brothers and I thought good shoes were the province of ''rich people.'' Our ''school shoes'' were worn only to school and Mass, and they had to last until they literally disintegrated on our feet. I can still recall going into town to a business that had an industrial staple gun, so I could either secure the flapping soles or repatch the holes with wads of oilcloth stapled from the inside so no one would notice.

Instinctively, my gaze fell upon the shoes of the people complaining about things being so bad economically in New Jersey. Without exception, they were wearing designer shoes—those kinds of sneakers that salespeople bring to you so delicately you'd think they were explosives, or those spiffy Rockport walking shoes. I was so amazed by those walking shoes that I was compelled to go into a shoe store and price them. One hundred and twenty dollars! On sale!

With those kinds of shoes on their feet, they're feeling that much anger? I thought. And about the economy? They're not complaining about what they don't have. They're complaining that they don't have enough. Has poverty become so trivialized that the New Downtrodden are those who can't afford Rockports?

Unfortunately, it looks like it. I only wish that some of these people could have learned the lessons of poverty the way I did—through experience. Like the time I couldn't tell my teacher I didn't have $1.50 for a science magazine subscription because I'd be revealing that I was on welfare in a rich town. Instead, I always said I forgot the money. He marked me up as a wise-guy deportment case, which helped drive my grades down.

Some teachers ridiculed my scraggly shoes in front of classmates, unthinkingly viewing them as an issue of cleanliness rather than pennilessness.

On one free field trip (I stayed behind in study hall for the paid ones), I borrowed a camera from a classmate on the bus to take a picture of some mundane highway bridge that crossed the Passaic River, about ten miles from home. They all had a riotous laugh when they found out I'd never been this far from home because we never had a car.

And, yes, we were forced to ''cheat'' on welfare, too. The ''welfare lady'' visited the house at pre-arranged times to make sure we weren't buying things that would indicate alternative incomes of some kind. That would be cheating the taxpayer. I had to hide any evidence of the prosperity I was enjoying form my paper route—even the household essentials we bought with the money I earned. My brothers' bikes, bought second-hand, had to be hidden before the visits.

What got us into this predicament? My father lost his job. Does it become a more acceptable welfare story when I say it was because he contracted terminal lung cancer and took six years to die? As opposed to being a victim of economic cancer?

I won't insult victims of poverty or families on welfare by fully equating my time on welfare, or being poor and white in suburbia in the sixties, with the problems they are facing now. The problems now are worse, meaner. And bleaker.

From my experience, and in discussions with people who lived or live in similar circumstances, there is one profound misunderstanding that policymakers and the public have about poverty: You do not choose it; by and large, it chooses you.

The Democratic party meant to do well when it stitched together the welfare safety net during the Depression. And welfare worked well enough for a while. But as time passed, we didn't have the political common sense to stop sewing when it wasn't working well enough. We do need to come up with something else.

But the latest plan being bandied about, the Contract With America welfare-reform proposal, really boils down to turning the program back to the states with guidelines about cutting off benefits to the needy tomorrow, while declaring victory today. The reason that this reform plan won't work is that you can cut spending all you want, but the same mothers and children will have the same food and sheltering needs at roughly the same cost come the end of the day—no matter how you cook the books or serve the baloney. And, yes, there will always be some lumpen layabouts or drug-fried fools who will rip off the system for dollars at the margins, get all the headlines, and jump-start another sorry cycle of retribution against the truly poor and needy.

Part of the problem is that Congress, and state legislatures, are overstocked with affluent lawyers, professionals, and full-time politicians who are more than able and willing to impart their professional experiences on tort reform, health care, or the next day's news cycle. I know it's not fair, but I've seen what these politicians drive to work and leave in the parking lots outside the Congress and the state capital. Nobody's holding the mufflers of those cars together with hanger wire, I can assure you.

All of this seems so fresh, so important to me, because I know that welfare made it possible for me to go as far as I have. I still have my family's welfare application, signed by both my parents, for my sons to see. I tell them to remember it's nothing to be ashamed about. To the contrary, it was a safety net that scooped up seven people from our family, and the investment in us let us re-invest our lives—and our taxes—in America.

The shame would come from not extending our hands to someone else. But the real shame is that that could become a minority view in a state like New Jersey.●

SALUTE TO MARY MOORMAN RYAN CALDWELL AND ANN HARDIN GRIMES

● Mr. FRIST. Mr. President, the last 2 weeks have been filled with triumphs and struggles for United States athletes competing in the Centennial Olympics in Atlanta. We have all

watched and waited with baited breath for official scores and times to be posted and medals to be awarded. The Olympic spirit—brought to the United States through our athletes and the host city of Atlanta—has spread throughout the Nation.

I rise today to recognize two great American swimmers from another Olympic time, whose Olympic ideals and spirit shone brightly even during the darkest days of modern Olympic history. Mary Moorman Ryan Caldwell and Ann Hardin Grimes qualified for the American Women's Swim Team to participate in the 1940 Olympics in Helsinki, Finland. Scheduled to be held from July 20 through August 4, the Games were canceled because Nazi Germany occupied all of Western Europe and the Soviet Union invaded Finland.

Mary and Ann swam the three-mile, the one-mile and the 880-yard races to qualify for the team and would have represented the United States in the 880-yard and 440-yard swimming freestyle races in Helsinki. They had been swimming together in friendly competition at the same club since 1933, and were coached by the same man, Bud Swain. The two 15 year olds from Louisville, Kentucky never got the chance to go for the Olympic gold. But their spirit never faded.

Still good friends today, Ann and Mary attended the Centennial Olympic Games in Atlanta together to cheer the 1996 United States Olympic swim teams to victory. Mr. President, Mary Moorman Ryan Caldwell and Ann Hardin Grimes are true representatives of the Olympic character in this country. Through the years as friends, swimmers, competitors, and Olympians, they have experienced it all—the hardship, the pain, and the disappointment, but most of all the triumph and the glory. I thank them for their contributions to their sport and to the Olympic spirit.●

CRUISE SHIP REVITALIZATION ACT

● Mrs. BOXER. Mr. President, on this, the last day of Senate action before the long August break, I want to speak about a matter of great importance to a key sector of the California economy—the cruise ship industry.

On the first day of the 104th Congress, I introduced legislation, S. 138, to amend a law passed by the 102d Congress that allowed gambling on U.S.-flag cruise ships and allowed States to permit or prohibit gambling on ships involved in intrastate cruises only. Representatives BILBRAY and HARMON introduced identical language in the House. Our bills, titled the California Cruise Ship Revitalization Act, would lift the ban on gaming on cruise ships traveling between consecutive California ports.

The cruise ship bill is now part of the Coast Guard Authorization Act of 1995, S. 1004, which passed the Senate last November. The House has passed its version of the Coast Guard Act with an identical California cruise ship provision. However, controversy over other provisions attached to the Coast Guard bill in the House delayed the appointment of conferees and now threatens to sink the entire bill.

The Coast Guard Revitalization Act has strong bipartisan support and no opposition. Only the State of California would be affected, and the California State Legislature has approved a joint resolution in favor of this bill.

The bill corrects a problem that occurred when California took advantage of a 1992 amendment to the Johnson Act that permitted States to prohibit gambling on intrastate cruises, the infamous ''cruises to nowhere.'' Unfortunately, California's law was drafted in such a way that it also prohibited ships on international cruises from making multiple ports of call within the state.

My bill simply amends the Johnson Act to exclude State regulation of gaming aboard vessels so long as the ship's itinerary is an international cruise.

This bill is essential to restoring California's cruise ship industry, which has lost hundreds of jobs and more than $300 million in tourist revenue since the 1992 law was enacted. Many cruise ship companies have bypassed second and third ports of call within California. Ships that used to call at Catalina and San Diego after departing Los Angeles en route to Mexico no longer make those interim stops. According to the Port of San Diego, that port alone has lost $90 million in economic impact, hundreds of jobs, and over 400 cruise ship calls—more than two-thirds of the port's cruise ship business.

Neighboring ports have experienced similar losses. In Los Angeles, the estimated loss of port revenue through 1995 was $3 million. Beyond the port, the economic impact to the city amounted to $14 million in tourism and $26 million in retail sales. The total impact estimated by the Port of Los Angeles was an estimated $159 million and 2,400 direct and indirect jobs.

The State's share of the global cruise ship business has dropped from 10 to 7 percent at the same time that growth in the cruise ship business overall has climbed 10 percent a year. Our lost market share has gone not to other States but to foreign countries along the Pacific Coast.

For a State still recovering from an economic recession, defense downsizing, and back-to-back natural disasters, a blow to one of our leading industries—tourism—is unfathomable.

The cruise ship industry books its ports of calls well in advance of the season. Therefore, action on this cruise ship provision this fall is crucial to our State if we are going to prevent another season of lost business—lost jobs—to my State.

Mr. President, I want to assure the supporters of the California Cruise Ship Revitalization Act that I will continue to press for final enactment of this legislation. When the Congress returns next month I will do everything in my power to ensure that we do not lose another year without this correction in law.●

TRIBUTE TO THE BOSTON AIR ROUTE TRAFFIC CONTROL CENTER IN NASHUA FOR WINNING THE NATIONAL EN ROUTE FACILITY OF THE YEAR AWARD

● Mr. SMITH. Mr. President, I rise today to pay tribute to the Boston Air Route Traffic Control Center [ARTCC] in Nashua, NH. The Boston ARTCC won the National En Route Facility of the Year Award, for which I offer my warmest congratulations. This is certainly an accomplishment of which they should be very proud and I salute them for their achievement.

The National En Route Facility of the Year Award is presented annually to an Air Route Traffic Control Center which has made a significant contribution to the National Air Traffic Control System. The Boston ARTCC provides air traffic control service to commercial, military, and private aircraft in all of New England and most of New York State. This facility is 1 of 20 ARTCC facilities throughout the continental U.S., along with 3 in Honolulu, Guam, and San Juan.

The Boston ARTCC is responsible for handling flights from all six New England States, eastern New York State, extreme northeastern Pennsylvania, and coastal waters to 6700 west longitude. This is an enormous area, amounting to an area of 125,000 square miles. Within this impressive area, there are 30 positions of operation and the Boston ARTCC coordinates with 7 other centers from Montreal to Washington. Each year, the Boston ARTCC performs 1,620,000 operations in this region. Their facility operates with 290 active controllers, 12 controller trainees, 62 support staff, and 95 technicians. With extensive radar systems, radio facilities, a high tech computer system and enough telephone equipment to serve a city of 10,000 people, the Boston ARTCC is a model of efficiency.

Centers like the Boston ARTCC are becoming vital to our country's infrastructure with ever increasing air traffic. With a center like this running so efficiently, we can rest easier and know that flights to and from the east coast are safe and on time. Excellence and dedication like theirs deserves to be recognized and applauded. I am proud to commend the Boston ARTCC, the many air travelers in New Hampshire join me in wishing them congratulations and best wishes●

RECYCLING TRANSACTIONS UNDER SUPERFUND

● Mr. AKAKA. Mr. President, I want to express my support for S. 607, a bill to clarify the liability of certain recycling transactions under the Superfund

law. This legislation clarifies the Superfund Act to ensure that the product of scrap recycling is not subject to Superfund liability if certain standards are met.

S. 607 does not exempt from Superfund liability recyclers who operate contaminated facilities. Nor does it exempt from Superfund contamination caused in whole or in part by waste generated during the course of processing recycled materials.

My support for this legislation is not unconditional, however. During a review of this legislation I have identified a serious flaw in S. 607, as introduced. The language that appears in section 127(b)(2)(E) is drafted in a way that would, I believe, achieve exactly the opposite result that the bill's sponsor intends.

After discussing this issue with industry and environmental groups, I have concluded that the best thing to do is support the bill and work to correct the error in the legislation. I have received assurances by the industry supporters of this legislation that they will not allow this error to stand, and will work to have the problem corrected. I will join with them in this effort.●

READY FOR THE WORLD

● Mrs. KASSEBAUM. Mr. President, the Honorable Edward W. Brooke, our distinguished former colleague from Massachusetts, recently delivered an outstanding speech entitled ''Ready for the World'' at the First Alpha Scholarship Forum in New Orleans. His remarks were befitting of the inaugural Charles H. Wesley Memorial Lecture.

Mr. President, I trust that our colleagues will benefit from Senator Brooke's thoughtful remarks as I have, and I ask that the text of his speech be printed in the CONGRESSIONAL RECORD.

The speech follows:

READY FOR THE WORLD

(By Brother Edward W. Brooke)

1. WESLEY'S EXAMPLE AND LEGACY

Dear Brothers and guests, I cannot tell you how privileged, honored and humbled I feel to have been chosen by our General President, Brother Milton C. Davis, to deliver this First Charles H. Wesley National Lecture. When I was initiated into Alpha Phi Alpha nearly six decades ago, Dr. Wesley was our General President. I came to love him and admire him. He was my brother, my leader, my teacher and my friend. I have never stopped trying to follow his example and, God willing, I never shall.

Let me take a few minutes to remind all of you just who Brother Dr. Charles H. Wesley was and why his is a name, and why his was a life, that you should always remember.

Brother Dr. Wesley was born nearly 105 years ago and lived some 95 years. He graduated from Fisk, where he had been a star student, athlete and singer, and entered graduate school at Yale at age 19. He was the fourth African American to earn a Ph.D. at Harvard. He traveled and studied in Europe. He taught history at Howard University and rose through the ranks to become Dean of Liberal Arts and Dean of the Graduate School. As a scholar, he published 12 books and 125 articles. He served as president of Wilberforce College and of Central State University in Ohio. He was an ordained minister in the African Methodist Episcopal Church. He wrote the history of our fraternity and served as its General President for nine critical years between 1931 and 1940. He served as president of the Association for the Study of Afro-American Life and History for 15 years.

But, in his own words, he gave his best to Alpha. And we should be thankful that he did.

There is more to know about Brother Wesley, however.

First, he was a loving and caring husband and father.

Second, despite his considerable talents and accomplishments, there was no arrogance about him. If at times he was first of all, he was, nevertheless, always a servant of all. ''One's attainments,'' he said, ''can serve as object lessons for others. There is no need to draw attention to them.''

Third, he believed, correctly, that notions of racial superiority and inferiority explain very little, if anything, in human history.

Fourth, instead of talking about what America owed black people, he talked about what America owes itself and all of its people, and about what black people owe themselves.

Fifth, his interests and his horizons were never limited by the waters which separate North America from the rest of the world. His concern and his love were for all mankind.

Sixth, he made the nurturing of young people an integral part of his life.

And, to his everlasting credit, he never turned a deaf ear to any call to duty.

So perhaps you can understand why I feel compelled to say today that Brother Dr. Charles H. Wesley—scholar, athlete, teacher, musician, preacher; and Alpha man—was as American as they come. He knew the truth of that, even if most Americans didn't. And instead of giving up on, or giving in to, Americans who would deny his Americanness, he stood up for America and worked as hard as he could to make America own up to what it says it stands for.

With the kindness and courtesy of Dr. Wesley's accomplished daughter, Mrs. Charlotte Wesley Holloman, I have been privileged to read some of Brother Wesley's papers and original drafts of speeches. In the one which he delivered in Charleston, South Carolina, in 1977—the 201st year of American independence and the 71st year of alpha history—I found a message which gives meaningful insight into Charles H. Wesley, the man and philosopher. And I want you the hear his thoughts and his words as he delivered them to Alpha men there assembled. He said:

''It has become very necessary that thinking should be used in all our individual endeavors, for it is one of the powerful forces operating in our lives. America was built by its thinkers both in 1776 and subsequently as a great nation in 1976, and the method of this achievement and our own have been indicated very cogently in his familiar statement:

Back of the hammers beating,
By which the steel is wrought
Back of the workshop's clamor
The seeker may find the thought.

The thought that ever is master
Of iron, of steam and steel
That rises above disaster
And tramples it under its heel.

Back of the motor's humming
Back of the cranes that swing
Back of the hammers drumming
Back of the belts that sing.

There is an eye that scans them
Watching through stress and through strain
There is a mind that plans them
Back of the brawn the brain.

''In the long run,'' Brother Wesley continued, ''whether it is in 1776 of 1976, the world is in the keeping of its idealists. . . . It is in the hands of men and women who with revolutionary impatience walk the lanes of the villages, with their feet on the ground opposing unjust laws with a song on their lips and with their hearts in the stars. . . . Such a one is never defeated until he gives up within. . . .''

This is Brother Wesley's legacy and our inheritance. Our duty today is to pick up where he left off and to stay the course in to the next century and the next millennium.

2. THE MOMENT

There could hardly be a more appropriate moment than this one—with the dusk of the twentieth century descending upon the global village and the dawn of the Third Millennium hovering somewhere just beyond the horizon—to pause and consider the state of this world and our place and our possibilities in it. Regrettably, both the world and our place in it are in many respects in a perilous state.

Our is called a new age. The Cold War is over. The Soviet Union no longer exists. Totalitarianism, Marxism and socialism are in full retreat. Capitalism, democracy and freedom are everywhere the rage.

Feedom is something about which we African Americans know a great deal. We know what it's like to be deprived of it, to hunger and thirst for it, to fight and die for it, even though the Creator never intended for men and women to be either slaves or masters. As the 18th century English poet William Cowper wrote:

They found them slaves: But who that title gave?
The God of Nature never formed a slave!
Though pride or force may acquire a master's name
Nature and justice must remain the same;
Nature imparts upon whate'er we see
That has a heart and life in it—be free!

And so, here in the age of freedom and democracy, we ought—all things being equal—to be dancing in the streets and on the crumbling walls of political, economic and cultural oppression.

But, for many, things seem to have gone terribly awry; everything new seems old again. In so many places and situations, we and many of our brothers and sisters in the human race find ourselves in an all-too-familiar situation: marginalized—excluded from the fun if not the games; victimized by poverty, politics, disease, famine, war, corruption, indifference, malign neglect and outright bigotry.

Major challenges confront us. But, as we know, challenges offer opportunities. And so there are, today, even in our relatively small sector of this world, abundant opportunities for us to demonstrate not just our loyalty and devotion to our country but also, as all Alphas are sworn, our love for all mankind.

So let us not fail to find inspiration in the many beacons of hope in the world and in our country. In South Africa, President Mandela and the African National Congress have not only taken command of the ship of state; they have skillfully guided it toward the open seas where the economic and social possibilities seem limitless.

Even in poor Haiti hope is alive. And here in the United States, a million black men, including many Alpha brothers, marched in support of individual and parental responsibility.

Nor should we fail to recognize our dear sister, the highly motivated Marian Wright

Edelman, who only recently led her own march on Washington on behalf of this nation's children, and who has made it clear that she will never stop fighting for our young people—black, brown, yellow, red or white—who, after all, our most precious natural resource and the link between our past and our future.

3. AMERICA'S MISSIONS

Of course, the United States has its troubles; but is still a special and sometimes wondrous place. Over the centuries many people have believed, and many still believe today, that Almighty God provided for the establishment of the United States—a new nation in a new world—to give man and woman an opportunity nearly unique in history to experience, and on the basis of that experience to cherish, peace, freedom, justice and brotherhood on Earth.

So far, that vision—whether it is God's or man's, whether it is legitimate or not—has not been fully realized. America has not yet lived up to its promise. But if we take the long view of history, we can see that the United States has served for more than two centuries as a shining example to many millions of people around the world, and has grappled successfully with certain enormous challenges both at home and abroad.

In the 19th century, for example, Americans had no choice but to decide once and for all whether human slavery had a legitimate place in the Republic. In 1858, Abraham Lincoln said, ''A house divided against itself cannot endure permanently, half slave and half free * * * I expect it will cease to be divided. It will,'' he said, ''become all one thing, or all the other.'' And after a terribly bloody and destructive civil war, the United States emerged as a country in which slavery had no place—even if, tragically, de jure as well as de facto racism did.

Freed from the albatross of slavery, the United States enjoyed in the last quarter of the 19th century rapid economic growth and political as well as economic expansion into the larger world. And before long it became impossible for America's leaders to continue to heed George Washington's advice to avoid foreign entanglements. Indeed, by 1916, the midpoint of the First World War, it could no longer be argued that American security and freedom were somehow separate from western Europe's. As he dispatched American forces to the war ''over there,'' President Woodrow Wilson spoke of the imperative to make the world, not just the United States, safe from would-be global emperors. At no time since then has this country been able to remain aloof from international politics without exposing itself, not to mention its brothers, cousins and friends, to powerful and sometimes ruthless antagonists who wish them, and us, ill.

This reality became indisputable when, during our isolationist period, would-be emperors of the world came into power in Germany, Italy and Japan and undertook to conquer, subjugate or intimidate those who dared to resist them. Only massive and sustained, if somewhat belated, intervention by the United States prevented those tyrants from achieving most if not all of their aims.

After the Second World War, yet another imperial threat emerged in the form of our former ally against the Axis powers, namely Josef Stalin's Soviet Union. I need not recount here today the details of the half-century-long Cold War fought by American presidents from Truman to Reagan. But I must say that prevailing in that struggle, as well as the Second and First World Wars, was indeed an essential component of America's mission in the 20th century. And to all those—and I am proud to be one of them—whose efforts and sacrifices made it possible for us to live in a world over which no would-be emperor's shadow falls, we should be thankful.

As you recall, there was another tyrant who was overthrown during this century. He went by the name of Jim Crow. And under his authority millions of African Americans, and many white Americans, were deprived of their most basic civil and human rights. But since 1954 segregation has been illegal in America. And to all those whose efforts and sacrifices made it possible for us to live in a land in which no ''whites only'' sign can legally be erected, we should be thankful.

Now, I do not want to give the impression that I believe for a moment that all of the national and international atrocities served up by the 19th and 20th centuries have been completely or even satisfactorily eliminated. I do not, and you should not.

However, some of the most horrendous of them have been, and for that we should be thankful.

We know, of course that the 21st century will serve up horrors of its own; and although we are confident that good and capable men and women will rise up to grapple with them, we can afford to be neither complacent nor mentally unprepared. Quite the contrary; we should, and must, be alert; we must be ready for the world. And that means having principles, if not a plan, to guide us.

I believe we need look no further for ideals upon which to base our actions than the precepts of our fraternity and the examples set by Brother Wesley and so many other distinguished Alpha men over these last ninety years. I refer specifically to manly deeds, scholarship and, especially, love for all mankind, with special emphasis on ''all.'' It was Brother Martin Luther King, Jr.'s dream that one day this nation would rise up and live out the true meaning of its creed—''that all men are created equal''. And, lest we be tempted to reserve our love only for those who are easy to love, let us not forget that Jesus Christ said, ''Inasmuch as ye have done it unto one of the least of these my brethren, ye have done it unto me.''

4. WHAT YOU CAN DO AND WHERE YOU CAN START

Just as we do not have to look any farther than to our beloved and renowned Alpha to find precepts and principles on which to base our actions, neither, unfortunately, do we have to look any farther than down the street or across town to find tragic conditions that cry out for human attention, ingenuity and love. but on top of that, television and the other mass media bring into our homes on a daily basis stories of untold suffering and dehumanization—much of it done to, and even by, people of color. These stories tug at our heartstrings and, too, cry out for human attention, ingenuity and love.

Caught between the local and the global, between what's happening over there and what's happening over here, we may be tempted to focus on one and ignore the other, or simply to pretend to see neither. But I believe, and I pray that you will come to share my belief—if you don't already—that there is only one race, only one place, and only one God who made them both. I pray, too, that if you do come to share my belief, then you will accept, if you have not already accepted, some measure of responsibility, no matter how small, for bringing to bear, on the afflictions which burden humankind and our planetary home, whatever attention, ingenuity and love you can muster.

Now, some of you may be wondering what you can do and where you can start. The best answer is that you should do what you feel you reasonably can, given your talents and resources; and you should start wherever your interests and your concern lead you.

Allow me, if you will, to share with you some of my thoughts about some of the issues that the American people and our government, among others around the world, should be thinking about and acting on.

It seems to me that we face three kinds of problems: Those that are traceable to, and best addressed by, individuals in their personal, family and community lives; Those that are traceable to, and best addressed, by private industry; and Those that are traceable to, and best addressed by, governments.

Concerning problems which I think of as being attributable and amenable mainly to the action or the inaction of individuals in their personal, family and community lives, Ten Deadly Sins, as I have labeled them, come to mine.

First, there is child abuse in all its forms, including neglect and physical, psychological and sexual abuse;

Second, there is the abuse and misuse of alcohol and other drugs, both legal and illegal;

Third, there is domestic violence, which takes place behind the closed doors of too many homes;

Fourth, there is gang violence, often related to the marketing of illegal drugs. Let me say that I include in my definition of gang violence the illegal hazing of young men who are pledges of our fraternity and quite a few others in these United States.

Fifth, there is the epidemic of teen pregnancy or premature parenthood, which obviously involves young men as well as young girls and young women;

Sixth, there is prejudice and discrimination, often accompanied by hate crimes, against our fellow men and women because of their race, creed, color, national origin or sexual orientation. In this regard, we must condemn unequivocally the cowardly and dastardly burning of African American and other churches. We must condemn hate crimes against Jewish people, their places of worship and their cemeteries. we must condemn hate crimes against homosexuals, which include assault, battery and even murder. and we must condemn the tendency of white America to blame either black men or people of Middle Eastern heritage for nearly every criminal or terrorist event in this country.

Seventh, and along the same line, there is the unforgivably unfair and costly tradition of subordinating the welfare of women and girls to that of men and boys. This is unacceptable in all its aspects, though especially so when girls' minds are neglected or their bodies mutilated, and when women are prohibited by government from exercising their right to terminate legally, safely and affordably an unwanted or health- and life-threatening pregnancy;

Eighth, there are the many unhealthy behaviors in which so many of us engage. I refer specifically to smoking, chewing tobacco, the overconsumption of food—especially foods with high fat, salt and calorie content. And perhaps most important in this age of AIDS, the highly irresponsible practice of unsafe sex by adults and teenagers who know, or ought to know, better.

Ninth, there is the regrettable and ominous mixture of apathy, cynicism and disrespect for law, government and politics;

And tenth, there is the stifling isolationism which has overtaken so many individuals, families and communities. I refer to our growing lack of interest in people, places and issues with whom and with which we may not have everyday contact. It is right to be worried about average Americans' lack of interest, and even hostility, toward foreign people and places. But we should be downright alarmed about average Americans' lack of interest in, and interaction with, their neighbors and fellow citizens.

Next, let us consider problems which are traceable mainly to, and best addressed by, the private sector in this country and in others. But before I focus on troubling aspects of contemporary private enterprise, let me make at least two things clear: First, the private sector is not an enemy of whom we should wish to be rid; in fact, because the private sector is the principal source of employment, innovation, growth and progress, we should, and do, want it to grow and prosper Second, many companies, large and small, are models of corporate social responsibility. You don't have to be a Republican or a conservative to acknowledge this fact and give credit where it's due. The President did it a few weeks ago when he invited some of the more praiseworthy companies to send representatives to Washington and tell their stories to the country and the world.

Now, concerning private sector problems to be addressed, I have five in mind.

One—and for me the most important one today—is the problem of the violent images and antisocial ideas disseminated so broadly by the media and the entertainment industry, especially through movies, television shows and certain kinds of music. I don't necessarily advocate more regulation at this time, but the entertainment industry has to show allegiance to some moral principle other than ''give them whatever they want, so long as it sells.''

A second problem, similar to the first, is the lack of corporate social responsibility demonstrated by companies and industries which target advertising for alcohol, tobacco and games of chance at the most vulnerable segments of society, namely children and poor people.

A third important problem is the widely varying performance of companies and industries, especially in the United States, with respect to equal employment and affirmative action for women and underrepresented minorities. It is unacceptable that a person is subject to harassment or denial of a job or promotion because of physical traits or beliefs.

A fourth is the insensitivity of some large corporations to the genuine human needs and just deserts of their employees and communities. It doesn't seem unreasonable that a corporation can be compassionate and commercially viable at the same time. But it does seem unreasonable that a corporation can be in a community but not of it.

And, fifth, is the problems of corporate respect for this planet and for its wondrous ecological systems. One would expect businesspeople to know that there is a relationship between nature and the economy, even if, sadly, their knowledge is based solely on pragmatism. The overfishing of our oceans, for example, isn't just a crime against Mother Earth; it puts thousands of people out of work.

I come now to my third set of concerns, namely problems which are traceable to, or at least best addressed by, governments around the world.

Our federal government, and other national governments, face both inward and outward as they strive, we hope, to promote the general welfare, insure domestic tranquility, provide for the common defense and help secure, for any one who hungers for them, the same blessings of liberty and justice that we ourselves seek and sometimes enjoy.

Even if some Americans don't think so, there still are some things that our federal government, and national governments in developed and developing countries ought to be doing, or doing better, to improve conditions in their own societies. Several things come to mind.

First, government can do a much better job of educating young people. No nation that fails to educate its children will have much of a present or a future.

Second, government can do a much better job of insuring that as many people as possible, especially children, have the best health care that a society can reasonably provide.

Third, government can do a much better job of insuring employment and decent and affordable housing for low and moderate income people.

Fourth, government can do a much better job of making our streets, neighborhoods and commercial districts safe for everyone, not just the wealthy and the politically influential.

Fifth, government can do a much better job of taking responsibility for protecting our natural environment and preserving it for future generations as a cultural and economic resource. Let me elaborate just a bit. When I say environment I don't mean just protecting the ecology from destructive people; I also mean protecting people from environments that are unhealthy because the air is dirty, toxic wastes have been dumped there, or the water is unsafe for human consumption.

Sixth, governments can do a much better job of governing. Too often, governments and the people who run them conduct themselves in ways that a are highly deficient when it comes to honor, morality and integrity. They should be on notice that their people's patience has its limits and that they should either conform, reform or perform, or else expect to be informed that their time in office has expired.

Now, as I said earlier, governments face not only inward but outward, toward other government. And there are some things that outward-looking and forward-looking governments ought to be doing or doing better. I label these Ten Expressions of Love for Humankind.

One is to take effective steps to head off interstate and intrastate armed conflict.

A second is to take effective steps to stop any fighting or killing if prevention should fail.

A third is to prohibit, in law and in fact, ethnic cleansing, or anything that resembles it.

A fourth is to come to the aid of people displaced by conflict or natural disasters.

A fifth is to find ways to make war—if it is inevitable,and I pray that it isn't—less lethal, especially for innocent civilians during and after violent episodes. One of the great tragedies of our time is the killing and maiming of unsuspecting children, mothers an fathers by landmines encountered in their perfectly legitimate and innocent daily life.

A sixth thing that government ought to be doing better is coming to the aid of people and nations who have overthrown, or want to overthrow, tyranny and are likely to choose the path of democracy, freedom and tolerance.

A seventh is to treat the international AIDS epidemic more seriously. No person of any ethnicity should be indifferent to the fact that African American men have been harder hit by the virus than other groups of Americans, or that HIV and AIDS infection rates in Africa, where some 14 million men, women and children have contracted the virus, are the highest in the world and still rising. Nor should anyone fail to be greatly concerned that the AIDS epidemic has become established in the Caribbean and especially in Asia, where its explosive infection rate will soon overtake Africa's.

An eighth is to work harder to insure that the world economy operates fairly and justly for all nations, not just a fortunate few. As we race ahead toward the high-tech information economy of the twenty-first century, let us consider how we might bring up to 20th century living standards the three billion or so of the world's people left behind in 18th and 19th century conditions.

A ninth is to build on the work begun four summers ago at the United Nations Conference on Environment and Development by following though on national and international commitments and agreements to address critical environmental problems.

And the tenth is to work harder to make the United Nations the place where all nations meet not just to talk—which is valuable, of course—but also to resolve conflicts peacefully and work together to elimiante the problems which threaten all, many or some of our fellow human beings.

5. CONCLUSION

Brothers, three years ago, when I spoke to many of you here in New Orleans at the 87th Anniversary General Convention, I said: ''We have, and will always have, a further contribution to make, a place to fill, a work to perform.'' I suspect that the litany of concerns which I have just sumamrized—most of them not only serious but painfully complex as well—will serve to confirm the continuing truth of that statement. And although this reality is in many ways a said commentary on the state of the nation and the world, it should also serve as a reminder of why we as men of Alpha Phi Alpha are needed more and more in the community, in the nation, and in the world.

My Brothers, I call on each of you—as Americans, as Americans of African Heritage, and as children of God, sent by Him to dwell temporarily on this Earth—to do whatever you can to improve the quality of life on this planet.

You don't have to be a politician; you don't have to be a diplomat; you don't have to be a general or an admiral; nor a scholar or a preacher. All you have to be is someone who cares abut his family, his community, his environment and his fellow human beings, wherever they may be, whatever their language, whatever their religion, and whatever the color of their skin.

I think the great 19th Century American philosopher and poet, Ralph Waldo Emerson, put it best:

So near is grandeur to our dust
So near is God to man
When duty whispers low ''thou must''
The Youth replies, ''I can!''

My dear Brothers in Alpha, that is the message I bring to you today. That is the message I thank you for listening to. And that is the message in the spirit of Charles Harris Wesley that I ask you to accept an respond to as men worth of being Alphas.

Good luck and godspeed.●

Mr. KERRY. Mr. President, I rise today to support final passage of H.R. 3060 as amended by S. 1645, the Antarctic Science, Tourism, and Conservation Act of 1996, which I introduced earlier this year. This legislation will enable the United States to implement the Protocol on Environmental Protection to the Antarctic Treaty. The Protocol was negotiated by the parties of the Antarctic Treaty System and signed in October, 1991. The Senate gave its advice and consent to the Protocol on October 7, 1992. In August 1993, I introduced the precursor to this bill and the Senate Commerce Committee reported it to the full Senate in early 1994. Unfortunately, continuing disagreements among scientists, conservation groups, and the Administration about the legislative changes needed for the United States to carry

out its responsibilities under the Protocol prevented further action on that bill. Passage of this bill today brings to a close a long, arduous process in which all of the parties mentioned above have finally reached agreement.

The bill Senator HOLLINGS and I introduced is supported by all the parties engaged in this somewhat lengthy, but ultimately successful, consensus-building process. The Commerce Committee held a hearing on S. 1645 in June and ordered the bill to be favorably reported. During committee consideration of the bill, members agreed to work with Senator STEVENS on a floor amendment addressing polar research and policy. That amendment offered today to S. 1645 requires the National Science Foundation to report to Congress on the use and amounts of funding provided for Federal polar research programs. There is no opposition to this amendment.

Mr. President, S. 1645 builds on the existing U.S. regulatory framework provided in the Antarctic Conservation Act to implement the Protocol and to balance two important goals. The first goal is to conserve and protect the Antarctic environment and resources. The second is to minimize interference with scientific research. S. 1645 amends the Antarctic Conservation Act to make existing provisions governing U.S. research activities consistent with the requirements of the Protocol. As under current law, the Director of the National Scientific Foundation (NSF), would remain the lead agency in managing the Antarctic science program and in issuing regulations and research permits. In addition, the bill calls for comprehensive assessment and monitoring of the effects of both governmental and nongovernmental activities on the fragile Antarctic ecosystem. It also would continue indefinitely a ban on Antarctic mineral resource activities. Finally, S. 1645 amends the Act to Prevent Pollution from Ships to implement provisions of the Protocol relating to protection of marine resources.

As one of the founders of the Antarctic Treaty System, the United States has an obligation to enact strong implementing legislation, and is long overdue in completing ratification of the Protocol.

In closing, Mr. President, I would like to thank Senator HOLLINGS for all of his assistance in getting agreement on this legislation. The House passed similar legislation, H.R. 3060, by a vote of 352–4 in June. I urge my colleagues' support for final passage of the Antarctic Science, Tourism, and Conservation Act of 1996.

HENRY A. WALLACE

• Mr. HARKIN. Mr. President, I would like to take this opportunity to bring to the attention of the Senate a notable speech by one of our colleagues, and one of my fellow Iowans, Senator John C. Culver. The subject of Senator Culver's speech is that of another prominent Iowan, Henry A. Wallace. Both these men embody the wisdom and insight of the residents of the great State of Iowa.

Senator Culver's distinguished speech, given March 14 at the Carnegie Institution of Washington, marked the inaugural of the Henry A. Wallace Annual Lecture. Sponsored by a research center named after Henry A. Wallace, the annual lecture will address agricultural science, technology, and public policy. Senator Culver's speech, entitled ''Seeds and Science: Henry A. Wallace on Agriculture and Human Progress,'' held listeners spellbound as he described the life and times of a pragmatic farmer from Iowa.

As many of you know, Henry A. Wallace served our country in many ways: as a farmer, editor, scientist, Secretary of Agriculture, Secretary of Commerce, and Vice-President. As a farmer, Wallace realized the importance of environmental stewardship. As he once wrote, ''The soil is the mother of man and if we forget her, life eventually weakens.'' While Henry A. Wallace made many contributions to this Nation for which we thank him, it is perhaps Mother Nature who thanks him the most.

I ask that the text of Senator Culver's speech appear in the RECORD.

SEEDS AND SCIENCE: HENRY A. WALLACE ON AGRICULTURE AND HUMAN PROGRESS—GUEST LECTURER: SENATOR JOHN C. CULVER

Sometime in 1933, while he was battling to rescue American agriculture from its greatest crisis, Secretary of Agriculture Henry Agard Wallace was invited to be the featured guest at a swanky party in New York City. It was not the sort of thing Wallace enjoyed. A quiet, cerebral man, Wallace often found such social functions uncomfortable. He wasn't good at flattery or small talk, had no interest in gossip and disdained off-color humor.

Gathered around him that evening was a group of writers, planners, technicians and other members of the New York intelligensia eager to take his measure. Wallace was still something of a mystery to them, as he was to most of the nation. At age 44, he was the youngest member of President Roosevelt's Cabinet. The son and grandson of prominent Iowa Republicans—his father had served in the Harding and Coolidge cabinets—Wallace was still a registered Republican himself. He was, by background, an editor and corn breeder; he had never sought public office and had accepted his current position with considerable reluctance.

Perhaps most intriguing to the people in the room was the depth and breadth of Wallace's intellectual interests. Wallace was not only a geneticist and journalist, he was one of the nation's leading agriculture economists, an authority on statistics and author of the leading text on corn growing. His interests ranged from diet to religion, from weather to monetary policy, from conservation to Native American folklore. Somewhere along the line, he also found time to start the world's first—and still the world's largest and most successful—hybrid seed corn company.

So his small audience had much to ask Wallace about and they peppered him with questions. Finally one of them inquired: ''Mr. Wallace, if you had to pick the one quality which you thought most important for a man to have in plant-breeding work, what would it be?'' The man settled back to enjoy a long scholarly reply but Wallace's response was brief and startling. Without a moment's hesitation he said: ''Sympathy for the plant.''

For Wallace, the failure to understand the nature of plants and animals—their structure and purpose, their needs and cycles—was symptomatic of modern man's inability to understand life itself. ''When you sweat on the land with a purpose in mind you build character,'' he wrote. ''Watching things grow, whether plant or animal, is all important. One of the wisest of the old Anglo-Saxon sayings is, 'The eye of the master fattens the ox.' How, he wondered, could man grasp the essence of life without taking into account the totality of living things: plants and animals and human beings and the spirit that animates their existence? He later acknowledged that he usually liked plants better than animals, but he appreciated the latter because ''they gave [the] manure that nourished the plants.''

Wallace had nothing sentimental in mind when he used the expression ''sympathy for the plant.'' Rather, he viewed ''sympathy'' as an outgrowth of rigorous observation and exacting employment of scientific principles. Throughout his life, beginning at an unusually early age, Wallace placed great store in the value of scientific understanding. By training and temperament, he was an unusually unsentimental man.

About 1904, when Henry Wallace was in his mid-teens, he attended a young farmer's ''corn show'' and watched as ears of corn were judged by their appearance. The ''beauty contest'' winners, based on their uniformity, shape, color and size, were deemed to be the superior breeding stock. Professor P.G. Holden, part crusading scientist and part flamboyant showman, was the great evangelist of corn, and he was undoubtedly the best-known corn show judge in the United States. He was also a personal friend of the Wallace family. Young Henry's grandfather, the beloved preacher-journalist known to thousands of midwestern readers as ''Uncle Henry'' Wallace, had been largely responsible for bringing Holden to his teaching position at Iowa State.

The story of what happened at that corn show was later written by Paul de Kruif, author of a colorful book on the great food scientist called The Hunger Fighters:

Gravely, for the instruction of youth, [Holden] held up a great cylindrical ear that was not so good to his learned eye. ''This ear, boys, shows a marked lack of constitution!'' cried Holden. ''And look at this one for contrast,'' said he. ''Observe its remarkably strong middle!'' And such is the folly of teaching—that every boy, hypnotized, could do none other than see what Holden wanted him to see. Solemnly the professor judged and awarded the medal to the very finest ear of all those hundreds of ears of maize, and pronounced it champion.

A mob of disappointed farm boys straggled out of the room. Henry stayed. The professor unbent. ''Now young man, if you really want proof that I'm right, why don't you take thirty or so of these prize ears? Then next spring plant them! Plant them, one ear to a row of corn. Then harvest them next fall—and measure the yield of them.''

The next spring Henry Wallace took those 33 fine ears, shelled them into separate piles, stuck them under the soil, four kernels to a hill, in 33 rows, one ear to a row, on a little piece of land his father gave him. What he learned from those 33 rows of corn, of course, was that Holden and his corn shows were all wet. The ten ears of corn judged fairest by the good professor were among the poorest yielders in the test, and some of the ugliest

ears produced the highest yields. Conventional wisdom or not, Holden's personal friendship with the Wallace family notwithstanding, the scientific experiment showed the appearance of corn had nothing whatever to do with its yield. As Wallace himself put it succinctly: ''What's looks to a hog?''

Henry Wallace's first lesson in agricultural experimentation came from his mother, May, a woman endowed with strong religious convictions and a great love of plants. May Wallace taught her young son how to crossbreed pansies, to his great delight. ''It happened that in that particular outcome, the flowers were not as pretty as either parent, but I attributed to them unusual value simply because they had been crossed.'' His mother also frequently said, ''Henry, always remember, you are a Wallace and a gentleman.'' Wallace never forgot.

From his father and grandfather he inherited his first and last names, a tradition of progressive thinking and an intense belief in the value of ''a distinctive and satisfying rural civilization'' that offered ''nothing less than the comforts and the cultural elements of the best city life blended with the individualism and the contact with nature that the country gives.'' His father and grandfather had founded the family's influential farm journal, Wallaces' Farmer, and summed up their philosophy in six words that appeared on the cover of every issue: ''Good farming, clear thinking, right living.''

Another important influence on young Henry, as he was called in the family, occurred when he was a very young boy. Wallace had moved with his family to Ames, Iowa, where his father completed his degree at Iowa State and taught for a few years as a professor of dairying. There the shy boy was befriended by one of his father's students, a gangly black man by the name of George Washington Carver, who had been born in slavery. Together this unlikely duo—one who became the nation's greatest secretary of agriculture, and the other who gained international fame as a botanist and chemist—tramped through the woods and fields around Ames exploring nature in intimate detail. Six decades later, it was said, Henry Wallace was still able to impress agrostologists with the minute knowledge of grasses he learned at Carver's feet. His lifelong fondness for grass was later evidenced by a national radio address he made while Secretary of Agriculture entitled ''The Strength and Quietness of Grass.''

It was Carver, Wallace said, who introduced him to the ''mysteries of botany and plant fertilization'' and who demonstrated that ''superior ability is not the exclusive possession of any one group or class. It may arise anywhere,'' Wallace noted, ''provided men are given the right opportunities.'' He also learned from Carver an approach to science: ''Carver's search for new truth,'' Wallace later observed, ''both as botanist and chemist, was a three-pronged approach involving himself, his problem, and his Maker.'' He earnestly believed that God was in every plant and rock and tree and in every human being, and that he was obligated not only to be intensely interested but to call on the God in whom he so deeply believed and felt as a creative force all around him. ''There is, of course, no scientific way of proving Carver . . . right or wrong,'' Wallace noted. ''But we can safely say,'' he added, ''that if a corn breeder has a real love for his plants and stays close to them in the field, his net result, in the long run, may be a scientific triumph, the source of which will never be revealed in any statistical array of tables and cold figures.''

As a boy growing up in Des Moines, there was always available to Wallace a small plot of land on which to experiment and ample encouragement from his family to let his curiosity range free—provided, of course, that he had milked the cows, fed the chickens and completed his other routine chores. As a student at Iowa State he worked on experimental farms operated on the county's ''poor farm'' and learned first hand that progeny from one ear of open-pollinated corn could yield twice as much as progeny from another ear of corn of the same variety.

Having proved that ability to yield is more important than appearance, he was receptive to the concept of hybrid corn. He carefully followed scientific reports and experiments relating to its development while graduating first in the agricultural class of 1910, at Iowa State College.

Throughout the 1920s, Wallace worked intensely on his own breeding projects and to promote the development and use of hybrid corn. In the early years of that decade, he had been influential in founding the Iowa Corn Yield Contest, which he saw not only as a scientifically valid replacement of the ''corn shows,'' but as a means to demonstrate to farmers the superiority of hybrid corn.

Wallace knew even then that a revolution—his word—was coming to the Corn Belt. It was a revolution which he predicted and, more than any other individual, led. In 1933, six years after he started his own little company to develop and market hybrid seed, only one percent of the corn planted in the midwest was grown from hybrid seed. Ten years later, more than three-fourths of corn grown in the Corn Belt came from hybrids. Today, of course, virtually all commercial corn comes from hybrids. Yields grew from less than 25 bushels an acre in 1931 to 110 or more bushels today. The corn revolution stimulated an agricultural revolution throughout the world and transformed American agriculture from an art to an applied science.

Wallace viewed this revolution not in the raw statistics of yields-per-acre, certainly not in bottom-line sales and profits, but in an intimately personal way. ''Every living thing, whether it be plant, animal or human being, has an individuality of its own,'' he wrote at the height of his corn breeding work. ''Some are pleasing, some repulsive, but all are interesting to whosoever tries to understand them. For fifteen years, I have tried to understand corn plants, until now the individuality of corn plants is almost as interesting to me as the personality of animals or human beings.''

It has been said that Henry Wallace was the only genius to have served as Secretary of Agriculture. The period 1933 to 1940 was the golden age in the Department's history and the creation of much of the intellectual dynamism of the New Deal. Agricultural programs and policies were enacted which remain the basic framework today. Under Wallace's creative stimulus, soil conservation, to protect what his grandfather called ''the voiceless land,'' was promoted. The ever-normal granary, to ensure against famine, an idea which Wallace derived from reading Confucius and the Bible, was established. These food reserves later proved of critical value in World War II. In addition, the REA, food stamps, the school lunch program, and ''food for peace'' were all begun.

He was responsible for the Yearbooks of Agriculture in 1936 and 1937, which were the first devoted to agricultural research and plant genetics. He was proud that he had not succumbed during this period to the pressures to have the scientific work of the department reduced. He wrote: ''Science, of course, is not like wheat or cotton or automobiles. It cannot be over-produced. It does not come under the law of diminishing utility, which makes each extra unit in the stock of a commodity of less use than the preceding unit. In fact, the latest knowledge is usually the best. Moreover, knowledge grows or dies. It cannot live in cold storage. It is perishable and must be constantly renewed. Static science would not be science long, but a mere junk heap of rotting fragments. Our investment in science would vanish if we did not freshen it constantly and keep training an alert scientific personnel.''

Secretary Wallace was also directly involved with the expansion of the Beltsville Agricultural Research Facility. He noted in his diary on April 5, 1940, just prior to the fall of France:

''President Roosevelt was very emphatic about moving the Agricultural Department out of the farm at Arlington [where the Pentagon now sits]. He wanted to bring in the rest of an army battalion and a regiment of cavalry. The President has the War of 1812 in mind and doesn't want some foreign nation to come in and burn up Washington. Perhaps his ideas are sound, although responsible people seemed to be inclined to pooh-pooh them. The President wanted Agriculture to get in touch with the Budget Bureau and the War Department and get prepared to move out at once.''

President Roosevelt had developed great respect for Wallace's counsel as a Cabinet member for eight years on a great variety of subjects beyond agricultural policy. He referred to him as ''old man common sense,'' and selected him as his vice presidential candidate in 1940 because, according to Eleanor Roosevelt, he could best carry out Roosevelt's domestic and foreign policy if something should happen to the president.

In December 1940, Wallace, recently elected vice president, was sent to Mexico by President Roosevelt to attend the inauguration of its new president. While there, Wallace, who had learned Spanish a few years before, asked to tour the rural areas and saw the desperate need for better agricultural methods to improve food yields. He was impressed by the prominent role of corn in Mexican agriculture, as well as the reverence the people had for it. Upon his return to the United States, he persuaded the Rockefeller Foundation to establish the first of a series of highly successful international agricultural research centers. The Wallace proposal was timely because the foundation had begun to realize that its global public health programs, while controlling diseases such as hookworm, yellow fever and malaria, might be saving people from disease only to have them experience slow starvation due to inadequate diets. He was also responsible for the establishment of the Institute of Tropical Agriculture in Costa Rica and took an active part in the plans which led to the creation of the Food and Agricultural Organization of the United Nations.

A fellow Iowan, Norman Borlaug, who received the Nobel Prize for his work with the ''Green Revolution,'' once remarked that the award should have gone to Henry Wallace, whose leadership and inspiration was the moving force in these efforts.

Wallace was the first vice president in American history to be given formal executive branch responsibilities as head of the Board of Economic Warfare. This agency was charged with the critical task of obtaining and ensuring the availability of vital raw resources from Latin America and elsewhere after the United States entered World War II.

Wallace, in implementing the procurement contracts with countries from whom materials were obtained, required the commitment that they would in turn provide improved wages and living conditions for the workers. His objective was two-fold: healthy workers would best provide the supplies

needed, and, in Wallace's view, such economic and social developments within the society would help advance democracy, ensure better post-war trading opportunities and good relations with the U.S. This approach was vigorously opposed by conservatives within the administration and the U.S. Congress, and the practice was therefore discontinued.

Wallace typically, like his forebears, was concerned not only with the problems of his generation, but also with those of his grandchildren. Painfully mindful of the errors in U.S. policy, which he felt lost the peace following World War I, Wallace, as early as 1941, predicted with typical vision: ''The wisdom of our actions in the first three years of peace will determine the course of world history for half a century.''

On May 8, 1942, Vice President Wallace delivered his most well known public address entitled ''The Price of Free World Victory,'' but known to millions throughout the world as the ''Century of the Common Man'' speech.

The speech represented Wallace's effort to inform World War II with a moral purpose: ''This is a fight between a slave world and a free world,'' he declared, ''and the free world must prevail.'' His remarks, however, went far beyond a call for the defeat of Germany and Japan. Wallace saw the war as a struggle against oppression everywhere. ''Victory for the allies,'' he said, ''must lift the men and women of all nations from the bonds of military, political and economic tyranny.'' In short, Wallace envisioned a worldwide revolution against the old order.

''Some have spoken of the 'American Century,'' he said, referring to an earlier address by Henry Luce of Time Magazine. ''I say that the century on which we are entering—the century which will come out of this war—can and must be the century of the common man.'' In Wallace's mind the postwar situation should be a world free from want and deprivation in which nations traded freely and where lawful international order superseded national militarism. Wallace wrote:

''When a political system fails to give large numbers of men the freedom it has promised, then they are willing to hand over their destiny to another political system. When the existing machinery of peace fails to give them any hope of national prosperity or national dignity, they are ready to try the hazard of war. When education fails to teach them the true nature of things, they will believe fantastic tales of devils and magic. When their normal life fails to give them anything but monotony and drabness, they are easily led to express themselves in unhealthy or cruel ways, as by mob violence. And when science fails to furnish effective leadership, men will exalt demagogues and science will have to bow down to them or keep silent.''

Wallace preached that Americans must be prepared to support decolonization, international demilitarization and economic cooperation if victory was to have any true meaning. He was, however, frequently frustrated in these objectives. The voice of the common man, he complained in his diary, was not heard by the powerful elitists who ran foreign affairs. ''So long as the foreign affairs of the U.S. are allowed to be controlled as the sacrosanct preserve of one social class only, the weight of this country will continue to be thrown on the side of the 'proper' people in other countries, all lip service to democracy notwithstanding * * *.'' In an earlier speech responding to Hitler's claim of the superiority of the Aryan race, Wallace said that, ''As a result of my study of genetics . . . there is nothing in science to interfere with what might be called a genetic basis for democracy. The seed bed of the great leaders of the future, as of those of the past, is in the rank and file of the people.''

As the cold was developed in March 1946, Wallace said, ''The common people of the world will not tolerate a recrudescence of imperialism even under enlightened Anglo-Saxon atomic bomb auspices. If English-speaking people have a destiny, it is to serve the world, not to dominate it.'' In light of his scientific background, Wallace had been designated by President Roosevelt as his personal liaison to secretly work with the group proposing the development of the atomic bomb. It has been said that the explosion of the atomic bomb ''changed everything but man's thinking.'' Not true with Wallace, for he immediately understood the threat now represented to human survival and rededicated all his efforts from that point forward to the cause of world peace.

On September 21, 1945, in his last Cabinet meeting as Secretary of War, Republican patrician, Henry Stimson, proposed that information about atomic energy (not how to make the bomb) should be shared with other members of the United Nations, including the Soviet Union. Failing that, Stimson argued, the Russians would view atomic energy as another weapon in the Anglo-American arsenal that must—and would—be matched. Wallace sided with Stimson and, in a follow-up letter to President Truman, joined those U.S. atomic scientists who warned that, in attempting to maintain secrecy about these scientific developments, we will be indulging in ''the erroneous hope of being safe behind a scientific Maginot Line.''

Wallace was also acutely aware that another bomb was ticking—the growing global discrepancy between rich and poor—and that dramatic population growth, accompanied by even greater human misery and suffering, would lead to an explosion even more probable than the bomb itself.

For the last 17 years of his life, Wallace was retired on his New York farm, out of public life and politics, continuing the work he loved most—his experiments with gladioli, strawberries, corn and chickens, as well as his efforts to increase agricultural productivity and improve the nutrition of the people in the less developed world with a special emphasis on Central and Latin America.

In 1963, in a commencement address at the Pan American School of Agriculture in Honduras, Wallace told the young graduates that if any people wished long to survive, they should work at least one-third of the time with their hands and preferably in contact with soil. He urged them to invest ''their personal interest wisely,'' and the ''depth of that interest will draw other people to you. Some of them good, some bad. Eventually some of you will come to understand human beings which is the most difficult job of all.'' He went on to say that ''you are scientists who have learned to use your hands in a practical way. In so doing you will be intensely patriotic, serving your country in the most fundamental way. You will not belong to the right or the left or the center, but to the earth and those who work the earth lovingly and effectively so that it may be preserved and improved century after century.''

What, then, are we to make of this shy revolutionary, this complex genius with such an elusive personality, and what can we learn from his attitude towards plants, science, agriculture—and human life and progress?

We might begin by asking ourselves the question he often asked himself: ''What is worthwhile?'' This is the question at the heart of our inner selves, part of the Presbyterian catechism he learned as a young boy from his grandfather. It is a question of faith. The answer given by the catechism is: ''The chief end of man is to glorify God and enjoy Him forever.'' How is one to glorify God? The Wallaces were believers in the ''social gospel;'' that is, one glorified God by serving one's fellow human beings.

In his oral history, Wallace said that if he were:

To draw conclusions from my life so far I would say that the purpose of existence here on earth is to improve the quality and increase the abundance of joyous living. The improved quality and increased abundance of life is a progressive matter and has to do not only with human life but with all plants and animals as well. The highest joy of life is complete dedication to something outside of yourself. I am convinced that God craves and needs humanity's help and that without that help expressed in terms of joyous vitality, God will have failed in this earthly experiment.

This is the core of Henry A. Wallace. If these views strike you as an odd way for a plant geneticist to talk about his work, rest assured you are not alone. Plenty of Wallace's contemporaries were equally perplexed. ''A senator moves easily from corn to hogs,'' the journalist Jonathan Daniels wrote. ''But he can be disturbed by a grinning Iowan who moves casually from genetics to God.''

Dr. Raul C. Manglesdorf, head of the Harvard University Botanical Museum, said, ''It was Wallace's fate to be often regarded as a 'dreamer' when actually he was only seeing in his own pragmatic, realistic way some of the shapes of things to come and more often than not he was right. . . . Wallace's predictions,'' he further noted, ''were based less on inspiration or intuition than upon an objective evaluation of the available facts in the light of historical perspective. As a student of history he was well aware that history often repeats.''

During his lifetime, political opponents often derided Wallace as a ''mystic,'' a term which they intended to conjure up visions of crystal balls and secret ceremonies. Wallace himself accepted the term ''practical mystic.'' ''I've always believed that if you envision something that hasn't been, that can be, and bring it into being, that is a tremendously worthwhile thing to do.'' Wallace once co-authored a wonderful little book with William Brown on the history of corn, titled Corn and Its Early Fathers, at the beginning of which he devoted an entire page to this quotation from Jonathan Swift: ''And he gave it for his opinion, that whoever could make two ears of corn, or two blades of grass, to grow upon a spot of ground where only one grew before, would deserve better of mankind, and do more essential service to his country, than the whole race of politicians put together.''

Wallace, the ''practical mystic,'' saw a way to make the equivalent of two or four ears of corn grow where one grew before. This, in his view, seemed a ''tremendously worthwhile thing to do,'' precisely because it seemed an obvious way of improving the lot of his fellow human beings.

But there was another component to his vision. This was the hope that hybrids would help bring about the ''distinctive rural civilization'' of his family's dreams. He asked: ''Can we go ahead to create a rural civilization that will give us a material foundation solid enough so that life can be enjoyed instead of being wasted in a chase after enough dollars to keep the sheriff and wolf away?'' Perhaps hybrid seed, and science in general, provided an answer.

It may be charged—certainly it was in his own time—that such a vision is utopian. But Wallace was not intimidated by such language. ''Our utopias,'' he wrote, ''are the

blueprints of our future civilization, and as such, airy structures though they are, they really play a bigger part in the progress of man than our more material structures of brick and steel. The habit of building utopias shows to a degree whether our race is made up of dull-spirited bipeds or whether it is made up of men who want to enjoy the full savoring of existence that comes only when they feel themselves working with the forces of nature to remake the world nearer to their heart's desire.''

It is worth reflecting upon this comment, for it encompasses Wallace's answer to both those who would say science must be allowed to work its will regardless of the consequences, and to the critics of science who would rather forego knowledge than cope with change.

To scientists he said this:

''The cause of liberty and the cause of true science must always be one and the same. For science cannot flourish except in an atmosphere of freedom, and freedom cannot survive unless there is an honest facing of facts . . . . Democracy—and that term includes free science—must apply itself to meeting the material need of men for work, for income, for goods, for health, for security, and to meeting their spiritual need for dignity, for knowledge, for self-expression, for adventure and for reverence. And it must succeed.''

In other words, the ends of science must always be mankind. Scientists, no less than the rest of us, must every day ask themselves; What is worthwhile?

To the anti-scientists, Wallace said this in 1933:

''I have no patience with those who claim that the present surplus of farm products means that we should stop our efforts at improved agricultural efficiency. What we need is not less science in farming, but more science in economics . . . . Science has no doubt made the surplus possible, but science is not responsible for our failure to distribute the fruits of labor equitably.''

In other words, the answer to society's problems lies not in blocking progress but in guiding it to serve mankind's ends.

And to everyone he offered this warning:

''The attacks upon science stem from many sources. It is necessary for science to defend itself, first, against such attacks, and second, against the consequences of its own successes. What I mean is this: That science has magnificently enabled mankind to conquer its first great problem—that of producing enough to go around; but that science, having created abundance, has now to help men live with abundance. Having conquered seemingly unconquerable physical obstacles, science has now to help mankind conquer social and economic obstacles. Unless mankind can conquer these new obstacles, the former successes of science will seem worse than futile. The future of civilization, as well as of science, is involved.''

Wallace also once observed ''scientific understanding is our joy. Economic and political understanding is our duty.'' His concept of scientific research was a broad one and included the lifting of the social sciences to the same level as the natural sciences. In turn, he challenged these scientists to have a greater conscience concerning the implications of their work. Applied research would properly involve social planning, which would enable man to have more leisure time and thus better enjoy non-material things, such as ''music, painting, literature, sport for sport's sake, and the idle curiosity of the scientist himself.''

The New Republic, which he served briefly as editor after his retirement from politics, once described his concept of political democracy as ''. . . that of a science which would blend political freedom with the full use of resources, both of manpower and of technologies, for everyone's welfare.''

It is intriguing to speculate about what Wallace might say if he were here today, about the state of agriculture in this country and around the world, about the movement for a sustainable alternative agriculture, about the role of science and the march of human progress. Probably his comments would surprise all of us, as they so often surprised audiences during his lifetime. His was a provocative and remarkably original mind, unfazed by popular opinion and conventional wisdom. The absence of ''corn shows'' testifies to that.

First, on a very contemporary note, we can assume Wallace would be appalled and disgusted by the attack now being made on the nation's conservation programs, especially those related to agriculture. The efforts made to preserve land—to remove marginal land from production and protect the remainder from erosion and abuse—were among his proudest accomplishments. ''People in cities may forget the soil for as long as a hundred years, but mother nature's memory is long and she will not let them forget indefinitely,'' he wrote. ''The soil is the mother of man and if we forget her, life eventually weakens.

Second, Wallace would admonish us to use our abundance more ''virtuously and wisely.'' In the long run, Wallace believed, a healthy democracy could not tolerate the politics of scarcity. In his own time, Wallace saw the devastating consequences of scarcity run amuck; one-third of a nation ill-nourished, ill-clad, and ill-housed. Today, however, we might imagine that Wallace would see too much money, made in unproductive ways, in the hands of too few people, too many people without health insurance or secure and satisfying employment, and far, far too many people leading wasted lives in the poverty and degradation of our major cities. He would deplore the national priorities which call for huge defense budgets while reducing investments in education, environment, and job training. He would be greatly troubled by the lack of concern for the ''general welfare,'' the widespread violence in our country, and the lack of civility and loss of community in our national life. He would urge creative social and economic planning to address these issues.

While he would welcome the liberalization of international trade, he would decry the enormous expenditure of scarce Third World resources on arms. He would advocate a stronger U.N. military force and greater foreign assistance through more efficient and reformed multilateral lending institutions.

Third, we might guess that Wallace would look upon the sustainable agriculture movement with considerable affection. This is speculative because Wallace, like all of us, was a man of his times, and no one would say he was close to being ''certified organic'' in his own practices. He used chemical pesticides and fertilizers liberally, and, some would argue, helped pave the way for a highly mechanized, industrialized agriculture through the introduction of hybrid seed to commercial farming.

Still, Wallace was a man who believed in facts. If the facts argued against chemical pesticides, he would have accepted them totally. What he sought, in his life's work, was not prosperity for corporations, but for the men and women living on farms, doing God's work, preserving their land and seeing ''the fruits of their labor raise the living standards of mankind.'' Prosperity, he often warned farmers, was not an end but the means to an end. He wrote: ''Can we remember that prosperity is worthless except insofar as it gives us more freedom and strength to do good work, to love our fellow men and to take delight in the beauty of a world wonderful enough to give pleasure to the Workman who planned it?''

Finally, we can guess that he would say to farmers and scientists: ''Small is good.'' When Wallace began his corn breeding experiments, he recalled, he ''had only a fraction of an acre within the city limits of Des Moines on which to work. An inbred corn capable of unusually high yield came out of [this] backyard garden, which was but ten by twenty feet. . . .'' He was concerned that breeders might substitute masses of data for real understanding and pointed out that James Logan, an 18th Century experimenter, had learned from four hills of corn, and that the principles of heredity were discovered by Gregor Mendel, growing peas in a monastery garden about 15 feet wide and 30 or 40 feet long, and finally, that George H. Shull, one of the inventors and developers of hybrid corn, used no more than one quarter of an acre each season in conducting his experiments.

He deplored that the modern trend in science is in exactly the opposite direction. ''The present emphasis,'' he wrote, ''is directed toward doing things in a big way, toward large numbers and multidisciplinary research. In many of our educational institutions, scientific progress seems to be measured in terms of the growth of departments and the number and size of financial grants that can be obtained for support of the work. . . . The great scientific weakness of America today.'' he said, ''is that she tends to emphasize quantity at the expense of quality—statistics instead of genuine insight—immediate utilitarian application instead of genuine thought about fundamentals. . . . True science cannot be evolved by mass-production methods.''

At 75 years of age and in outwardly remarkable physical condition, Wallace became afflicted with Amyotrophic Lateral Sclerosis, or Lou Gehrig's disease. This disease affects the nervous system and causes muscular atrophy. There is no cure. An experimenter to the end, he kept a careful record of his symptoms and reactions in a memo entitled, ''Reflections of an ALSer.'' In the final weeks of his illness, in September 1965, Wallace was visited by a friend while a patient at NIH. The visitor noted that the flowers in his room had been sent by President Lyndon Johnson. Wallace, who, given the disease's progression, could no longer speak, wrote on a notepad, ''I hope they think about decentralization as the hope of the future. Big cities will become cesspools.''

Wallace always rose very early on his Farvue farm and, as long as his failing health permitted, continued to type his own correspondence with geneticists, plant breeders and others around the world before going out to the field in a mechanized wheelchair to work with his research plots.

One of his last letters was to a long-time friend and corn breeder:

''Your 3306 [a hybrid seed corn code] has me all excited. So glad you have 2,000 acres of it. . . . I was feeling rather blue when I got up this morning, thinking the end of the road was not far off. But when I got to thinking about 3306, I felt I just had to live to see how [it] would adapt to the tropical program, the Argentine program, and the South Georgia program. Yes, this is the most exciting letter I have ever received from you.''

That was his message. Think big, plant small, work hard, seek the truth, glorify God, and have sympathy for the plant.●

ORDER OF BUSINESS

Mr. INHOFE addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

WAR CRIMES ACT OF 1996

Mr. INHOFE. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of H.R. 3680 which was received from the House.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3680) to amend title 18, United States Code, to carry out the international obligations of the United States under the Geneva Conventions to provide criminal penalties for certain war crimes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. INHOFE. Mr. President, this particular act is known as the War Crimes Act of 1996. This was called to my attention by a very articulate young Congressman from North Carolina, Walter Jones, Jr., whose father we served with for many, many years over in the House of Representatives.

He was very observant in discovering something, that after 40 years, after the ratification of the Geneva Conventions, that it was not self-enacting, and we actually have never passed the necessary legislation to accept jurisdiction within our Federal courts to prosecute war crimes that we were aware of.

So this legislation will correct that after this long period of time. It is kind of inconceivable to me that we would send out to battle and to various parts of the world our young troops, trying to equip them properly—I would say properly, that if we ever get our authorization passed—and have these people ready to do the work that they are trained to do, and yet if a crime is perpetrated against them, and that criminal happens to be in the United States, we cannot even prosecute them in our Federal courts. That is all going to come to a stop.

I think also this bill might even address another problem that is taking place right now in this country. As you know, I am from Oklahoma. And one of the worst terrorist acts took place just a little over a year ago in Oklahoma City with the bombing of the Murrah Federal Office Building. And with all of the terrorist acts recently, this could act as a deterrent, this War Crimes Act of 1996, for people who may be considering perpetrating some terrorist act that could be defined as a war crime.

So I believe this is something that should have been done some 40 years ago, but was not. So we will correct that tonight. This has been cleared by both sides.

Mr HELMS. Mr. President, this bill will help to close a major gap in our Federal criminal law by permitting American servicemen and nationals, who are victims of war crimes, to see the criminal brought to justice in the United States.

Before addressing the need for this legislation, let me thank and commend the distinguished WALTER JONES, who so ably represents the third district of North Carolina, for his commitment and hard work toward the passage of this bill. I'd also like to thank my distinguished colleague, Senator JAMES INHOFE, for his support of this important bill.

Many have not realized that the U.S. cannot prosecute, in Federal court, the perpetrators of some war crimes against American servicemen and nationals. Currently, if the United States were to find a war criminal within our borders—for example, one who had murdered an American POW—the only options would be to deport or extradite the criminal or to try him or her before an international war crimes tribunal or military commission. Alone, these options are not enough to insure that justice is done.

While the Geneva Convention of 1949 grants the U.S. authority to criminally prosecute these acts, the Congress has never enacted implementing legislation. The War Crimes Act of 1996 corrects this oversight by giving Federal district courts jurisdiction to try individuals charged with committing a grave breach of the Geneva Conventions, whenever the victim or perpetrator is a U.S. serviceman or national.

The bill would also allow an American, who is charged with a war crime, to be tried in an American court and to receive all of the procedural protections afforded by our American justice system.

Mr. President, at a time when American servicemen and women serve our Nation in conflicts around the world, it is important that we give them every protection possible. I urge my colleagues to support this bipartisan bill and reaffirm our commitment to our country's servicemembers.

I ask unanimous consent that an article from the New York Times be printed in the RECORD.

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

[From the New York Times, June 25, 1996]

MS. MALONEY AND MR. WALDHEIM

(By A.M. Rosenthal)

For a full half-century, with determination and skill, and with the help of the law, U.S. intelligence agencies have kept secret the record of how they used Nazis for so many years after World War II, what the agencies got from these services—and what they gave as payback.

Despite the secrecy blockade, we do know how one cooperative former Wehrmacht officer and war crimes suspect was treated. We know the U.S. got him the Secretary Generalship of the U.N. as reward and base.

For more than two years, Congress has had legislation before it to allow the public access to information about U.S.-Nazi intelligence relations—a bill introduced by Representative Carolyn B. Maloney, a Manhattan Democrat, and now winding through the legislative process.

If Congress passes her War Crimes Disclosure Act, H.R. 1281, questions critical to history and the conduct of foreign affairs can be answered and the power of government to withhold them reduced. The case of Kurt Waldheim is the most interesting example—the most interesting we know of at the moment.

Did the U.S. know when it backed him for Secretary General that he had been put on the A list of war-crime suspects, adopted in London in 1948, for his work as a Wehrmacht intelligence officer in the Balkans, when tens of thousands of Yugoslavs, Greeks, Italians, Jew and non-Jew, were being deported to death?

If not, isn't that real strange, since the U.S. representative on the War Crimes Commission voted to list him? A report was sent to the State Department. Didn't State give the C.I.A. a copy—a peek?

And when he was running for Secretary General why did State Department biographies omit any reference to his military service—just as he forgot to mention it in his autobiographies?

If all that information was lost by teams of stupid clerks, once the Waldheim name came up for the job why did not the U.S. do the obvious thing—check with Nazi and war-crime records in London and Berlin to see if his name by any chance was among those dearly wanted?

Didn't the British know? They voted for the listing too. And the Russians—Yugoslavia moved to list him when it was a Soviet satellite. Belgrade never told Moscow?

How did Mr. Waldheim repay the U.S. for its enduring fondness to him? Twice it pushed him successfully for the job. The third time it was among few countries that backed him again but lost. Nobody can say the U.S. was not loyal to the end.

Did he also serve the Russians and British? One at a time? Or was he a big-power groupie, serving all?

One thing is not secret any longer, thanks to Prof. Robert Herzstein of the University of South Carolina history department. He has managed through years of perseverance to pry some information loose. He found that while Mr. Waldheim worked for the Austrian bureaucracy, the U.S. Embassy in Vienna year after year sent in blurby reports about his assistance to American foreign policy—friendly, outstanding, cooperative, receptive to American thinking. All the while, this cuddly fellow was on the A list, which was in the locked files or absent with official leave.

On May 24, 1994, I reported on Professor Herzstein's findings and the need for opening files of war-crime suspects. Representative Maloney quickly set to work on her bill to open those files to Freedom of Information requests—providing safeguards for personal privacy, ongoing investigations and national security if ever pertinent.

Her first bill expired in the legislative machinery and in 1995 she tried again. She got her hearing recently thanks to the chairman of her subcommittee of the Government Reform Committee—Stephen Horn, the California Republican.

If the leaders of Congress will it, the Maloney bill can be passed this year. I nominate my New York Senators to introduce it in the Senate. It will be a squeeze to get it passed before the end of the year, so kindly ask your representatives and senators to start squeezing.

If not, the laborious legislative procedure will have to be repeated next session. Questions about the Waldheim connection will go unanswered, and also about other cases that may be in the files or strangely misplaced, which will also be of interest.

Mr. INHOFE. Mr. President, I ask unanimous consent that the bill be

deemed read a third time, and passed, and the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at the appropriate place in the RECORD.

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

The bill (H.R. 3680) was deemed read the third time and passed.

Mr. INHOFE. Thank you, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

OREGON RESOURCE CONSERVATION ACT OF 1996 OPAL CREEK WILDERNESS AND OPAL CREEK SCENIC RECREATION AREA ACT OF 1996

Mr. HATFIELD. Mr. President, I ask unanimous consent to bring up S. 1662, which has been cleared on both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1662) to establish areas of wilderness and recreation in the State of Oregon, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Oregon Resource Conservation Act of 1996''.

TITLE I—OPAL CREEK WILDERNESS AND SCENIC RECREATION AREA

SEC. 101. SHORT TITLE.

This title may be cited as the ''Opal Creek Wilderness and Opal Creek Scenic Recreation Area Act of 1996''.

SEC. 102. DEFINITIONS.

In this title:

(1) BULL OF THE WOODS WILDERNESS.—The term ''Bull of the Woods Wilderness'' means the land designated as wilderness by section 3(4) of the Oregon Wilderness Act of 1984 (Public Law 98–328; 16 U.S.C. 1132 note).

(2) OPAL CREEK WILDERNESS.—The term ''Opal Creek Wilderness'' means certain land in the Willamette National Forest in the State of Oregon comprising approximately 12,800 acres, as generally depicted on the map entitled ''Proposed Opal Creek Wilderness and Scenic Recreation Area'', dated June 1996.

(3) SCENIC RECREATION AREA.—The term ''Scenic Recreation Area'' means the Opal Creek Scenic Recreation Area, comprising approximately 13,000 acres, established under section 103(a)(3).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(5) COUNTIES.—The term ''counties'' means Marion and Clackamas Counties in the State of Oregon.

SEC. 103. ESTABLISHMENT OF OPAL CREEK WILDERNESS AND SCENIC RECREATION AREA.

(a) ESTABLISHMENT.—On a determination by the Secretary under subsection (b)—

(1) the Opal Creek Wilderness, as depicted on the map described in section 102(2), is hereby designated as wilderness, subject to the Wilderness Act of 1964, shall become a component of the National Wilderness System, and shall be known as the Opal Creek Wilderness;

(2) the part of the Bull of the Woods Wilderness that is located in the Willamette National Forest shall be incorporated into the Opal Creek Wilderness; and

(3) the Secretary shall establish the Opal Creek Scenic Recreation Area in the Willamette National Forest in the State of Oregon, comprising approximately 13,000 acres, as generally depicted on the map entitled ''Proposed Opal Creek Wilderness and Scenic Recreation Area'', dated June 1996.

(b) CONDITIONS.—Subsection (a) shall not take effect unless the Secretary makes a determination, not later than 2 years after the date of enactment of this Act, that:

(1) the following have been donated to the United States in an acceptable condition and without encumbrances:

(A) All right, title, and interest in the following patented parcels of land:

(i) Santiam number 1, mineral survey number 992, as described in patent number 39–92–0002, dated December 11, 1991.

(ii) Ruth Quartz Mine number 2, mineral survey number 994, as described in patent number 39–91–0012, dated February 12, 1991.

(iii) Morning Star Lode, mineral survey number 993, as described in patent number 36–91–0011, dated February 12, 1991.

(B) all right, title, and interest held by any entity other than the Times Mirror Land and Timber Company, its successors and assigns, in and to lands located in section 18, township 8 south, range 5 east, Marion County, Oregon, Eureka numbers 6, 7, and 8, and 13 mining claims.

(C) A public easement across the Hewitt, Starvation, and Poor Boy Mill Sites, mineral survey number 990, as described in patent number 36–91–0017, dated May 9, 1991.

(2) a binding agreement has been executed by the Secretary and the owners of record as of March 29, 1996, of the following parcels, specifying the terms and conditions for the disposition of these parcels to the United States Government:

(A) The lode mining claims known as Princess Lode, Black Prince Lode, and King Number 4 Lode, embracing portions of sections 29 and 32, township 8 south, range 5 east, Willamette Meridian, Marion County, Oregon, the claims being more particularly described in the field notes and depicted on the plat of mineral survey number 887, Oregon.

(B) Ruth Quartz Mine Number 1, mineral survey number 994, as described in patent number 39–91–0012, dated February 12, 1991.

(c) EXPANSION OF SCENIC RECREATION AREA BOUNDARIES.—On acquiring all or substantially all of the land located in section 36, township 8 south, range 4 east, of the Willamette Meridian, Marion County, Oregon, by exchange, purchase on a willing seller basis, or donation, the Secretary shall expand the boundary of the Scenic Recreation Area to include the land.

SEC. 104. ADMINISTRATION OF THE SCENIC RECREATION AREA.

(a) IN GENERAL.—The Secretary shall administer the Scenic Recreation Area in accordance with the laws (including regulations) applicable to the National Forest System.

(b) OPAL CREEK MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 2 years after the date of establishment of the Scenic Recreation Area, the Secretary, in consultation with the advisory committee established under section 105(a), shall prepare a comprehensive Opal Creek Management Plan for the Scenic Recreation Area.

(2) INCORPORATION IN LAND AND RESOURCE MANAGEMENT PLAN.—On completion of the Opal Creek Management Plan, the Opal Creek Management Plan shall become part of the land and resource management plan for the Willamette National Forest and supersede any conflicting provision in the land and resource management plan.

(3) REQUIREMENTS.—The Opal Creek Management Plan shall provide a broad range of land uses, including—

(A) recreation;

(B) harvesting of nontraditional forest products, such as gathering mushrooms and material to make baskets; and

(C) educational and research opportunities.

(4) PLAN AMENDMENTS.—The Secretary may amend the Opal Creek Management Plan as the Secretary may determine to be necessary, consistent with the procedures and purposes of this title.

(c) CULTURAL AND HISTORIC RESOURCE INVENTORY.—

(1) IN GENERAL.—Not later than 1 year after the date of establishment of the Scenic Recreation Area, the Secretary shall review and revise the inventory of the cultural and historic resources on the public land in the Scenic Recreation Area that were developed pursuant to the Oregon Wilderness Act of 1984 (Public Law 98–328; 98 Stat. 272).

(2) INTERPRETATION.—Interpretive activities shall be developed under the management plan in consultation with State and local historic preservation organizations and shall include a balanced and factually-based interpretation of the cultural, ecological, and industrial history of forestry and mining in the Scenic Recreation Area.

(d) TRANSPORTATION PLANNING.—

(1) IN GENERAL.—To maintain access to recreation sites and facilities in existence on the date of enactment of this Act, the Secretary shall prepare a transportation plan for the Scenic Recreation Area that evaluates the road network within the Scenic Recreation Area to determine which roads should be retained and which roads closed.

(2) ACCESS BY PERSONS WITH DISABILITIES.—The Secretary shall consider the access needs of persons with disabilities in preparing the transportation plan for the Scenic Recreation Area.

(3) MOTOR VEHICLES.—

(A) IN GENERAL.—Except as provided in subparagraph (B) and in the transportation plan under paragraph (1), motorized vehicles shall not be permitted in the Scenic Recreation Area.

(B) EXCEPTION.—Forest road 2209 beyond the gate to the Scenic Recreation Area, as depicted on the map described in section 103(a)(3), may be used by motorized vehicles only for administrative purposes and for access to a private inholding, subject to such terms and conditions as the Secretary may determine to be necessary.

(4) ROAD IMPROVEMENT.—Any construction or improvement of forest road 2209 beyond the gate to the Scenic Recreation Area shall be only for the purpose of maintaining the character of the road at the time of enactment and may not include paving or widening.

(e) HUNTING AND FISHING.—

(1) IN GENERAL.—Subject to other Federal and State law, the Secretary shall permit hunting and fishing in the Scenic Recreation Area.

(2) LIMITATION.—The Secretary may designate zones in which, and establish periods when, no hunting or fishing shall be permitted for reasons of public safety, administration, or public use and enjoyment.

(3) CONSULTATION.—Except during an emergency, as determined by the Secretary, the Secretary shall consult with the Oregon State Department of Fish and Wildlife before issuing any regulation under this section.

(f) TIMBER CUTTING.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall prohibit the cutting and/or selling of trees in the Scenic Recreation Area.

(2) PERMITTED CUTTING.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary may allow the cutting of trees in the Scenic Recreation Area only—

(i) for public safety, such as to control the spread of a forest fire in the Scenic Recreation Area or on land adjacent to the Scenic Recreation Area;

(ii) for activities related to administration of the Scenic Recreation Area, consistent with the Opal Creek Management Plan; or

(iii) for removal of hazard trees along trails and roadways.

(B) SALVAGE SALES.—The Secretary may not allow a salvage sale in the Scenic Recreation Area.

(g) WITHDRAWAL.

(1) Subject to valid existing rights, all lands in the Scenic Recreation Area are withdrawn from—

(A) any form of entry, appropriation, or disposal under the public land laws;

(B) location, entry, and patent under the mining laws; and

(C) disposition under the mineral and geothermal leasing laws.

(h) BORNITE PROJECT.

(1) Nothing in this title shall be construed to interfere with or approve any exploration, mining, or mining-related activity in the Bornite Project Area conducted in accordance with applicable laws. The Bornite Project Area is depicted on the map described in section 103(a)(3).

(2) Nothing in this title shall be construed to interfere with the ability of the Secretary to approve and issue special use permits in connection with exploration, mining, and mining-related activities in the Bornite Project Area.

(3) Motorized vehicles, roads, structures, and utilities (including but not limited to power lines and water lines) shall be allowed inside the Scenic Recreation Area to serve the activities conducted on land within the Bornite Project.

(4) After the date of enactment of this title, no patent shall be issued for any mining claim under the general mining laws located within the Bornite Project Area.

(i) WATER IMPOUNDMENTS.—Notwithstanding the Federal Power Act (16 U.S.C. 791a et seq.), the Federal Energy Regulatory Commission may not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project work in the Scenic Recreation Area, except as may be necessary to comply with (h).

(j) RECREATION.—

(1) RECOGNITION.—Congress recognizes recreation as an appropriate use of the Scenic Recreation Area.

(2) MINIMUM LEVELS.—The management plan shall accommodate recreation at not less than the levels in existence on the date of enactment of this Act.

(3) HIGHER LEVELS.—The management plan may provide for levels of recreation use higher than the levels in existence on the date of enactment of this Act if the levels are consistent with the protection of resource values.

(k) PARTICIPATION.—In order that the knowledge, expertise, and views of all agencies and groups may contribute affirmatively to the most sensitive present and future use of the Scenic Recreation Area and its various subareas for the benefit of the public:

(1) ADVISORY COUNCIL.—The Secretary shall consult on a periodic and regular basis with the advisory council established under section 105 with respect to matters relating to management of the Scenic Recreation Area.

(2) PUBLIC PARTICIPATION.—The Secretary shall seek the views of private groups, individuals, and the public concerning the Scenic Recreation Area.

(3) OTHER AGENCIES.—The Secretary shall seek the views and assistance of, and cooperate with, any other Federal, State, or local agency with any responsibility for the zoning, planning, or natural resources of the Scenic Recreation Area.

(4) NONPROFIT AGENCIES AND ORGANIZATIONS.—The Secretary shall seek the views of any nonprofit agency or organization that may contribute information or expertise about the resources and the management of the Scenic Recreation Area.

SEC. 105. ADVISORY COUNCIL.

(a) ESTABLISHMENT.—On the establishment of the Scenic Recreation Area, the Secretary shall establish an advisory council for the Scenic Recreation Area.

(b) MEMBERSHIP.—The advisory council shall consist of not more than 13 members, of whom—

(1) 1 member shall represent Marion County, Oregon, and shall be designated by the governing body of the county;

(2) 1 member shall represent Clackamas County, Oregon and shall be designated by the governing body of the county;

(3) 1 member shall represent the State of Oregon and shall be designated by the Governor of Oregon; and

(4) 1 member each from the City of Salem and a city within a 25 mile radius of the Opal Creek Scenic Recreation Area.

(5) not more than 8 members shall be appointed by the Secretary from among persons who, individually or through association with a national or local organization, have an interest in the administration of the Scenic Recreation Area, including, but not limited to, representatives of the timber industry, environmental organizations, the mining industry, inholders in the wilderness and scenic recreation area, and economic development interests and Indian Tribes.

(c) STAGGERED TERMS.—Members of the advisory council shall serve for staggered terms of 3 years.

(d) CHAIRMAN.—The Secretary shall designate 1 member of the advisory council as chairman.

(e) VACANCIES.—The Secretary shall fill a vacancy on the advisory council in the same manner as the original appointment.

(f) COMPENSATION.—A member of the advisory council shall not receive any compensation for the member's service to the advisory council.

SEC. 106. GENERAL PROVISIONS.

(a) LAND ACQUISITION.—

(1) IN GENERAL.—Subject to the other provisions of this subsection, the Secretary may acquire any lands or interests in land in the Scenic Recreation Area or the Opal Creek Wilderness that the Secretary determines are needed to carry out this title.

(2) PUBLIC LAND.—Any lands or interests in land owned by a State or a political subdivision of a State may be acquired only by donation or exchange.

(3) CONDEMNATION.—Subject to paragraph (4), the Secretary may not acquire any privately owned land or interest in land without the consent of the owner unless the Secretary finds that—

(A) the nature of land use has changed significantly, or the landowner has demonstrated intent to change the land use significantly, from the use that existed on the date of the enactment of this Act; and

(B) acquisition by the Secretary of the land or interest in land is essential to ensure use of the land or interest in land in accordance with the management plan prepared under section 104(b).

(b) ENVIRONMENTAL RESPONSE ACTIONS AND COST RECOVERY.—

(1) RESPONSE ACTIONS.—Nothing in this title shall limit the authority of the Secretary or a responsible party to conduct an environmental response action in the Scenic Recreation Area in connection with the release, threatened release, or cleanup of a hazardous substance, pollutant, or contaminant, including a response action conducted under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

(2) LIABILITY.—Nothing in this title shall limit the authority of the Secretary or a responsible party to recover costs related to the release, threatened release, or cleanup of any hazardous substance or pollutant or contaminant in the Scenic Recreation Area.

(c) MAPS AND DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall file a map and a boundary description for the Opal Creek Wilderness and for the Scenic Recreation Area with the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(2) FORCE AND EFFECT.—The boundary description and map shall have the same force and effect as if the description and map were included in this title, except that the Secretary may correct clerical and typographical errors in the boundary description and map.

(3) AVAILABILITY.—The map and boundary description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

(d) Nothing in this title shall interfere with any activity for which a special use permit has been issued and not revoked before the date of enactment of this title, subject to the terms of the permit.

SEC. 107. ROSBORO LAND EXCHANGE.

(a) AUTHORIZATION.—Notwithstanding any other law, if the Rosboro Lumber Company (referred to in this section as ''Rosboro'') offers and conveys title to the United States acceptable to the Secretary of Agriculture to the land described in subsection (b), all right, title and interest held by the United States to sufficient lands described in subsection (c) of equivalent equal value are conveyed by operation of law to Rosboro.

(b) LAND TO BE OFFERED BY ROSBORO.—The land referred to in subsection (a) as the land to be offered by Rosboro is the land described as follows: Section 36, township 8 south, range 4 east, Willamette Meridian.

(c) LAND TO BE CONVEYED BY THE UNITED STATES.—The land referred to in subsection (a) as the land to be conveyed by the United States is the land described as follows:

(1) Section 2, township 17 south, range 4 east, lot 3 (29.28 acres).

(2) Section 2, township 17 south, range 4 east, NW¼, SE¼ (40 acres).

(3) Section 13, township 17 south, range 4 east, S½, SE¼ (80 acres).

(4) Section 2, township 17 south, range 4 east, SW¼, SW¼ (40 acres).

(5) Section 8, township 17 south, range 4 east, SE¼, SW¼ (40 acres).

(6) Section 5, township 17 south, range 4 east, lot 7 (37.63 acres).

(7) Section 11, township 17 south, range 4 east, W½, NW¼ (80 acres).

(d) The values of lands to be exchanged pursuant to this subsection shall be equal as determined by the Secretary of Agriculture, or if they are not equal, shall be equalized by additional lands or by the payment of money to Rosboro or to the Secretary subject to the 25 per centum cash equalization limitation of section 206 of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1716).

(e) TIMETABLE.—The authority provided by this section shall lapse if Rosboro fails to offer the land described in subsection (b) within two years after the date of enactment of this Act. If Rosboro does offer the land described in subsection (b) within such two-year period, the Secretary shall within 180 days convey the land described in subsection (c) to Rosboro.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 108. DESIGNATION OF ELKHORN CREEK AS A WILD AND SCENIC RIVER.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding at the end the following:

''( )(A) ELKHORN CREEK.—Elkhorn Creek from its source to its confluence on Federal land to be administered by agencies of the Departments of the Interior and Agriculture as agreed

on by the Secretary of the Interior and the Secretary of Agriculture or as directed by the President. Notwithstanding subsection 3(b), the lateral boundaries of the Elkhorn River shall include an average of not more than 640 acres per mile measured from the ordinary high water mark on both sides of the river.

''(B) The 6.4-mile segment traversing federally administered lands from that point along the Willamette National Forest boundary on the common section line between sections 12 and 13, township 9 south, range 4 east, Willamette Meridian, to that point where it leaves Federal ownership along the Bureau of Land Management boundary in section 1, township 9 south, range 3 east, Willamette Meridian, in the following classes:

''(i) a 5.8-mile wild river area, extended from that point along the Willamette National Forest boundary on the common section line between sections 12 and 13, township 9 south, range 4 east, Willamette Meridian, to be administered as agreed on by the Secretaries of Agriculture and the Interior, or as directed by the President; and

''(ii) a 0.6-mile scenic river area, extending from the confluence with Buck Creek in section 1, township 9 south, range 3 east, Willamette Meridian, to that point where it leaves Federal ownership along the Bureau of Land Management boundary in section 1, township 9 south, range 3 east, Willamette Meridian, to be administered by the Secretary of the Interior, or as directed by the President.

''(C) Notwithstanding section 3(b) of this Act, the lateral boundaries of both the wild river area and the scenic river area along Elkhorn Creek shall include an average of not more than 640 acres per mile measured from the ordinary high water mark on both sides of the river.''.

SEC. 109. ECONOMIC DEVELOPMENT.

(a) ECONOMIC DEVELOPMENT PLAN.—As a condition for receiving funding under subsection (b) of this section, the State of Oregon, in consultation with the counties and the Secretary of Agriculture, shall develop a plan for economic development projects for which grants under this section may be used in a manner consistent with this Act and to benefit local communities in the vicinity of the Opal Creek Area. Such plan shall be based on a formal economic opportunity study and other appropriate information.

(b) FUNDS PROVIDED TO THE STATES FOR GRANTS.—Upon certification of the management plan, and receipt of a plan referred to in subsection (a) of this section, the Secretary shall provide $15,000,000, subject to appropriations, to the State of Oregon which shall be used to make grants and loans for economic development projects that further the purposes of this Act and benefit the local communities in the vicinity of the Opal Creek Area.

(c) REPORT.—The State of Oregon shall—

(1) prepare and provide the Secretary and Congress with an annual report to the Secretary and Congress on the use of the funds made available under this section;

(2) make available to the Secretary and to Congress, upon request, all accounts, financial records, and other information related to grants and loans made available pursuant to this section; and

(3) as loans are repaid, make additional grants and loans with the money made available for obligation by such repayments.

TITLE II—UPPER KLAMATH BASIN

SEC. 201. UPPER KLAMATH BASIN ECOLOGICAL RESTORATION PROJECTS.

(a) DEFINITIONS.—In this section:

(1) ECOSYSTEM RESTORATION OFFICE.—The term ''Ecosystem Restoration Office'' means the Klamath Basin Ecosystem Restoration Office operated cooperatively by the United States Fish and Wildlife Service, Bureau of Reclamation, Bureau of Land Management, and Forest Service.

(2) WORKING GROUP.—The term ''Working Group'' means the Upper Klamath Basin Working Group, established before the date of enactment of this Act, consisting of members nominated by their represented groups, including:

(A) 3 tribal members;

(B) 1 representative of the city of Klamath Falls, Oregon;

(C) 1 representative of Klamath County, Oregon;

(D) 1 representative of institutions of higher education in the Upper Klamath Basin;

(E) 4 representatives of the environmental community, including at least one such representative from the State of California with interests in the Upper Klamath Basin Wildlife Refuges;

(F) 4 representatives of local businesses and industries, including at least one representative of the ocean commercial fishing industry and/or recreational fishing industry based in either Oregon or California;

(G) 4 representatives of the ranching and farming community, including representatives of Federal lease-land farmers and ranchers and of private land farmers and ranchers in the Upper Klamath Basin;

(H) 2 representatives from State of Oregon agencies with authority and responsibility in the Klamath River Basin, including one from the Oregon Department of Fish and Wildlife and one from the Oregon Water Resources Department;

(I) 4 representatives from the local community; and

(J) 1 representative each from the following Federal resource management agencies in the Upper Klamath Basin: Fish and Wildlife Service, Bureau of Reclamation, Bureau of Land Management, Bureau of Indian Affairs, Forest Service, Natural Resources Conservation Service, and Ecosystem Restoration Office.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(4) TASK FORCE.—The term ''Task Force'' means the Klamath River Basin Fisheries Task Force as established by the Klamath River Basin Fishery Resource Restoration Act (Public Law 99–552, 16 U.S.C. 460ss–3, et seq.).

(5) COMPACT COMMISSION.—The term ''Compact Commission'' means the Klamath River Basin Compact Commission created pursuant to the Klamath River Compact Act of 1954.

(6) CONSENSUS.—The term ''consensus'' means a unanimous agreement by the Working Group members present at a regularly scheduled business meeting.

(b) IN GENERAL.—

(1) The working Group through the Ecosystem Restoration Office, with technical assistance from the Secretary, will propose ecological restoration projects, economic development and stability projects, and projects designed to reduce the impacts of drought conditions to be undertaken in the Upper Klamath Basin based on a consensus of the Working Group membership.

(2) The Secretary shall pay, to the greatest extent feasible, up to 50 percent of the cost of performing any project approved by the Secretary or his designee, up to a total amount of $1,000,000 during each of fiscal years 1997 through 2001.

(3) Funds made available under this title through the Department of the Interior or the Department of Agriculture shall be distributed through the Ecosystem Restoration Office.

(4) The Ecosystem Restoration Office may utilize not more than 15 percent of all Federal funds administered under this section for administrative costs relating to the implementation of this title.

(5) All funding recommendations developed by the Working Group shall be based on a consensus of Working Group members.

(c) COORDINATION.—

(1) The Secretary shall formulate a cooperative agreement between the Working Group, the Task Force, and the Compact Commission for the purposes of ensuring that projects proposed and funded through the Working Group are consistent with other basin-wide fish and wildlife restoration and conservation plans, including but not limited to plans developed by the Task Force and the Compact Commission.

(2) To the greatest extent practicable, the Working Group shall provide notice to, and accept input from, two members each of the Task Force and the Compact Commission, so appointed by those entities, for the express purpose of facilitating better communication and coordination regarding additional basin-wide fish and wildlife and ecosystem restoration and planning efforts.

(d) PUBLIC MEETINGS.—The Working Group shall conduct all meetings consistent with Federal open meeting and public participation laws. The chartering requirements of 5 U.S.C. App 2 §§1–15 are hereby deemed to have been met by this section;

(e) TERMS AND VACANCIES.—Working Group members shall serve for three year terms, beginning on the date of enactment of this Act. Vacancies which occur for any reason after the date of enactment of this Act shall be filled by direct appointment of the Governor of the State of Oregon, in consultation with the Secretary of Interior and the Secretary of Agriculture, in accordance with nominations from the appropriate groups, interests, and government agencies outlined in section (a)(2).

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $1,000,000 for each of fiscal years 1997 through 2002.

TITLE III—DESCHUTES BASIN

SEC. 301. DESCHUTES BASIN ECOSYSTEM RESTORATION PROJECTS.

(a) DEFINITIONS.—In this section:

(1) WORKING GROUP.—The term ''Working Group'' means the Deschutes River Basin Working Group established before the date of enactment of this Act, consisting of members nominated by their represented groups, including:

(A) 5 representatives of private interests including one each from hydroelectric production, livestock grazing, timber, land development, and recreation/tourism;

(B) 4 representatives of private interests including two each from irrigated agriculture and the environmental community;

(C) 2 representatives from the Confederated Tribes of the Warm Springs Reservation of Oregon;

(D) 2 representatives from Federal Agencies with authority and responsibility in the Deschutes River Basin, including one from the Interior Department and one from the Agriculture Department;

(E) 2 representatives from the State of Oregon agencies with authority and responsibility in the Deschutes River Basin, including one from the Oregon Department of Fish and Wildlife and one from the Oregon Water Resources Department; and

(F) 4 representatives from Deschutes River Basin county and/or city governments, which may include representatives from Deschutes, Crook, Jefferson, and Wasco/Sherman counties.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(3) FEDERAL AGENCIES.—The term ''Federal Agencies'' means agencies and departments of the United States, including, but not limited to, the Bureau of Reclamation, Bureau of Indian Affairs, Bureau of Land Management, Fish and Wildlife Service, Forest Service, Natural Resources Conservation Service, Farm Services Agency, the National Marine Fisheries Service, and the Bonneville Power Administration.

(4) CONSENSUS.—The term ''consensus'' means a unanimous agreement by the Working Group members present at a regularly scheduled business meeting.

(b) IN GENERAL.—

(1) The Working Group will propose ecological restoration projects on both Federal and nonfederal lands and waters to be undertaken in

the Deschutes River Basin based on a consensus of the Working Group, provided that such projects, when involving Federal land or funds, shall be proposed to the Bureau of Reclamation in the Department of the Interior and any other Federal agency with affected land or funds.

(2) The Working Group will accept donations, grants or other funds and place the amount of such funds received into a trust fund, to be expended on the performance of ecological restoration projects which, when involving federal land or funds, are approved by the affected Federal Agency.

(3) The Bureau of Reclamation shall pay, to the greatest extent feasible, from funds authorized under subsection (g) of this Act up to 50 percent of the cost of performing any project proposed by the Working Group and approved by the Secretary, up to a total amount of $1,000,000 during each of the fiscal years 1997 through 2001.

(4) Non-Federal contributions to project costs for purposes of computing the Federal matching share under paragraph (3) of this subsection may include in-kind contributions.

(5) Funds authorized in subsection (g) of this section shall be maintained in and distributed by the Bureau of Reclamation in the Department of the Interior. The Bureau of Reclamation shall not expend more than 5 percent of amounts appropriated pursuant to subsection (g) for Federal administration of such appropriations pursuant to this Act.

(6) The Bureau of Reclamation is authorized to provide by grant to the Working Group not more than 5 percent of funds appropriated pursuant to subsection (g) of this section for not more than 50 percent of administrative costs relating to the implementation of this title; and

(7) The Federal Agencies with authority and responsibility in the Deschutes River Basin shall provide technical assistance to the Working Group and shall designate representatives to serve as members of the Working Group.

(8) All funding recommendations developed by the Working Group shall be based on a consensus of the Working Group members.

(c) PUBLIC NOTICE AND PARTICIPATION.—The Working Group shall give reasonable public notice of all meetings of the Working Group and allow public attendance at the meetings. The activities of the Working Group and the Federal Agencies pursuant to the provisions of this Act are exempt from the provisions of 5 U.S.C. App 2 §§1–15.

(d) PRIORITIES.—The Working Group shall give priority to voluntary market-based economic incentives for ecosystem restoration including, but not limited to, water leases and purchases; land leases and purchases; tradable discharge permits; and acquisition of timber, grazing, and land development rights to implement plans, programs, measures, and projects.

(e) TERMS AND VACANCIES.—Members of the Working Group representing governmental agencies or entities shall be named by the represented government. Members of the Working Group representing private interests shall be named in accordance with the Articles of Incorporation and Bylaws of the Working Group. Representatives from Federal Agencies will serve for terms of 3 years. Vacancies which occur for any reason after the date of enactment shall be filled in accordance with this section.

(f) ADDITIONAL PROJECTS.—Where existing authority and appropriations permit, Federal Agencies may contribute to the implementation of projects recommended by the Working Group and approved by the Secretary.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this sections $1,000,000 for each of fiscal years 1997 through 2001.

TITLE IV—MOUNT HOOD CORRIDOR

SEC. 401. LAND EXCHANGE.

(a) AUTHORIZATION.—Notwithstanding any other law, if Longview Fibre Company (referred to in this section as ''Longview'') offers and conveys title that is acceptable to the United States to some or all of the land described in subsection (b), the Secretary of the Interior (referred to in this section as the ''Secretary'') shall convey to Longview title to some or all of the land described in subsection (c), as necessary to satisfy the requirements of subsection (d).

(b) LAND TO BE OFFERED BY LONGVIEW.—The land referred to in subsection (a) as the land to be offered by Longview is the land described as follows:

(1) T. 2 S., R. 6 E., sec. 13—E½SW¼, W½SE¼, containing 160 record acres, more or less;

(2) T. 2 S., R. 6 E., sec. 14—All, containing 640 record acres, more or less;

(3) T. 2 S., R. 6 E., sec. 16—N½, SW¼, N½SE¼, SW¼SE¼, containing 600 record acres, more or less;

(4) T. 2 S., R. 6 E., sec. 26—NW¼, N½SW¼, SW¼SW¼, NW¼SE¼; (and a strip of land to be used for right-of-way purposes in sec. 23), containing 320 record acres, more or less;

(5) T. 2 S., R. 6 E., sec. 27—S½NE¼NE¼, NW¼NE¼, SE¼NE¼, NW¼NW¼, containing 140 record acres, more or less;

(6) T. 2 S., R. 6 E., sec. 28—N½, Except a tract of land 100 feet square bordering and lying west of Wild Cat Creek and bordering on the north line of sec. 28, described as follows: Beginning at a point on the west bank of Wild Cat Creek and the north boundary of sec. 28, running thence W. 100 feet, thence S. 100 feet parallel with the wet bank of Wild Cat Creek, thence E. to the west bank of Wild Cat Creek, thence N. along said bank of Wild Cat Creek to the point of beginning, also excepting that portion of the NW¼NW¼ lying east of Wildcat Creek, containing 319.77 record acres, more or less;

(7) T. 2 S., R. 7 E., sec. 19—E½SW¼, SW¼SE¼, Except a tract of land described in deed recorded on August 6, 1991, as Recorder's Fee No. 91–39007, and except the portion lying within public roads, containing 117.50 record acres, more or less;

(8) T. 2 S., R. 7 E., sec. 20—S½SW¼SW¼, containing 20 record acres, more or less;

(9) T. 2 S., R. 7 E., sec. 27—W½SW¼, containing 80 record acres, more or less;

(10) T. 2 S., R. 7 E., sec. 28—S½, containing 320 record acres, more or less;

(11) T. 2 S., R. 7 E., sec. 29—SW¼NE¼, W½SE¼NE¼, NW¼, SE¼, containing 380 record acres, more or less;

(12) T. 2 S., R. 7 E., sec. 30—E½NE¼, NW¼NE¼, Except the portion lying within Timberline Rim Division 4, and except the portion lying within the county road, containing 115 record acres, more or less;

(13) T. 2 S., R. 7 E., sec. 33—N½NE¼, E½NW¼NW¼, NE¼SW¼NW¼, containing 110 record acres, more or less;

(14) T. 3 S., R. 5 E., sec. 13—NE¼SE¼, containing 40 record acres, more or less;

(15) T. 3 S., R. 5 E., sec. 26—The portion of the E½NE¼ lying southerly of Eagle Creek and northeasterly of South Fork Eagle Creek, containing 14 record acres, more or less;

(16) T. 3 S., R. 5 E., sec. 25—The portion of the N½SW¼ lying northeasterly of South Fork Eagle Creek, containing 36 record acres, more or less; and

(17) T. 6 S., R. 2 E., sec. 4—SW¼, containing 160.00 record acres, more or less.

(c) LAND TO BE CONVEYED BY THE SECRETARY.—The land referred to in subsection (a) as the land to be conveyed by the Secretary is the land described as follows:

(1) T. 1 S., R. 5 E., sec. 9—SE¼NE¼, SE¼SE¼, containing 80 record acres, more or less;

(2) T. 2 S., R. 5 E., sec. 33—NE¼NE¼, containing 40 record acres, more or less.

(3) T. 2½ S., R. 6 E., sec. 31—Lots 1–4, incl. containing 50.65 record acres, more or less;

(4) T. 2½ S., R. 6 E., sec. 32—Lots 1–4, incl. containing 60.25 record acres, more or less;

(5) T. 3 S., R. 5 E., sec. 1—NE¼SW¼, SE¼, containing 200 record acres, more or less;

(6) T. 3 S., R. 5 E., sec. 9—S½SE¼, containing 80 record acres, more or less;

(7) T. 3 S., R. 5 E., sec. 17—N½NE¼, containing 80 record acres, more or less;

(8) T. 3 S., R. 5 E., sec. 23—W½NW¼, NW¼SW¼, containing 120 record acres, more or less;

(9) T. 3 S., R. 5 E., sec. 25—The portion of the S½S½, SW¼NW¼ lying southwesterly of South Fork Eagle Creek, containing 125 record acres, more or less;

(10) T. 3 S., R. 5 E., sec. 31—Unnumbered lot (SW¼SW¼), containing 40.33 record acres, more or less;

(11) T. 7 S., R. 1 E., sec. 23—SE¼SE¼, containing 40 record acres, more or less;

(12) T. 10 S., R. 2 E., sec. 34—SW¼SW¼, containing 40 record acres, more or less;

(13) T. 10 S., R. 4 E., sec. 9—NW¼NW¼, containing 40 record acres, more or less;

(14) T. 4 N., R. 3 W., sec. 35—W½SW¼, containing 80 record acres, more or less;

(15) T. 3 N., R. 3 W., sec. 7—E½NE¼, containing 80 record acres, more or less;

(16) T. 3 N., R. 3 W., sec. 9—SE¼NW¼, containing 40 record acres, more or less;

(17) T. 3 N., R. 3 W., sec. 17—S½NE¼, containing 80 record acres, more or less;

(18) T. 3 N., R. 2 W., sec. 3—SW¼NW¼, containing 40 record acres, more or less;

(19) T. 2 N., R. 2 W., sec. 3—SE¼SE¼, containing 40 record acres, more or less; and

(20) T. 1 S., R. 4 W., sec. 15—SW¼NE¼, S½NW¼, containing 120 record acres, more or less.

(d) EQUAL VALUE.—The land and interests in land exchanged under this section—

(1) shall be of equal market value; or

(2) shall be equalized using nationally recognized appraisal standards, including, to the extent appropriate, the Uniform Standards for Federal Land Acquisition, the Uniform Standards of Professional Appraisal Practice, the provisions of section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)), and other applicable law.

(e) REDESIGNATION OF LAND TO MAINTAIN REVENUE FLOW.—So as to maintain the current flow of revenue from land subject to the Act entitled ''An Act relating to the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant land situated in the State of Oregon'', approved August 28, 1937 (43 U.S.C. 1181a et seq.), the Secretary may redesignate public domain land located in and west of range 9 east, Willamette Meridian, Oregon, as land subject to that Act.

(f) TIMETABLE.—The exchange directed by this section shall be consummated not later than 1 year after the date of enactment of this Act.

(g) WITHDRAWAL OF LANDS.—All lands managed by the Department of the Interior, Bureau of Land Management, located in townships 2 and 3 south, ranges 6 and 7 east, Willamette Meridian, which can be seen from the right of way of Oregon State Highway 26 (referred to in this section as the ''Mt. Hood Corridor''), shall be managed primarily for the protection of important scenic values. Management prescriptions for other resource values associated with these lands shall be planned and conducted for purposes other than timber harvest, so as not to impair scenic quality.

(h) TIMBER HARVEST.—Timber harvest may be conducted in the Mt. Hood Corridor after the occurrence of a resource-damaging catastrophic event. Such harvest, and any additional timber harvest, may only be conducted to achieve the following resource management objectives, in compliance with the current land use plans—

(1) to maintain safe conditions for the visiting public;

(2) to control the continued spread of forest fire;

(3) for activities related to administration of the Mt. Hood corridor; or

(4) for removal of hazard trees along trails and roadways.

(i) ROAD CLOSURE.—The forest road gate located on Forest Service Road 2503, located in T. 2 S., R. 6 E., sec. 14, shall remain gated and locked to protect resources and prevent illegal dumping and vandalism in the Mt. Hood Corridor. Access to this road shall be limited to—

(1) Federal and State officers and employees acting in an official capacity;

(2) employees and contractors conducting authorized activities associated with the telecommunication sites located in T. 2 S., R. 6 E., sec. 14; and

(3) the general public for recreational purposes, except that all motorized vehicles will be prohibited.

(j) NEPA EXEMPTION.—Notwithstanding any other provision of law, the National Environmental Policy Act of 1969 (Public Law 91–190) shall not apply to this section.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

TITLE V—COQUILLE TRIBAL FOREST

SEC. 501. CREATION OF THE COQUILLE FOREST.

(a) The Coquille Restoration Act (Public Law 101–42) is amended by inserting at the end of section 5 the following:

''(d) CREATION OF THE COQUILLE FOREST.—

''(1) Within 90 days of the enactment of this title, the Secretary of Interior is authorized to and shall, in accordance with this title and in consultation with the Coquille Tribe of Coos County, Oregon, designate approximately five thousand acres of forest lands in Coos County, Oregon, to which the United States holds title, located in the historic territory of the Coquille Indian people, as the Coquille Forest.

''(2) A map showing the Federal portions of these sections designated as the Coquille Forest, and such additional legal descriptions which are applicable, shall within 180 days of the date of enactment of this title, be prepared by the Secretary in consultation with the Tribe and placed on file at the local District Office of the Bureau of Land Management, the Agency Office of the Bureau of Indian Affairs, and with the Senate Committee on Energy and Natural Resources and the House Committee on Resources.

''(3) Two years from the date of enactment of this subsection, the Secretary shall transfer lands designated under subsection (d)(1), to the Bureau of Indian Affairs, to be held in trust, in perpetuity, for the Coquille Tribe. As Indian trust forest lands, the Secretary of Interior, acting through the Assistant Secretary for Indian Affairs shall manage these lands under applicable forestry laws and in a manner consistent with the standards and guidelines of Federal forest plans on adjacent lands. The Secretary and the Tribe may authorize management of the Coquille Forest consistent with the Coquille Forest management strategy developed by the Independent Scientific Advisory Team and set forth in the report entitled, ''A Forest Management Strategy for the Proposed Coquille Forest'' dated August 31, 1995 and including the December 20, 1995 Addendum.

''(4) From the date of enactment of this title until two years after the date of enactment of this title, the Bureau of Land Management shall:

''(A) retain Federal jurisdiction for the management of lands designated under this title as the Coquille Forest; and

''(B) prior to advertising, offering or awarding any timber sale contract on lands designated under this title as the Coquille Forest, obtain the approval the Bureau of Indian Affairs, which shall act on behalf of and in consultation with the Coquille Tribe.

''(5) After completion of the transfer to the Bureau of Indian Affairs, required in this subsection, the Secretary may, pursuant to the Indian Self-Determination Act (25 U.S.C. 450 et seq.), enter into an Indian self-determination agreement with the Coquille Indian Tribe. Such agreement shall provide for the Tribe to carry out all or a portion of the forest management program for the Coquille Forest. Prior to entering such an agreement, and as a condition of maintaining such an agreement, the Secretary must find that the Coquille Tribe has entered into a Memorandum of Agreement (MOA) with the State of Oregon, as required under subsection (8) this title.

''(6) The Land designated under this title shall be subject to valid existing rights, including all valid liens, rights-of-way, licenses, leases, permits, and easements existing on date of the enactment of this title. These lands will remain open to public access for purposes of hunting, fishing, recreation and transportation, except when closure is required by state or Federal law.

''(7) Unprocessed logs harvested from the Coquille Forest shall be subject to the same Federal statutory restrictions on export to foreign Nations that apply to unprocessed logs harvested from federal lands.

''(8) All sales of timber from land subject to this title shall be advertised, offered and awarded in accordance with the public bidding and contracting laws and procedures applicable to the Bureau of Land Management.

''(9) The Coquille Tribe shall enter into a Memorandum of Agreement (MOA) with the State of Oregon relating to the establishment and management of the Coquille Forest. The MOA shall include, but not be limited to, the terms and conditions for preserving public access, continuing public rights, advancing jointly-held resource management goals, achieving Tribal restoration objectives and establishing a coordinated management framework. Further, provisions set forth in the MOA shall be consistent with Federal trust responsibility requirements applicable to Indian trust lands. The United States District Court for the District of Oregon shall have jurisdiction over actions arising out of claims of breach of the MOA.

''(10) So as to maintain the current flow of revenue from land subject to the Act entitled ''An Act relating to the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant land situated in the State of Oregon'', approved August 28, 1937 (43 U.S.C. 1181a et seq.), the Secretary shall redesignate public domain land located in the Coquille Tribe's service area, as defined in the Coquille Tribal Restoration Act of 1989 (Public Law 101–42), as land subject to that Act. In no event shall payments due to Coos County, Oregon, under that Act be diminished as a result of the land designations required pursuant to this title.

''(11) Within two years of the date of enactment of this subsection, the Secretary shall complete a formal scientific peer review of the management strategy developed by the Independent Scientific Advisory Team and set forth in the report entitled, ''A Forest Management Strategy for the Proposed Coquille Forest'' dated August 31, 1995 and including the December 20, 1995 Addendum.''.

TITLE VI—BULL RUN WATERSHED PROTECTION

SEC. 601. Section 2(a) of Public Law 95–200 is amended on line 7 by striking ''2(b)'' and inserting in lieu thereof ''2(c)''.

SEC. 602. Public Law 95–200 is amended by adding a new subsection 2(b) immediately after subsection 2(a), as follows:

''(b) TIMBER CUTTING.—

''(1) IN GENERAL.—Subject to paragraph (2), the Secretary of Agriculture shall prohibit the cutting of trees in that part of the unit consisting of the hydrographic boundary of the Bull Run River Drainage and as depicted in a map dated June 1996 and entitled ''Bull Run River Drainage''.

''(2) PERMITTED CUTTING.—

''(A) IN GENERAL.—Subject to subparagraph (B), the Secretary of Agriculture shall prohibit the cutting of trees in the area described in subparagraph (1).

''(B) PERMITTED CUTTING.—Subject to subparagraph (B), the Secretary may allow the cutting of trees in the area described in subparagraph (1)—

''(i) for the protection or enhancement of water quality in the area described in subparagraph (1); or

''(ii) for the protection, enhancement, or maintenance of water quantity available from the area described in subparagraph (1); or

''(iii) for the construction, expansion, protection or maintenance of municipal water supply facilities; or

''(iv) for the construction, expansion, protection or maintenance of facilities for the transmission of energy through and over the unit or previously authorized hydroelectric facilities or hydroelectric projects associated with municipal water supply facilities.

''(C) SALVAGE SALES.—The Secretary of Agriculture may not authorize a salvage sale in the area described in subparagraph (1).''.

SEC. 603. Section 2(b) of Public Law 95–200 is amended by inserting in the first line after (a) ''and (b)''.

SEC. 604. Section 2(b) of Public Law 95–200 is redesignated as ''2(c)''.

SEC. 605. Redesignate the following subsections accordingly.

TITLE VII—OREGON ISLANDS WILDERNESS, ADDITIONS

SEC. 701. OREGON ISLANDS WILDERNESS, ADDITIONS.

(a) In furtherance of the purposes of the Wilderness Act of 1964, certain lands within the boundaries of the Oregon Islands National Wildlife Refuge, Oregon, comprising approximately ninety-five acres and as generally depicted on a map entitled ''Oregon Island Wilderness Additions—Proposed'' dated June, 1996, are hereby designated as wilderness. The map shall be on file and available for public inspection in the offices of the Fish and Wildlife Service, Department of the Interior.

(b) All other federally-owned named, unnamed, surveyed and unsurveyed rocks, reefs, islets and islands lying within three geographic miles off the coast of Oregon and above mean high tide, not currently designated as wilderness and also within the Oregon Islands National Wildlife Refuge boundaries under the administration of the United States Fish and Wildlife Service, Department of the Interior, as designated by Executive Order 7035, Proclamation 2416, Public Land Orders 4395, 4475 and 6287, and Public Laws 91–504 and 95–450, are hereby designated as wilderness.

(c) As soon as practicable after this title takes effect, a map of the wilderness area and a description of its boundaries shall be filed with the Senate Committee on Energy and Natural Resources and the House Committee on Resources, and such map shall have the same force and effect as if included in this title; provided, however, that correcting clerical and typographical errors in the map and land descriptions may be made.

(d) Public Land Order 6287 of June 16, 1982, which withdrew certain rocks, reefs, inslets and islands lying within three geographical miles off the coast of Oregon and above mean high tide, including the ninety-five acres described in (a), as an addition to the Oregon Islands National Wildlife Refuge is hereby made permanent.

TITLE VIII—UMPQUA RIVER LAND EXCHANGE STUDY

SEC. 801. UMPQUA RIVER LAND EXCHANGE STUDY: POLICY AND DIRECTION.

(a) IN GENERAL.—The Secretaries of the Interior and Agriculture are hereby authorized and directed to consult, coordinate and cooperate with the Umpqua Land Exchange Project (ULEP), affected units and agencies of state and local government, and, as appropriate, the World Forestry Center and National Fish and

Wildlife Foundation, to assist ULEP's ongoing efforts in studying and analyzing land exchange opportunities in the Umpqua River basin and to provide scientific, technical, research, mapping and other assistance and information to such entities. Such consultation, coordination and cooperation shall at a minimum include, but not be limited to:

(1) Working with ULEP to develop or assemble comprehensive scientific and other information (including comprehensive and integrated mapping) concerning the Umpqua River basin's resources of forest, plants, wildlife, fisheries (anadromous and other), recreational opportunities, wetlands, riparian habitat and other physical or natural resources.

(2) Working with ULEP to identify general or specific areas within the basin where land exchanges could promote consolidation of timberland ownership for long-term, sustained timber production; protection and improvement of habitat for plants, fish and wildlife (including any federally listed threatened or endangered species); recovery of threatened and endangered species; protection and improvement of wetlands, riparian lands and other environmentally sensitive areas; consolidation of land ownership for improved public access and a broad array of recreational uses; and consolidation of land ownership to achieve management efficiency and reduced costs of administration.

(3) Developing a joint report for submission to the Congress which discusses land exchange opportunities in the basin and outlines either a specific land exchange proposal or proposals which may merit consideration by the Secretaries or the Congress, or ideas and recommendations for new authorizations, direction, or changes in existing law or policy to expedite and facilitate the consummation of beneficial land exchanges in the basin via administrative means.

SEC. 802. REPORT TO CONGRESS.

(a) No later than February 1, 1998, ULEP and the Secretaries of the Interior and Agriculture shall submit a joint report to the Committee on Resources of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate concerning their studies, findings, ideas, recommendations, mapping and other activities conducted pursuant to this Act.

(b) At a minimum, the report shall include:

(1) A complete analysis and discussion of issues, options and alternatives considered with respect to the specific study items set forth in Section 3(b) (1–7) of this Act and a discussion of the perceived advantages, disadvantages, and obstacles to implementation of such options and alternatives.

(2) Recommendations and mapping for specific land exchanges, or the identifications and mapping of general areas where exchanges should be considered.

(3) Recommendations, if any, for any changes in law or policy that would authorize, expedite, or facilitate specific land exchanges or facilitate general land exchange procedures.

(4) Recommendations, if any, for special provisions of law or policy that might be applied to specific areas of private or Federal lands after consolidations of lands are completed through land exchanges.

(5) Recommendations, if any, for new or enhanced sources of Federal, state or other funding to promote improved resource protection, recovery and management in the basin.

SEC. 803. AUTHORIZATION OF APPROPRIATIONS.

In furtherance of the purposes of this title, there is hereby authorized to be appropriated the sum of $2 million.

AMENDMENT NO. 5150

Mr. HATFIELD. Mr. President, I understand that there is a substitute amendment at the desk offered by myself and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oregon [Mr. HATFIELD] proposes an amendment numbered 5150.

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

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

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

Mr. HATFIELD. Mr. President, as my colleagues know, at the end of this year, I will leave the Senate and return to the inviting shores of Oregon. Oregon is the State of my birth and the State that I have labored to represent for over four decades. It has never been a mystery to me why so many have been drawn to my State. The rich pioneer spirit of Oregon's citizenry is matched only by the blessings of the State's bountiful natural treasures.

I am pleased to speak today about legislation that will ensure that several of Oregon's most significant natural treasures will be protected for future generations. This legislation, the Oregon Resources Conservation Act, of which I am the proud sponsor, includes eight titles addressing a host of natural resource issues. Many of the issues within these titles have been the subject of great debate and lingered unresolved for years.

The heart of this proposal is title one, which creates a 25,800-acre Opal Creek Wilderness and National Scenic Recreation Area. Opal Creek is one of the last remaining intact, low-elevation old growth forest areas in Western Oregon. The Opal Creek title of the Oregon Resources Conservation Act would create a 25,800-acre Opal Creek Wilderness and National Scenic-Recreation Area. Of the 25,800 acres, 12,800 acres would be designated as new wilderness to be managed under the Wilderness Act of 1964, and 13,000 acres would be managed as a national scenic-recreation area.

A great public debate has surrounded the Opal Creek issue for decades. It is my firm hope that this is a debate we are about to resolve. Opal Creek is a very special place, and I have always believed the area merits permanent protection.

I sought to include protection for the area in my 1984 Oregon wilderness bill, and again in my 1988 wild and scenic rivers bill. Both times I was forced to remove the provision at the request of Oregon's Governor. Representative Mike Kopetski made a bold effort to legislate protection in 1994, but time ran out in the 103d Congress before final action could be taken in the Senate.

Today, the entire 35,000 acre watershed that includes the Opal Creek subbasin is protected from commercial timber harvest under President Clinton's forest plan. Timber companies have indicated to me that they doubt commercial timber harvests will ever occur again in the drainage. Similarly, environmentalists have indicated to me that they believe there is no danger of harvests in the drainage in the foreseeable future.

Surely this is an area fertile for agreement. It is time to show the public some small sign of reconciliation in this continuing feud over our natural resources. It was my hope that the Opal Creek Working Group, which met over a period of 6 months with the assistance of a professional mediator, would provide the agreement Oregonians of all persuasions desire so much. While the working group failed to reach a comprehensive agreement, areas of common interest and shared values were uncovered, and the group's deliberations assisted me greatly in developing this legislation.

This issue has lingered unresolved for far too long, and with this legislation, we have an opportunity to settle it, once and for all.

The Opal Creek title of my legislation addresses each and every one of the sub-watersheds in the Little North Fork Santiam River drainage, either through a wilderness or a National Scenic Recreation Area designation. By doing this, I have attempted to protect the outstanding resource values in each of these sub-drainages, while at the same time addressing the area comprehensively as an intact ecosystem.

Significant portions of the Cedar Creek sub-watershed have been included, part in the Opal Creek Wilderness and part in the Scenic Recreation Area. This protection includes approximately three-quarters of the old growth in the sub-watershed. The five sections that comprise the center of the area include private interests. The presence of these private interests has made this area one of the most difficult to resolve. Through the cooperation of the Rosboro Lumber Co. and the Forest Service, we have provided the framework for a very directed land exchange. This exchange will allow this full section, approximately 640 acres, to be included in the Scenic Recreation Area. In exchange, Rosboro will receive sufficient parcels to accomplish an equal value exchange. The prioritized list of parcels provided in the S. 1662 represent parcels which border, many on three sides, land already owned by Rosboro.

One important part of this protection is the designation of Elkhorn Creek as Oregon's newest wild and scenic river. This designation will protect nearly the full length of the Elkhorn as it moves from land managed by the Forest Service to land managed by the Bureau of Land Management. The BLM manages approximately three sections through which the Elkhorn flows. It is my intent that the full amount of these three sections be included in the wild and scenic designation. The language in the bill has been written to accomplish that result. The BLM portions are designated as ''scenic'', while

the Forest Service portions are designated as ''wild''. This distinction is provided for to allow the BLM to put in a trail head and viewpoint for recreationalists to view this very special area.

In addition to addressing the protection of the entire watershed, the Opal Creek title of this bill maintains recreation at existing levels and allows for growth in uses where appropriate. The bill also calls for historical, cultural, and ecological interpretation in the newly created area to be conducted in a balanced and factually accurate manner. Motorized recreation will be prohibited except on the existing road system and nonmotorized use will be permitted throughout the area, except, of course, in the wilderness. The existing road system will be analyzed and evaluated through a management planning process, which will decide which roads to close and which to leave open. No new water impoundments will be allowed in this area. No new mining claims will be allowed to be filed under the 1872 Mining Law, and no existing claims will be allowed to be patented. In addition, the bill calls for the creation of an advisory council composed of members of the local community, industry, environmental groups, locally elected officials, the Forest Service and an appointee by the Governor. Finally, the bill will not allow commercial timber harvesting of any kind in the Opal Creek area except to prevent the spread of a forest fire or to protect public health and safety. It is important to note that the lands covered by my legislation are not included now in the timber base and are not currently open to commercial harvest.

The final element of the Opal Creek package, Mr. President, was an important part of the working group's discussions. I am referring to an economic development package for the Santiam Canyon, which includes the communities immediately adjacent to the Opal Creek area. This package is based, primarily, on a set of infrastructure improvements developed by these communities in conjunction with the State Economic Development Office, which are designed to improve the water quality and delivery systems of the communities in the area. It is also my intention that the funding allowed here would be available for cleanup and transportation costs related to the Amalgamated Mill site in the Opal Creek area on Battle Ax Creek.

I have made the first down payment on this economic commitment package by including a $300,000 appropriation in the fiscal year 1996 Omnibus Appropriations Act to help begin the cleanup of the contaminated Amalgamated Mill site. There is a continuing discussion of the best way to accomplish the cleanup of this site at the earliest possible date and in a manner that does not endanger public health or safety. This legislation is neutral on the method of cleanup, but should be read as a directive to all parties involved to move forward with deliberate speed to clean up this anomaly in an area of such profound beauty.

Throughout the coming fiscal year 1997 appropriations cycle, I will work closely with Oregon's Governor, John Kitzhaber, and my colleague on the House Appropriations Committee from Oregon, JIM BUNN, to further refine this package and provide additional funding, as needed, for the Amalgamated Mill cleanup and for the critical community infrastructure projects designed to allow these former timber communities to diversify their economic bases and improve their water systems.

In short, the Opal Creek title of this bill attempts to address every issue raised both in the 1994 hearings on Opal Creek and in the working group process conducted out in Oregon. This is an issue I have worked on for almost 20 years. I am extremely pleased that, with this legislation and accompanying infrastructure development package, we will finally be able to address the protection of Opal Creek and the adjacent portions of the Little North Fork Santiam Watershed, as well as improvements to the water quality and delivery systems of nearby, timber-dependent communities.

Mr. President, the second and third titles of the Oregon Resources Conservation Act provide for the establishment of 5-year pilot projects for two, consensus-based natural resource planning bodies now working in Oregon's Klamath and Deschutes Basins. Both of these bodies are already in place and have been working to provide the Federal agencies with recommendations about how best to prioritize spending for ecological restoration, economic health and reducing drought impacts.

I called for the creation of the Upper Klamath Basin Working Group in 1995. This group is citizen-led and includes environmentalists, irrigators, local business leaders, locally elected officials, educators, the Klamath Tribes, and Federal land management agencies in an advisory capacity. This group was charged with developing both short- and long-term recommendations for restoring ecological health in the Klamath Basin. They were successful in developing short-term funding recommendations ranging from riparian and wetland restoration, to fish passage and the coordination of geological information systems in the basin. I followed through on these recommendations and was able to obtain either funding or direction to the pertinent agencies in the fiscal year 1996 appropriations process. I am again attempting to provide funding for the consensus based projects of the Klamath Working Group in the fiscal year 1997 appropriations process.

The group has also developed a long-term recommendation which includes a formal registration of the group as a State-sanctioned foundation and congressional legislation enabling them to help land management agencies set priorities for how money is spent in the basin on various ecological restoration and economic stabilization projects.

Senate bill 1662 addresses the group's long-term recommendation by creating a 5-year pilot project to allow the Upper Klamath Basin Working Group/Foundation, in conjunction with the Federal land management agencies in the basin, to develop funding priorities for ecological restoration in the basin. It will authorize $1 million per year to be spent consistent with these priorities. This money will be administered by the agencies and matched by an equal amount of non-Federal dollars.

Under title III of the bill, the Deschutes Basin in central Oregon would also be allowed to develop a similar regime using, as its base, a group formed by the Warm Springs Tribes, the Environmental Defense Fund, local irrigators, and locally elected officials. This group has been meeting and collaborating on projects in the basin for several years.

Recently, both of these working groups have been able to make significant progress in building coalitions and consensus on natural resource management challenges that, not too long ago, many felt were insurmountable. By giving them more authority to temporarily assist Federal agencies with setting policy priorities using a finite amount of money, I hope we can begin to enter a new era of more local control and greater public input regarding resource management decisions. I also hope these groups, and others that may follow, will continue to use the consensus-based management approach to return resource management decisions to a collaborative, inclusive process rather than the divisive, litigious morass in which we find ourselves today.

The fourth title provides for a land exchange in Oregon's beautiful Mt. Hood corridor. The purpose of this title is to protect the viewshed along the Highway 26 corridor on the way to Mt. Hood, the highest mountain peak in my State. The exchange between the Bureau of Land Management and the Longview Fibre timber company would withdraw lands within the viewshed of the Mt. Hood corridor from the timber base. Both parties are willing participants in this process.

Longview Fibre owns approximately 3,500 acres of timber land in the scenic Mt. Hood corridor, which are interspersed with BLM lands in a checkerboard fashion. Longview would like to harvest these lands within the next 5 years, but is sensitive about the public perception regarding these clearcuts along such a heavily traveled route. I agree with Longview Fibre and feel harvesting these trees along Highway 26 would be a disaster both for the ecological and visual characteristics of the resource. Longview, to their credit, has been extremely interested in working with local planning and environmental groups to identify BLM parcels elsewhere in western Oregon that could be traded for the Longview Fibre lands in the corridor.

This proposal is a unique opportunity to forge ahead with a plan that has been built at the local level over the past 5 years and which has virtually unanimous support, including the local county government, local businesses, the timber industry, and local environmental groups.

Included in this title is a very limited exemption from the National Environmental Policy Act. I want to be clear that this exemption is in no way to be used as a precedent for future waivers of NEPA. This is a unique circumstance, and to counterbalance this exemption, I have included funding in the fiscal year 1997 appropriations process to undertake environmental analysis for this exchange.

The fifth title of S. 1662 would establish the Coquille Forest near the town of Coos Bay, OR. During my Senate career, it has been my pleasure, and I believe my obligation, to take an active role in the restoration of Federal recognition to a number of Indian tribes in the State of Oregon. One of those tribes, the Coquille Tribe from near Coos Bay, OR, was restored in 1989. In the Coquille Restoration Act, Public Law 101–42, which I was proud to sponsor in the Senate, a requirement was included that the Secretary of the Interior and the tribe develop and submit a plan for the tribe's pursuit of economic self-sufficiency.

The Coquille Tribe took that mandate to heart and developed and submitted an extraordinarily comprehensive plan. Wisely, I think, the plan encompassed self-suficiency initiatives across a diverse range of projects. The centerpiece of the plan was a proposal to establish a significant forest land for the tribe within its aboriginal territory. The overall goal of the plan and the forest are to move the standard of living for the members of the Coquille Tribe closer to that of the people of Oregon overall and to provide for the cultural restoration of the Coquille people.

The Coquille Tribe's forest proposal is not, nor is this legislation, some new and novel precedent. Land bases have already been established for a number of federally recognized Oregon tribes, including the Grand Rondes, Siletz, Warm Springs, and Umatillas. These tribal land bases range from 3,600 acres to 640,000 acres. This title would establish a 5,400-acre land base for the Coquille Tribe. Hardly a precedent in either size or action.

Moreover, the Coquille proposal is quite innovative and unique. The proposal originally developed by the Coquille Tribe was a cutting-edge, scientifically based plan to manage the land. The plan would have used environmentally sensitive methods of land management to benefit not only the tribe but the surrounding communities as well. This land management approach was as innovative as any I have seen during my public career, and it prompted me to lend my support to the tribe's effort.

This provision is intended to provide a measure of restitution to the Coquille Tribe. This land was forcibly taken from its inhabitants, an act that I think anyone today would decry as unjust. In the past, atrocities have been heaped upon Oregon's native American tribes, including the Army's efforts to round up the southwestern Oregon tribes like cattle and march them hundreds of miles to government-created Indian reservations at Siletz and Klamath Falls.

To the tribes affected by these U.S. Government policies, the act of uprooting them from their homelands and herding them to far-away reservations destroyed their culture and killed many of their people. These acts were the equivalent of the ethnic cleansing we have seen in recent years against the Muslim people in Bosnia. The restoration of 5,400 acres could never atone for the hardships imposed upon the Coquille people. It can, however, begin to help restore some semblance of culture and a tie to the land that our Federal Government attempted to destroy over 150 years ago.

I have gathered as much public input on the Coquille Tribe forest proposal as on any single legislative effort throughout my entire Senate career. I held two Senate hearings on the matter, one in Salem, OR, and one in Washington, DC. I also have received many letters and phone calls carefully analyzed related public polls, and reviewed newspaper editorials. All of these factors have contributed to the 5,400-acre proposal I have developed.

The forming of this title as it appears today in the substitute has been very challenging. The myriad interests of the Interior Department, the people of Coos County, the logging and environmental communities, the State of Oregon, and certainly the Coquille Tribe have brought together starkly divergent viewpoints.

This title reflects many of the elements from the tribe's earlier proposal, but it is also very different. To accommodate the diversity of interests, and to do so within the parameters of the current discourse regarding the Federal lands, I have fashioned a unique and scaled-down hybrid. I must say that in so doing, the Coquille Tribe has made some very substantial concessions.

First, title five creates a Coquille Forest of only approximately 5,400 acres in size. While the parcels are shown on a BLM map, referenced in the legislation, for clarity I am adding the legal descriptions in the RECORD. The Coquille Forest consists of the Federal portions of the following descriptions:

Willamette Meridian West, Oregon
T28S R10W S. 30,33
T28S R11W S. 14,25,26
T29S R10W S. 5
T30S R11W S. 5,7,15,24,25,29,33
T29S R11W S. 23 SE¼ SE¼
S. 26 E½ NE¼
S. 26 SW¼ NE¼
S. 26 N½ SE¼
T29S R12W S. 26 S½ SW¼
S. 35 NE¼ NW¼
S. 35 NW¼ NE¼

Second, a 2-year transition period is required prior to the Forest transferring into trust for the tribe. To preserve Federal timber revenues to the O&C Counties, the Interior Secretary is authorized to designate an appropriate amount of nearby Federal public domain land into O&C status.

Third, after the forest is transferred to the Assistant Secretary for Indian Affairs, its management must be consistent with the standards and guidelines of adjacent and nearby Federal forest plans. While this consistency requirement is to extend into the future, it should be noted that I do not anticipate that this requirement will foreclose the tribe from realizing at least some significant cultural or economic benefits from its forest.

Fourth, the Assistant Secretary for Indian Affairs is to manage the Coquille Forest pursuant to all applicable State and Federal forestry and environmental laws, specifically including critical habitat designations under the Endangered Species Act. Federal log export restrictions will apply to logs from the Coquille Forest, and competitive bidding is specifically required on all sales.

Fifth, this statute assures continued public access and State regulation of hunting and fishing. Conversely, it is expected that tribal access is assured to all its parcels.

Sixth, Federal law and policies fostering Indian self-determination are recognized by providing opportunity for the tribe to assume some or all of the management of the Coquille Forest. As a requirement for the tribe assuming such management functions, a memorandum of agreement is required with the State of Oregon that details the State's jurisdiction and regulatory functions, and which incorporates the requirements for management consistency with surrounding plans. To assure enforceability of the MOA, both the tribe and the State are authorized to take each other to Federal court.

Finally, the title provides that any affected citizen may sue the Secretary of the Interior for violations of the title. This is not intended to expand laws or case law related to standing to sue. The court is specifically authorized to order the Secretary to withdraw any management authority delegated to the tribe for the management of the forest.

I want to emphasize again the unique arrangement of this provision. It is intended to establish a Coquille Forest for the Coquille Tribe that will mesh into the broader forest management of Coos County. Within that context, the Coquille Forest is to provide a basis for restoring the tribe's culture as well as providing economic benefits.

I hope this proposal, with its relatively modest acreage and the required adherence to the most environmentally friendly forest management plan ever implemented in the Pacific

Northwest—President Clinton's forest plan—is successful and can become a model for how our Nation deals with other claims by native American tribes.

The sixth title of S. 1662 addresses a longstanding issue in my State. The Portland area has been blessed with one of the cleanest sources of drinking water in the Nation. The Bull Run Watershed, east of Portland in the Cascade Mountains, has been providing safe and pure drinking water to Portlanders for over a century. I have always supported protection for this vital resource, including my working to enact the 1977 Bull Run Protection Act, Public Law 95–200.

Title six amends Public Law 95–200 by additional restrictions on management within the hydrographic boundary of the Bull Run Watershed. This is depicted on a map refered to in the legislation. The additional protections do not include the controversial buffer areas or the adjacent Little Sandy Watershed. These additional areas have long been the source of controversy which has effectively blocked providing the additional protections within area that have a direct impact on Portland's drinking water.

I am pleased that, in working with my colleague from Oregon, Mr. WYDEN, we have reached an important agreement on this matter, which is included in S. 1662. The vital part of the agreement involves a study of the impact of management activities within the Little Sandy on Portland's drinking water. This is the heart of the issue with respect to the Little Sandy. With that critical agreement, the additional protections for the main drainage may go forward.

I want to pay a special tribute to my colleague for working so constructively with me on this important matter to Oregonians. Senator WYDEN has made an impressive commitment to this issue and I commend him for his leadership. Let me also commend Representative ELIZABETH FURSE for her commitment to this issue. She has partnered with Senator WYDEN to resolve elevate this important issue in the public dialog.

Finally, I wish to commend the newest member of the Oregon delegation, Representative EARL BLUMENAUER, for the valuable role he played in resolving this issue. The Bull Run Reservoir is located in Congressman BLUMENAUER's legislative district, and through his prompt intervention in this matter at a critical stage, he performed a valuable service to his constituents.

The seventh title of this bill would add approximately 120 acres to the existing Oregon Islands Wilderness. This area is comprised of islands, reefs and rocks within 3 miles of the Oregon coast.

In 1991, the Fish and Wildlife Service completed a wilderness suitability study on 1,200 of these formations, which extend 307 miles, from Tillamook Head to just north of the California border. The Fish and Wildlife Service has recommended a wilderness designation for the study area.

These islands, rocks, and reefs are small and extremely rugged in appearance. The soil cover is shallow. Light vegetation consists primarily of low-growing grasses and herbaceous plants. These areas are valuable as nesting, roosting and foraging habitat for bald eagles, peregrine falcons, California brown pelicans, Canadian geese, and a number of other seabirds and shorebirds. They are also extensively used by marine mammals, such as Steller sea lions, California sea lions, Pacific harbor seals, and threatened northern elephant seal.

Protection of this area would help preserve a reflection of America's rich island heritage. They are also closely associated with the culture of coastal native Americans and early European settlers.

The final title of this legislation provides direction for a land exchange study within the Uppqua Basin in southern Oregon. The goal of the Uppqua land exchange project is to determine if there is a land ownership pattern within the Uppqua River Basin, different from the current one, that would more effectively protect fish and wildlife habitat and allowing more sustainable resource production. The project has hired a team of Oregon scientists to study the resources of this basin to determine if opportunities exist for public and private land exchanges are possible to achieve this goal.

On Federal lands, the opportunity exists for increasing wildlife and fisheries habitat protection as well as sustainable supply of timber as a result of exchanging lands. On private lands, the project could assist land owners better meet their land management goals by providing lands better suited for timber productions that are not as ecologically sensitive as those traded into Federal ownership.

To test this theory, this title directs the land management agencies to take a careful look at the land ownership patterns in this area and at the current makeup of laws and policies. I believe this study will uncover great potential for improvements in our land ownership patterns.

Mr. President, this is comprehensive legislation. I am extremely pleased with this bill. It protects some of Oregon's most important natural resource areas, Opal Creek, Bull Run, the Oregon Islands and the Mt. Hood corridor. It also promotes consensus-based, watershed planning at the local level in the Klamath and Deschutes Basins. Finally, it makes investments in the future through important studies.

I have worked many years to protect Oregon's magnificent natural resources. I am pleased that in this, my last year in the Senate, I will be able to continue this legacy of protecting Oregon's natural beauty for the enjoyment and use of future generations.

At this point I ask unanimous consent to have printed in the RECORD a letter addressed to myself from Under Secretary James Lyons of the Department of Agriculture in which they indicate the administration support for the two titles, the Opal Creek title and the one on the Bull Run.

I would also ask unanimous consent to have printed in the RECORD a letter from Mayor Vera Katz of the city of Portland and Commissioner Mike Lindberg also endorsing title VI which relates to Portland's main and only water supply, which is called the Bull Run.

And I ask unanimous consent to have printed in the RECORD a section-by-section analysis.

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

DEPARTMENT OF AGRICULTURE,
Washington, DC, August 2, 1996.

Hon. MARK O. HATFIELD,
Washington, DC 20510.

DEAR SENATOR HATFIELD: I am writing in support of the two provisions in S. 1662, as amended, which affect Opal Creek and Bull Run in the Willamette National Forest in Oregon.

The Administration testified in support of the Opal Creek Wilderness and Opal Creek Scenic Recreation Area Act of 1996. S. 1662 adds approximately 12,800 acres of mixed old growth forest and anadromous fish habitat to the Wilderness Preservation System granting it permanent protection for primitive use and resource conservation. In addition, the legislation provides Wild and Scenic River protection for Elkhorn Creek as recommended in our hearing testimony. You have worked hard to prepare legislation which balances the concerns of all parties and I appreciate your diligent efforts.

The Department of Agriculture supports the compromise position taken in Title VI of the bill regarding the Bull Run and Little Sandy Watersheds. Conservation in these two watersheds is important to the success of the President's Forest Plan for the owl region and for the City of Portland. The report to Congress authorized in the legislation will help provide information to decide whether any further action is necessary regarding these lands. I especially support the public process which will be used to prepare the study.

Again, I want to congratulate you on your hard work on these provisions. The Department of Agriculture supports enactment of these two titles.

Sincerely,

JAMES R. LYONS,
Under Secretary.

JULY 24, 1996.

Hon. MARK O. HATFIELD,
711 Hart Senate Office Building,
Washington, DC.

DEAR SENATOR HATFIELD: On behalf of the citizens of Portland and the drinking water consumers of the Portland metropolitan region, thank you for your outstanding efforts in the development of Title VI, Bull Run Watershed Protection, in S. 1662, ''The Oregon Resource Conservation Act of 1996''.

We were pleased by the unanimous passage of S. 1662 on June 19 by the Senate Energy and Natural Resources Committee. We have been very grateful to work with you and your staff since then on enhancements to the provisions of Title VI which will be added during forthcoming consideration by the full Senate.

It has been a great honor to work with you on the issue of additional statutory protection for Bull Run water quality since the adoption by the City Council Resolution covering this subject in October 1993.

The provisions of Title VI covering a ban on timber cutting in the hydrographic boundary of the Bull Run drainage, including certain lands within the unit and located below the headworks of the City's water storage and delivery project, except in activities expressly reserved for the City, and the ban on salvage sales, will greatly improve the City's ability to ensure water quality protection in the years to come. The study on the portion of the Little Sandy Watershed within the unit, to be undertaken by the Secretary of Agriculture in consultation with the City, will help to provide useful guidance for the future regarding logging in the Little Sandy and water quality impacts.

We plan to work very closely with you and your staff as S. 1662 continues through the subsequent phases of the legislative process to help in any way we can to ensure that it can be enacted in the few remaining weeks of this Congress.

Thank you again for your leadership on this important initiative.

Warm regards,

VERA KATZ,
Mayor.

MIKE LINDBERG,
Commissioner.

SECTION-BY-SECTION ANALYSIS

S. 1662—OREGON RESOURCES CONSERVATION ACT OF 1996

TITLE I—Opal Creek Wilderness and Scenic-Recreation Area

12,800 acre Opal Creek Wilderness Area.

13,000 acre Opal Creek National Scenic-Recreation Area.

Designates Elkhorn Creek Wild and Scenic River.

Sets up management planning process for Scenic Area.

Sets up 13 member Advisory Council consisting of locally elected officials, environmentalists, timber industry, mining industry, inholders.

Establishes guidelines for disposition of existing inholdings.

Authorizes $15 million Economic Development Plan.

TITLE III—Upper Klamath Basin Pilot Project

Creates a five-year pilot project to allow consensus-based citizen working group to provide ecological restoration recommendations to federal agencies.

Authorizes $1,000,000 per year for consensus-based projects.

Projects must be matched 1-to-1 with non-federal sources.

Fish and Wildlife Service is lead agency.

TITLE III—Deschutes Basin Pilot Project

Creates a five-year pilot project similar to the Klamath Working Group.

Also authorizes $1,000,000 per year for ecosystem restoration projects, 1-to-1 match with non-federal funds.

Bureau of Reclamation is lead agency.

TITLE IV—Mt. Hood Corridor Land Exchange

Authorizes 3,500 acre land exchange in the Mt. Hood Corridor between the Bureau of Land Management and the Longview Fibre timber company.

Both parties are willing participants in this process, which seeks to protect the viewshed along the Highway 26 corridor from Portland to Mt. Hood, Oregon.

Land acquired by BLM in corridor is removed from timber base, consistent with current BLM management of adjacent lands.

Exchange is to be completed within one year.

Title V—Coquille Tribal Forest

Creates 5,400 acre Coquille Forest from BLM lands in SW Oregon.

Management of land will remain with BLM for two years, with no change in existing management structure or funding distribution. Transition plan is authorized.

After two years, title and management will be transferred to Bureau of Indian Affairs. The lands will be held in trust for Coquille Tribe (restored in 1989).

After transfer to BIA, land will be managed consistent with President's Forest Plan and applicable forestry and environmental protection laws.

All timber sales will be subject to competitive and open bidding procedures.

Title VI—Bull Run Watershed Protection

Amends P.L. 95–200, the Bull Run Protection Act, by establishing additional timber harvest restrictions for Bull Run watershed, Portland's primary municipal drinking water source.

Requires a study of the adjacent Little Sandy Watershed to determine the impact of management on Portland's drinking water. Requires report to Congress on findings and recommendations for future management in the area.

Title VII—Oregon Islands Wilderness Additions

Adds approximately 120 acres of islands, reefs and rocks within three miles of Oregon Coast to existing Oregon Islands Wilderness System.

Title VIII—Umpqua River Land Exchange Study

Authorizes and directs Secretaries of Interior and Agriculture to consult, coordinate and cooperate with the Umpqua Land Exchange Project.

Project's mission is to develop scientific basis for and evaluation of land exchanges which involve federal acquisition of sensitive private parcels in exchange for private acquisition of less sensitive, timber producing parcels.

Joint Report to Congress submitted no later than Feb. 1, 1998 making recommendations.

Mr. HATFIELD. Mr. President, there are some very important people who have helped bring this day, now, to fruition. I want to mention the former Congressman from Oregon, Mike Kopetski, who made a valiant effort in 1994 to pass an Opal Creek protection bill. The bill was passed in the House. However, time ran out, in the Senate. It was not enacted. But, certainly, for years he and I had the privilege of trekking this whole area together. That is a wonderful memory I have. I want to pay tribute to his efforts as part of the overall accomplishment of this bill.

I want to also make particular mention of the staff, of David Robertson and Doug Pahl of my staff, who, for years, have been involved in this and have done a great job; to Ms. Alexandra Buell of Senator WYDEN's staff, who has been very meshed into the whole common effort and has an excellent background in resource management; the Energy Committee staff, Gary Ellsworth, Mark Rey and Tom Williams worked together as one staff, so to speak, even though they represent both sides of the aisle. I am very grateful, always, to each of those staff members for their real nitty-gritty and their real creative ability.

The PRESIDING OFFICER. The Senator from Oregon, Mr. WYDEN.

Mr. WYDEN. Mr. President, I want to say first, I very much share Senator HATFIELD's view with respect to the yeoman work that has been done by many parties, in terms of bringing this legislation together. I am especially pleased he has mentioned Ms. Buell and Mr. Pahl. It reflects the bipartisan effort that has gone into moving this legislation forward. I very much want to associate myself with Senator HATFIELD's words of praise for the many staff who have worked on this legislation.

I also want to begin by telling Senator HATFIELD, on behalf of the people of our State, how much we appreciate the extraordinary efforts he has made in the conservation field specifically. As Oregonians know, when you think about the history of our State, it will not just be conservation that Senator HATFIELD has touched. It will be the Oregon Health Sciences Center, where we have built a remarkable medical infrastructure that is going to serve our State into the 21st century. People are going to talk about the exceptional work that was done in the transportation field, where, again, we have led the Nation in terms of looking forward, in terms of making gutsy decisions.

We are going to talk about the agriculture, the maritime efforts, particularly in the field of research which, again, gives us a chance to get out in front of these huge waves of change that so mark these and so many of the issues that are before the Senate.

I just want to tell Senator HATFIELD, I think it is particularly appropriate now, as we move to the last days of this session, that this legislation, which is something of a crowning jewel, moves forward in the Senate. It is a tribute to all of the exceptional work that he has done, now, for 3 decades for the people of our State. I want you to know how much I appreciate all this effort. As you know, I am looking into the possibility of being able to phone you express, when you are at the coast in a much-deserved retirement, to have you help on other matters. I am just so pleased that this legislation is moving forward today, and to be associated with you.

Mr. President, very briefly let me comment on some of the provisions, the excellent provisions in this legislation. It is going to protect Opal Creek, both the drinking water source for the city of Salem and one of the crown jewels of our old growth forests. It is a remnant of what used to be common in the Oregon Cascade Range, but it is now the largest intact low elevation old growth forest that is left, after years of management in the region.

Opal Creek is simply beloved. People hike and swim, and many go simply to experience the grandeur and solace that tall trees and waterfalls have to offer. Visitation is now at about 15,000 people annually, and increases each year.

The President's Forest plan recognized the special nature of Opal Creek and designated it as a late-successional reserve and tier 1 watershed. Although that designation puts some limits to management in the watershed, it does not ensure permanent protection. Only an act of Congress can do that and Senator HATFIELD is responding to the great interest among the people of our State in making sure that there will be permanent protection for Opal Creek. We have been trying to protect this treasure for more than 25 years. Last year, Senator HATFIELD convened a working group of Oregonians interested in Opal Creek that included environmentalists, the timber industry, State and local officials, and the Forest Service. This legislation is a product of those efforts. One prominent Oregon environmental group called the provision precedent setting, and the most protective they have seen in any Federal legislation.

Mr. President, this legislation, Senator HATFIELD has noted, contains other extremely important provisions for our State. I am especially pleased Senator HATFIELD has included in his bill, additional protection for the Bull Run Watershed. This is so important to water users in our State. Hundreds of thousands of Oregonians depend on that watershed for pure, clean drinking water. And the history of Federal protection for the Bull Run Watershed goes back more than 100 years, to President Harrison's proclamation reserving the drainage basin of the Bull Run and Little Sandy Rivers as protected sources of water for the City of Portland.

The Bull Run Watershed now serves more than 20 water districts and over 735,000 people in our metropolitan area.

It is projected by the year 2050, it will be the prime source of drinking water for over 1 million Oregonians.

When I served in the House of Representatives, I joined with Congresswoman ELIZABETH FURSE in introducing H.R. 4063 in the 103d Congress. This earlier piece of legislation increased substantially protections for the Bull Run and the Little Sandy watersheds. Although S. 1662 does scale down the scope of lands covered by new protections, I am pleased that this legislation increases protections for the portion of the Bull Run watershed that serves as the municipal drinking water source for the city of Portland, while maintaining the existing protections for the remainder of the watershed. The city of Portland strongly supports these added protections for the Bull Run watershed.

This legislation includes several other important provisions. It would fund two citizen working groups that have been active in addressing a wide array of ecological restoration, economic development and stability and drought impact reduction projects in the Klamath and Deschutes River basins in our State.

I am excited about both of these groups because I firmly believe that the key to solving many of our environmental problems—the key to solving environmental problems—has to come from strong local input. Oregonians have been successful using this model of strong local involvement in reforming health care, in reforming welfare, and I am pleased to see that as a result of Senator HATFIELD's legislation, the same effort to encourage local involvement is being used in the environmental area.

I believe that no bill is ever perfect, and we all have things that we might want in an ideal situation. The proposal to create the Coquille Tribal Forest has caused concern, has caused anxiety among a number of our citizens. I commend Senator HATFIELD for his hard work in addressing many of these concerns, while at the same time remaining true to his commitment to the Coquille tribe. I believe that the provision in this legislation is improved by reducing greatly the size of the transfer. I also believe it has been improved by requiring the land to be managed under applicable State and Federal forestry and environmental protection laws.

The bill also would require that these lands be subject to critical habitat designations under the Endangered Species Act and the standards and guidelines of the Federal forest plans adjacent or nearby forest lands apply now and in the future.

Additionally, changes to the bill ensure that the land will remain open to public access for hunting, fishing and recreation, and that the prohibition on the export of unprocessed logs from Federal lands are a matter of great importance to our citizens and will continue.

With that said, I still remain concerned about the size of the land to be transferred from the Bureau of Land Management to the Bureau of Indian Affairs to be held in trust for the Coquille tribe.

Further, I am concerned about adding another layer of complexity to an already confusing array of forest and environmental management requirements and a potential lack of clarity with regard to Tribal, State and Federal roles in environmental requirements. I am also very concerned about a lack of clear direction with regard to citizen appeals. I am very pleased to have a chance to work with Senator HATFIELD on these matters. Senator HATFIELD has worked very, very hard to try to develop consensus with respect to this issue which is extremely controversial, and I intend to work closely with him on this matter in the days ahead.

Mr. President, despite my reservation about the Coquille Tribal Forest, I believe that, on balance, this is a good bill for Oregon. I also want to say that recognition for our former colleague, Mike Kopetski, is especially appropriate. I recall several years ago when my good friend, Mike Kopetski, first made his pledge to protect Opal Creek. Because Mike showed exceptional vision and leadership, the bill made great progress. I join Senator HATFIELD in saying that because of the work done by former Congressman Kopetski, it has been possible to move this bill towards a reality.

Though this bill is not perfect, through Senator HATFIELD's efforts and wise judgment, there is a bill now before the Senate that will benefit countless Oregonians for generations to come. It remains one of the most important conservation efforts for the State of Oregon put forward in many, many years. I look forward to working closely with our senior Senator to ensure that this bill is signed into law.

Mr. President, I yield the floor.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the substitute amendment be considered and agreed to, the committee amendment be agreed to, as amended, the bill be deemed read a third time, and passed as amended. I withhold.

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

The amendment (No. 5150) was agreed to.

The committee amendment was agreed to.

The bill (S. 1662), as amended was deemed read the third time and passed.

Mr. HATFIELD. Mr. President, on the bill that we have just passed, which is the Oregon Resources Conservation Act of 1996, I would ask unanimous consent to list Senator WYDEN, my colleague, as a cosponsor of this bill.

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

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, we would like to go ahead and get these unanimous-consent agreements done so that the distinguished Democratic leader could go to a very important meeting.

Senator DASCHLE, if I could just say once again—I have told you privately—I want to say publicly, I appreciate the cooperation we have had over the last 3 weeks. We could not get it all done at the end, but I think we made a lot of good progress. And I appreciate your help wherever you could give it. I think we did pretty good overall.

Mr. DASCHLE. Mr. President, if the majority leader would allow me to respond, I want to commend him. He has taken on his responsibilities under very difficult circumstances. I cannot imagine a more challenging way with which to begin your new role than to take on the responsibilities midcourse.

I must say, Mr. President, he has done it in a way that he can be proud. It has been a joy to work with him.

I think we have gotten more done than most people would have expected. I think, in fact, we surprised a few people. And we will continue to do our best to represent our caucuses but also to work to try to represent our country. I look forward to working with him for many months and years to come.

Mr. LOTT. Thank you very much.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. We do have a number of unanimous-consent agreements that we have worked out. We would like to go through these. And some of them are still being worked on as we speak. But we can go ahead and get started.

UNANIMOUS-CONSENT REQUEST—H.R. 3953

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now turn to consideration of H.R. 3953, the House-passed terrorism bill just received from the House.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. 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. DASCHLE. 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. DASCHLE. Mr. President, reserving the right to object, I ask unanimous consent the majority leader modify his consent to provide for passage of the bill as amended by a substitute amendment, providing for roving wiretaps, and requiring taggants for black powder, that the bill be read the third time and passed, and the motion to reconsider be laid upon the table.

Mr. LOTT. Mr. President, I would not be able, at this time, to agree to that addition to the unanimous-consent request.

A lot of good work was done in this area this week. I think they came very, very close to getting an overall agreement, and I thought yesterday afternoon, actually, it was going to be achieved. They did not quite make it. This is something we will have to work on.

I do personally think additional authority should be granted on wiretap. I think a lot of the aviation security matters that are included in this bill are very, very important. I am sorry we could not get it worked out. I think more than anything else, time has run out on us.

However, I have to object to that.

Mr. DASCHLE. Reserving the right to object, I share the view expressed by the majority leader. I was very hopeful at the beginning of this week that we could have concluded our work to provide yet another opportunity to pass a good piece of legislation dealing with a very important matter by the end of this week. That was not possible.

I am disappointed, but we will have to dedicate our effort to ensure that does happen when we get back. I hope we could do it sooner rather than later. I object to this bill.

The PRESIDING OFFICER. The objection is heard.

MEASURE READ FOR THE FIRST TIME—H.R. 3953

Mr. LOTT. Mr. President, in light of the objection, I ask that H.R. 3953 be read for the first time.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3953) to combat terrorism.

Mr. LOTT. Mr. President, I now ask for its second reading, and I believe the Democratic leader would object, so I object on his behalf.

The PRESIDING OFFICER. The objection is heard. The bill will be read on the next legislative day.

NOMINATIONS TO REMAIN IN STATUS QUO UNTIL SEPTEMBER 2, 1996

Mr. LOTT. Mr. President, as in executive session, I ask unanimous consent that all nominations received by the Senate during the 104th Congress, 2d session, remain in status quo notwithstanding the August 2 adjournment until September 2, 1996, and rule XXXI, paragraph 6 of the standing rules of the Senate.

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. LOTT. Mr. President, I ask unanimous consent the Senate immediately proceed to executive session to consider the following nominations: Calendar 384, Charles Hunnicutt, Assistant Secretary of Transportation; Calendar 509, Charles Burton, U.S. Enrichment Corporation; Calendar 510, Christopher Coburn, U.S. Enrichment Corporation; Calendar 710, Thomas Hill Moore, Consumer Product Safety Commission; Calendar 716, Edward McGaffigan, Jr., Nuclear Regulatory Commission; Calendar 717, Nils Diaz, Nuclear Regulatory Commission; I further ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table en bloc, that any statements relating to the nominations appear at the appropriate place in the RECORD, and the President be immediately notified of the Senate's action.

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

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF TRANSPORTATION

Charles A. Hunnicutt, of Georgia, to be an Assistant Secretary of Transportation.

UNITED STATES ENRICHMENT CORPORATION

Charles William Burton, of Texas, to be a Member of the Board of Directors of the United States Enrichment Corporation for a term expiring February 24, 2001.

Christopher M. Coburn, of Ohio, to be a Member of the Board of Directors of the United States Enrichment Corporation for a term expiring February 24, 2000.

CONSUMER PRODUCT SAFETY COMMISSION

Thomas Hill Morre, of Florida, to be a Commissioner of the Consumer Product Safety Commission for a term of seven years from October 26, 1996.

NUCLEAR REGULATORY COMMISSION

Edward McGaffigan, Jr., of Virginia, to be a Member of the Nuclear Regulatory Commission for the term of five years expiring June 30, 2000.

Nils J. Diaz, of Florida, to be a Member of the Nuclear Regulatory Commission for the term of five years expiring June 30, 2001.

NOMINATION OF CHRISTOPHER COBURN

Mr. McCONNELL. Mr. President, I rise in opposition to the nomination of Christopher Coburn to the Board of the U.S. Enrichment Corporation. I believe the nomination of Mr. Coburn to this board would put the Paducah Gaseous Diffusion Plant at a disadvantage in the siting of the Atomic Vapor Laser Isotope Separation [AVLIS] technology.

As a member of the USEC Board, Mr. Coburn will have the responsibility of implementing the privatization of the USEC and charting its future course, including the implementation of the AVLIS technology.

The commercialization of this technology would mean billions of dollars of investment as well as ensuring the continued viability of the U.S. enrichment industry. If I may put the issue in stark, but accurate terms, the USEC's decision about siting AVLIS is more fundamentally a decision about which one of these plants will be able to remain competitive and viable into the next century.

Earlier this year, President Clinton appointed Mr. Coburn to the board because he believed Mr. Coburn was uniquely qualified following his service as the executive director of the Thomas Edison Program and as the science and technology advisor to the Governor of Ohio. It has come to my attention that while serving as the executive director of the Thomas Edison Project, Mr. Coburn developed a proposal to locate the AVLIS technology in Portsmouth, OH.

Mr. President, the placement of Mr. Coburn on the USEC's board at this time would cause serious doubts about the objectivity and fairness of the USEC as it begins to assess which facility should obtain the AVLIS technology. The stakes concerning this decision are so monumental that we cannot allow any inference of bias to infect the process by which that decision is made.

In an effort to protect the interests of the workers employed at the Paducah plant and the economy of western Kentucky I asked the President to withdraw the nomination of the Mr. Corburn. Since the President has ignored my concerns I have tried to block the confirmation of Mr. Coburn.

Unfortunately, I realize the votes are not in my favor. Nonetheless, I will

continue to follow the actions of the Board and Mr. Coburn to ensure that the best interests of the Paducah Gaseous Diffusion Plant are protected.

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 104–28 AND TREATY DOCUMENT NO. 104–29

Mr. LOTT. Mr. President, I ask unanimous consent the injunction of secrecy be removed from two treaties: A Protocol Amending the 1916 Convention for the Protection of Migratory Birds (Treaty Document No. 104–28); and a United Nations Convention to Combat Desertification in Countries Experiencing Drought, Particularly in Africa, with Annexes (Treaty Document No. 104–29); transmitted to the Senate by the President today; and ask that the treaties be considered as having been read the first time; that they be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed and that the President's message be printed in the RECORD.

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

The messages of the President are as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Protocol between the United States and Canada Amending the 1916 Convention for the Protection of Migratory Birds in Canada and the United States, with a related exchange of notes, signed at Washington on December 14, 1995.

The Protocol, which is discussed in more detail in the accompanying report of the Secretary of State, represents a considerable achievement for the United States in conserving migratory birds and balancing the interests of conservationists, sports hunters, and indigenous people. If ratified and properly implemented, the Protocol should further enhance the management and protection of this important resource for the benefit of all users.

The Protocol would replace a protocol with a similar purpose, which was signed January 30, 1979, (Executive W, 96th Cong., 2nd Sess. (1980)), and which I, therefore, desire to withdraw from the Senate.

I recommend that the Senate give early and favorable consideration to the Protocol, with exchange of notes, and give its advice and consent to ratification.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *August 2, 1996*.

To the Senate of the United States:

I transmit herewith, for the advice and consent of the Senate to ratification, the United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa, with Annexes, adopted at Paris, June 17, 1994, and signed by the United States on October 14, 1994. The report of the Department of State is also enclosed for the information of the Senate.

The purpose of the Convention is to combat desertification and mitigate the effects of drought on arid, semi-arid, and dry sub-humid lands through effective action at all levels. In particular, the Convention addresses the fundamental causes of famine and food insecurity in Africa, by stimulating more effective partnership between governments, local communities, non-governmental organizations, and aid donors, and by encouraging the dissemination of information derived from new technology (e.g., early warning of impending drought) to farmers.

The United States has strongly supported the Convention's innovative approach to combatting dryland degradation. I believe it will help Africans and others to make better use of fragile resources without requiring increased development assistance. Ratification by the United States would promote effective implementation of the Convention and is likely to encourage similar action by other countries whose participation would also promote effective implementation.

United States obligations under the Convention would be met under existing law and ongoing assistance programs.

I recommend that the Senate give early and favorable consideration to this Convention and its Annexes, with the declaration described in the accompanying report of the Secretary of State, and give its advice and consent to ratification.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *August 2, 1996*.

TREATIES

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to consider the following treaties on today's Executive Calendar, Executive Calendar Nos. 24 through 35; I further ask unanimous consent that the treaties be considered as having passed through their various parliamentary stages up to and including the presentation of the resolutions of ratification; that all committee provisos, reservations understandings, et cetera, be agreed to; that any statements in regard to these treaties be inserted in the CONGRESSIONAL RECORD as if read; and that the Senate take one vote on the resolutions of ratification to be considered as separate votes; further, that when the resolutions of ratification are voted upon the motion to reconsider be laid upon the table; the President then be notified of the Senate's action and that following disposition of the treaties, the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered. The treaties will be considered to have passed through their various parliamentary stages up to and including the presentation of the resolutions of ratification.

The resolutions of ratification are as follows:

TREATY WITH THE REPUBLIC OF KOREA ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of The Treaty Between the United States of America and the Republic of Korea on Mutual Legal Assistance in Criminal Matters, signed at Washington on November 23, 1993, together with a Related Exchange of Notes signed on the same date. The Senate's advice and consent is subject to the following two provisos, which shall not be included in the instrument of ratification to be signed by the President:

Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

Pursuant to the rights of the United States under this Treaty to deny requests which prejudice its essential public policy or interest, the United States shall deny a request for assistance when the Central Authority, after consultation with all appropriate intelligence, anti-narcotic, and foreign policy agencies, has specific information that a senior government official who will have access to information to be provided under this Treaty is engaged in a felony, including the facilitation of the production or distribution of illegal drugs.

TREATY WITH THE UNITED KINGDOM ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of The Treaty Between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland on Mutual Legal Assistance in Criminal Matters, signed at Washington on January 6, 1994, together with a Related Exchange of Notes signed the same date. The Senate's advice and consent is subject to the following two provisos, which shall not be included in the instrument of ratification to be signed by the President:

Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

Pursuant to the rights of the United States under this Treaty to deny requests which prejudice its essential public policy or interest, the United States shall deny a request for assistance when the Central Authority, after consultation with all appropriate intelligence, anti-narcotic, and foreign policy agencies, has specific information that a senior government official who will have access to information to be provided under this Treaty is engaged in a felony, including the facilitation of the production or distribution of illegal drugs.

TREATY WITH AUSTRIA ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of The Treaty Between the Government of the United States of America and the Government of the Republic of Austria on Mutual Legal Assistance in Criminal Matters, signed at Vienna on February 23, 1995. The Senate's advice and consent is subject to the following two provisos, which shall not be included in the instrument of ratification to be signed by the President:

Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

Pursuant to the rights of the United States under this Treaty to deny requests which prejudice its essential public policy or interest, the United States shall deny a request for assistance when the Central Authority, after consultation with all appropriate intelligence, anti-narcotic, and foreign policy agencies, has specific information that a senior government official who will have access to information to be provided under this Treaty is engaged in a felony, including the facilitation of the production or distribution of illegal drugs.

TREATY WITH HUNGARY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of The Treaty Between the Government of the United States of America and the Government of the Republic of Hungary on Mutual Legal Assistance in Criminal Matters, signed at Budapest on December 1, 1994. The Senate's advice and consent is subject to the following two provisos, which shall not be included in the instrument of ratification to be signed by the President:

Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

Pursuant to the rights of the United States under this Treaty to deny requests which prejudice its essential public policy or interest, the United States shall deny a request for assistance when the Central Authority, after consultation with all appropriate intelligence, anti-narcotic, and foreign policy agencies, has specific information that a senior government official who will have access to information to be provided under this Treaty is engaged in a felony, including the facilitation of the production or distribution of illegal drugs.

TREATY WITH THE PHILIPPINES ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of The Treaty Between the Government of the United States of America and the Government of the Republic of Philippines on Mutual Legal Assistance in Criminal Matters, signed at Manila on November 13, 1994. The Senate's advice and consent is subject to the following two provisos, which shall not be included in the instrument of ratification to be signed by the President:

Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

Pursuant to the rights of the United States under this Treaty to deny requests which prejudice its essential public policy or interest, the United States shall deny a request for assistance when the Central Authority, after consultation with all appropriate intelligence, anti-narcotic, and foreign policy agencies, has specific information that a senior government official who will have access to information to be provided under this Treaty is engaged in a felony, including the facilitation of the production or distribution of illegal drugs.

EXTRADITION TREATY WITH HUNGARY

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of The Treaty Between the Government of the United States of America and The Government of the Republic of Hungary on Extradition, signed at Budapest on December 1, 1994. The Senate's advice and consent is subject to the following proviso, which shall not be included in the instrument of ratification to be signed by the President:

Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

EXTRADITION TREATY WITH BELGIUM

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of The Extradition Treaty Between the United States of America and the Kingdom of Belgium signed at Brussels on April 27, 1987. The Senate's advice and consent is subject to the following proviso, which shall not be included in the instrument of ratification to be signed by the President:

Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

SUPPLEMENTARY EXTRADITION TREATY WITH BELGIUM

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of The Supplementary Treaty on Extradition Between the United States of America and the Kingdom of Belgium to Promote the Repression of Terrorism, signed at Brussels on April 27, 1987. The Senate's advice and consent is subject to the following proviso, which shall not be included in the instrument of ratification to be signed by the President:

Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

EXTRADITION TREATY WITH THE PHILIPPINES

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of The Extradition Treaty Between the Government of the United States of America and the Government of the Republic of the Philippines, signed at Manila on November 13, 1994. The Senate's advice and consent is subject to the following proviso, which shall not be included in the instrument of ratification to be signed by the President:

Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

EXTRADITION TREATY WITH MALAYSIA

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of The Extradition Treaty Between the Government of the United States of America and the Government of the Malaysia, and a Related Exchange of Notes signed at Kuala Lumpur on August 3, 1995. The Senate's advice and consent is subject to the following proviso, which shall not be included in the instrument of ratification to be signed by the President:

Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

EXTRADITION TREATY WITH BOLIVIA

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Extradition Treaty Between the Government of the United States of America and the Government of the Republic of Bolivia, signed at La Paz on June 27, 1995. The Senate's advice and consent is subject to the following proviso, which shall not be included in the instrument of ratification to be signed by the President:

Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

EXTRADITION TREATY WITH SWITZERLAND

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Extradition Treaty Between the Government of the United States of America and the Government of the Swiss Confederation, signed at Washington on November 14, 1990. The Senate's advice and consent is subject to the following proviso, which shall not be included in the instrument of ratification to be signed by the President:

Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

Mr. LOTT. Mr. President, I ask for a division vote on the resolutions of ratification.

The PRESIDING OFFICER. A division is requested. Senators in favor of the resolutions of ratification will rise and stand until counted. (After a pause.) Those opposed will rise and stand until counted.

On a division, two-thirds of the Senators present and voting, having voted in the affirmative, the resolutions of ratification is agreed to.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

CONGRATULATIONS KELLY RIORDAN

Mr. DASCHLE. Mr. President, at the close of business today, the Senate will lose a valued and important part of the Democratic floor staff. Today, Kelly Riordan leaves the Senate to pursue a law degree at the University of Virginia in Charlottesville.

Kelly graduated from Northwestern University and came to the Senate in August of 1989 to work in the mail room for the former Senate majority leader, George Mitchell. She spent much of the following 4 years in Senator Mitchell's office working as a legislative correspondent before she was chosen to join the Democratic floor staff in 1993.

Kelly has never forgotten where she comes from. She was born in Livermore Falls, ME, and worked hard for the people of Maine during her time in Senator Mitchell's office. There is no doubt she has made her parents and her family and her State proud through her work here on the Senate floor.

She has proven herself to be a hard working and loyal part of the Democratic floor staff. She has become a

true friend to many Senators and staff on both sides of the aisle, and we all wish her well as she starts the next chapter of her life.

Congratulations, Kelly.

Mr. LOTT. Mr. President, I join the distinguished minority leader in extending best wishes. Kelly has been a very valuable asset here in the Senate, mostly on the other side of the aisle, but she has a very pleasant personality. I have enjoyed visiting with her on occasion.

AUTHORITY FOR COMMITTEES TO REPORT

Mr. LOTT. Mr. President, I ask unanimous consent the committees have between 11 a.m. and 2 p.m. on Tuesday, August 27, to file legislative or executive reported legislation.

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

UNANIMOUS-CONSENT AGREEMENT—H.R. 3396

The PRESIDING OFFICER. The majority leader is recognized.

Mr. LOTT. Mr. President, we have worked out an agreement on the handling of the Defense of Marriage Act legislation.

Again, we have worked together through a lot of concerns. I think we have a fair agreement here.

I ask unanimous consent that on September 5, 1996, at 10 a.m., the Senate proceed to the consideration of H.R. 3396, the Defense of Marriage Act, and it be considered under the following constraints: I ask that the time for debate on the bill be limited to 2 hours, to be equally divided in the usual form, with 1 additional hour under Senator BYRD's control.

I ask that Senator KENNEDY or his designee be recognized to offer up to four first-degree amendments; that Senator NICKLES or his designee be recognized to offer up to four first-degree amendments; that time on the amendments be limited to 45 minutes equally divided in the usual form, except that on the first Kennedy amendment there be 90 minutes, with no other amendments or motions to refer in order; that at the conclusion or yielding back of time, the Senate vote on each amendment; provided further that Senator KENNEDY be recognized to offer the first amendment; and that the amendments be in order notwithstanding the adoption of a previous amendment.

I further ask unanimous consent that the amendments be submitted to each leader by 5 p.m. on Tuesday, September 3, and that they be printed in the RECORD; provided further that either leader, following review of the submitted amendments, may void this agreement after notification, prior to 5 p.m. on Wednesday, September 4, 1996; that following disposition of all the amendments, the bill be read for a third time.

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

Mr. LOTT. Mr. President, I yield the floor.

UNANIMOUS-CONSENT AGREEMENT—S. 39

Mr. STEVENS. Mr. President, I do thank the leader. I do now wish to propound a unanimous-consent agreement for Calendar No. 422, which is S. 39, the Sustainable Fisheries Act.

I ask unanimous consent that, on Wednesday, September 4, 1996, or thereafter at a time to be determined by the majority leader after consultation with the Democratic leader, the Senate turn to the immediate consideration of S. 39, Calendar 422, an act to amend the Magnuson Fishery Conservation and Management Act, that debate on the bill be limited to 1 hour equally divided in the usual form, and only the following amendments be in order to the bill: The committee substitute, a manager's amendment to be offered by me, Senator STEVENS, an amendment to be offered by Senator HOLLINGS, an amendment to be offered by Senator KERRY, up to two amendments to be offered by Senator MURRAY, up to two amendments to be offered by Senator WYDEN, and up to four amendments to be offered by Senator SNOWE.

There shall be no more than 30 minutes, equally divided, on any one of the first- or second-degree amendments; the committee substitute shall be considered original text for the purpose of the other amendments; only relevant second-degree amendments shall be in order to the amendments by Senators HOLLINGS, KERRY, MURRAY, SNOWE, and WYDEN; no other amendments, first or second degree, shall be in order; all amendments shall be relevant to S. 39; that the time on second-degree amendments be limited to 30 minutes each.

Further I ask all points of order be waived and no other motions be in order to this bill.

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

Mr. STEVENS. Thank you very much. I am indebted to all the Senators involved. Mr. President, I do believe this will be one of the most significant acts passed by this Congress. It is a very significant thing as far as my State and all coastal States are concerned. I am grateful to all concerned who have labored so hard today to get this agreement so we can proceed with this in September.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

IMPACT AID TECHNICAL AMENDMENTS ACT OF 1996

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 392, H.R. 3269.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3269) to amend the Impact Aid program to provide for a hold-harmless with respect to amounts for payments relating to the Federal acquisition of real property, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 5155

(Purpose: To amend the Impact Aid program.)

Mr. STEVENS. Mr. President, there is a substitute amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mrs. KASSEBAUM, for herself, Mr. PRESSLER, Mr. D'AMATO, Mr. KERREY, Mr. MOYNIHAN, Mr. SIMPSON and Mrs. FRAHM, proposes an amendment numbered 5155.

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

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

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

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

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

The amendment (No. 5155) was agreed to.

Mr. PRESSLER. Mr. President, I am proud to be a cosponsor of H.R. 3269, a bill to make technical corrections in the law that governs the Impact Aid Program. This bill represents the culmination of months of hard work. I would like to thank the Chair of the Labor and Human Resources Committee, Senator KASSEBAUM for her diligent work in bringing this extremely important bill to the floor. Her efforts helped to ensure that federally impacted schools will get the financial assistance they deserve and need.

Impact Aid is an important program for many schools. Impact Aid is a Federal responsibility. The program reimburses school districts that lost tax base due to a Federal presence, such as a military base or Indian reservation. This program provides funds for day-to-day school operations, such as buying books and paying teachers. These are not special funds for extra projects. This is a program based on the basic principle of fairness. We should fund the basics of education before we spend money on extra programs.

The expeditious passage of this bill today would ensure that many Federally impacted schools will have the funds needed to keep their doors open, literally, this fall. School districts depend on Impact Aid for basic operating expenses. This bill would ensure that payments are made in a timely manner.

I am particularly concerned about Section 2 of the Impact Aid program as

it pertains to two school districts in South Dakota. Specifically, without passage of this critical bill, two South Dakota schools, Bonesteel-Fairfax and Wagner, could stand to lose together almost $1 million. That must not be allowed to happen. Essentially, the bill before us would allow these school districts to claim eligibility under Section 8003. The Bonesteel-Fairfax and Wagner districts were in fact eligible for Impact Aid funds, but were unaware of their eligibility because of a change in the Federal statute. Unfortunately, the Department of Education could not allow these districts to amend their applications. Consequently, they were denied funds that they deserved due to the simple error of not checking the proper eligibility box. This bill would correct this situation and provide these districts the opportunity to reapply for Impact Aid funds. As always, I will fight to see that both these schools and all other federally impacted schools in South Dakota get the funding they need under the Impact Aid program. This is the fair thing to do. It was not the intention of Congress to deny schools funds due to administrative errors or technical oversights. Quite simply, this is a fairness issue.

The bill before us would not create new criteria to implement the intent of Congress. These technical corrections permit the Department of Education to administer the Impact Aid program consistent with the intent of Congress. The technical amendments provide recourse for the schools to receive funds to which they are entitled under the intent of the law.

I am pleased that we are taking action on this legislation. The schools that would benefit from this bill need and deserve the assistance. The Federal Government has placed these schools in a very difficult position, through no fault of their own. That's why impact aid must remain a top Federal responsibility.

Unfortunately, getting this bill through has not been easy, in part because the current administration does not have its priorities straight. For the fourth consecutive year, the Clinton administration's budget called for the Federal Government to lessen its commitment to impact aid. For the next year, the Clinton administration requested only $617 million for impact aid. It recommended the elimination of payments for Federal lands. This means 23 South Dakota school districts would not have been eligible for Federal funds. That is wrong. How can President Clinton claim he is the education President when his budgets would deny the most basic needs to schools in South Dakota? Federally impacted districts and the children they serve cannot withstand further reductions in the program.

It is my understanding that the President will not sign this legislation, but allow it to become law. This is yet another indication of the administration's hostility to the Impact Aid Program. Obtaining the appropriate level of funding is a struggle every year. There will be more battles over impact aid funding. I'm ready. I will continue to fight for our Nation's children and federally impacted school districts. This is my commitment to those schools and the familes they serve.

Again, I thank the chair of the Labor and Human Resources Committee, its ranking member and their counterparts in the House for their good work to get this bill through Congress and to the President. This bill enjoys widespread, bipartisan support. With the support of my colleagues, we can fulfill our legislative responsibility to federally impacted school districts and pass this impact aid technical corrections.

Mr. STEVENS. Mr. President, I ask unanimous consent that the bill be deemed read the third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be placed at the appropriate place in the RECORD.

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

The bill (H.R. 3269) was deemed read the third time and passed, as amended.

BANKRUPTCY TECHNICAL CORRECTIONS ACT OF 1996

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar No. 434, S. 1559.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1559) to make technical corrections to title 11, United States Code, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

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 ''Bankruptcy Technical Corrections Act of 1996''.

SEC. 2. DEFINITIONS.

Section 101 of title 11, United States Code, is amended—

(1) by striking ''In this title—'' and inserting ''In this title:'';

(2) in paragraph (51B)—

(A) by inserting ''family farms or'' after ''other than''; and

(B) by striking all after ''thereto'' and inserting a semicolon;

(3) by reordering the paragraphs so that the terms defined in the section are in alphabetical order and redesignating the paragraphs accordingly;

(4) in paragraph (37)(B) (defining insured depository institution), as redesignated by paragraph (3) of this section, by striking ''paragraphs (21B) and (33)(A)'' and inserting ''paragraphs (23) and (35)(A)'';

(5) in each paragraph, by inserting a heading, the text of which is comprised of the term defined in the paragraph;

(6) by inserting ''The term'' after each paragraph heading; and

(7) by striking the semicolon at the end of each paragraph and ''; and'' at the end of paragraphs (35) and (38) and inserting a period.

SEC. 3. ADJUSTMENT OF DOLLAR AMOUNTS.

Section 104 of title 11, United States Code, is amended by inserting ''522(f)(3),'' after ''522(d),'' each place it appears.

SEC. 4. COMPENSATION TO OFFICERS.

Section 330(a) of title 11, United States Code, is amended—

(1) in paragraph (1), by inserting '', or the debtor's attorney'' after ''1103''; and

(2) in paragraph (3), by striking ''(3)(A) In'' and inserting ''(3) In''.

SEC. 5. EFFECT OF CONVERSION.

Section 348(f)(2) of title 11, United States Code, is amended by inserting ''of the estate'' after ''property'' the first place it appears.

SEC. 6. EXECUTORY CONTRACTS AND UNEXPIRED LEASES.

Section 365 of title 11, United States Code, is amended—

(1) in subsection (c)—

(A) in paragraph (2), by adding ''or'' at the end;

(B) in paragraph (3), by striking ''or'' at the end and inserting a period; and

(C) by striking paragraph (4);

(2) in subsection (d), by striking paragraphs (5) through (9); and

(3) in subsection (f)(1), by striking ''; except that'' and all that follows through the end of the paragraph and inserting a period.

SEC. 7. ALLOWANCE OF ADMINISTRATIVE EXPENSES.

Section 503(b)(4) of title 11, United States Code, is amended by inserting ''subparagraph (A), (B), (C), (D), or (E) of'' before ''paragraph (3)''.

SEC. 8. PRIORITIES.

Section 507(a)(7) of title 11, United States Code, is amended by inserting ''unsecured'' after ''allowed''.

SEC. 9. EXEMPTIONS.

Section 522 of title 11, United States Code, is amended—

(1) in each of subsections (b)(1) and (d)(10)(E), by striking ''unless'' and inserting ''but only to the extent that'';

(2) in subsection (f)(1)(A)(ii)(II), by striking ''support.;'' and inserting ''support;''; and

(3) in subsection (g)(2), by striking ''subsection (f)(2)'' and inserting ''subsection (f)(1)(B)''.

SEC. 10. EXCEPTIONS TO DISCHARGE.

Section 523(a)(3) of title 11, United States Code, is amended by striking ''or (6)'' each place it appears and inserting ''(6), or (15)'';

SEC. 11. PROTECTION AGAINST DISCRIMINATORY TREATMENT.

Section 525(c) of title 11, United States Code, is amended—

(1) in paragraph (1), by inserting ''student'' before ''grant'' the second place it appears; and

(2) in paragraph (2), by striking ''the program operated under part B, D, or E of'' and inserting ''any program operated under''.

SEC. 12. PROPERTY OF THE ESTATE.

Section 541(b)(4)(B)(ii) of title 11, United States Code (as added by section 208(b) of the Bankruptcy Reform Act of 1994), is amended by inserting ''365 or'' before ''542''.

SEC. 13. LIMITATIONS ON AVOIDING POWERS.

Subsection (g) of section 546 of title 11, United States Code, as added by section 222(a) of the Bankruptcy Reform Act of 1994 (108 Stat. 4129), is redesignated as subsection (h).

SEC. 14. LIABILITY OF TRANSFEREE OF AVOIDED TRANSFER.

(a) IN GENERAL.—Section 550(c) of title 11, United States Code, is amended—

(1) in paragraph (1), by striking ''avoided under section 547(b)'' and inserting ''avoidable under section 547''; and

(2) in the matter following paragraph (2), by striking ''recover under subsection (a) from a transferee that is not an insider'' and inserting ''avoid under section 547 such transfer, to the extent that such transfer was made for the benefit of a transferee that was not an insider at the time of such transfer, or recover under subsection (a) from a transferee that was not an insider at the time of such transfer''.

(b) CONFORMING AMENDMENT.—Section 547(b) of title 11, United States Code, is amended by inserting ''or in section 550(c) of this title'' after ''subsection (c) of this section''.

SEC. 15. SETOFF.

Section 553(b)(1) is amended by striking ''362(b)(14)'' and inserting ''362(b)(17)''.

SEC. 16. DISPOSITION OF PROPERTY OF THE ESTATE.

Section 726(b) is amended by striking ''1009,''.

SEC. 17. GENERAL PROVISIONS.

Section 901(a) of title 11, United States Code, is amended by inserting ''1123(d),'' after ''1123(b),''.

SEC. 18. PAYMENTS.

Section 1226(b)(2) is amended—

(1) by striking ''1202(c) of this title'' and inserting ''586(b) of title 28''; and

(2) by striking ''1202(d) of this title'' and inserting ''586(e)(1)(B) of title 28''.

SEC. 19. DISCHARGE.

Section 1228 of title 11, United States Code, is amended by striking ''1222(b)(10)'' each place it appears and inserting ''1222(b)(9)''.

SEC. 20. CONTENTS OF PLAN.

Section 1322 of title 11, United States Code, is amended—

(1) in subsection (b), by striking ''(c)'' and inserting ''(d)''; and

(2) in subsection (e), by striking the comma after ''default'' the second place it appears.

SEC. 21. DISCHARGE.

Section 1328(a) of title 11, United States Code, is amended by striking all after ''except any debt—'' and inserting the following:

''(1) provided for under section 1322(b)(5) of this title;

''(2) of the kind specified in paragraph (5), (8), or (9) of section 523(a) of this title; or

''(3) for restitution, or a criminal fine, included in a sentence on the debtor's conviction of a crime.''.

SEC. 22. BANKRUPTCY REVIEW COMMISSION.

Section 604 of the Bankruptcy Reform Act of 1994 (108 Stat. 4147) is amended—

(1) by striking subsection (g); and

(2) by redesignating subsection (h) as subsection (g).

SEC. 23. APPOINTMENT OF TRUSTEE.

Section 1104(b) of title 11, United States Code, is amended—

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

(2) by adding at the end the following new paragraph:

''(2)(A) If an eligible, disinterested trustee is elected at a meeting of creditors under paragraph (1), the United States trustee shall file a report certifying that election. Upon the filing of a report under the preceding sentence—

''(i) the trustee elected under paragraph (1) shall be considered to have been selected and appointed for purposes of this section; and

''(ii) the service of any trustee appointed under subsection (d) shall terminate.

''(B) In the case of any dispute arising out of an election under subparagraph (A), the court shall resolve the dispute.''.

SEC. 24. EXTENSIONS.

Section 302(d)(3) of the Bankruptcy, Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note) is amended—

(1) in subparagraph (A), in the matter following clause (ii), by striking ''October 1, 2002'' and inserting ''October 1, 2012''; and

(2) in subparagraph (F)—

(A) in clause (i)—

(i) in subclause (II), by striking ''October 1, 2002'' and inserting ''October 1, 2012''; and

(ii) in the matter following subclause (II), by striking ''October 1, 2003'' and inserting ''October 1, 2013''; and

(B) in clause (ii), in the matter following subclause (II), by striking ''October 1, 2003'' and inserting ''October 1, 2013''.

SEC. 25. KNOWING DISREGARD OF BANKRUPTCY LAW OR RULE.

Section 156(a) of title 18, United States Code, is amended by striking ''case under this title'' and inserting ''case under title 11''.

SEC. 26. BANKRUPTCY CASES AND PROCEEDINGS.

Section 1334(d) of title 28, United States Code, is amended—

(1) by striking ''made under this subsection'' and inserting ''made under subsection (c)''; and

(2) by striking ''This subsection'' and inserting ''Subsection (c)''.

SEC. 27. EFFECTIVE DATE OF AMENDMENTS.

(a) IN GENERAL.—Except as provided in subsection (b) of this section, the amendments made by this Act shall apply to all cases pending on the date of enactment of this Act or commenced on or after the date of enactment of this Act.

(b) EXCEPTION.—The amendment made by section 2(2)(B) of this Act shall apply to all cases commenced on or after the date of enactment of this Act.

AMENDMENTS NOS. 5151, 5152, 5153, AND 5154, EN BLOC

Mr. STEVENS. Mr. President, there are four amendments at the desk offered by Senators HEFLIN, GRASSLEY, KOHL, and COVERDELL. I ask that the amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes amendments numbered 5151, 5152, 5153, and 5154, en bloc.

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

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

The amendments are as follows:

AMENDMENT NO. 5151

(Purpose: To make technical changes)

On page 9 of the Committee amendment, strike lines 11 through 17 and insert the following:

(1) in subsection (f)(1)(A)—

(A) in the matter preceding clause (i), by striking ''; or'' at the end; and

(B) in clause (ii), by striking the period at the end and inserting ''; or''; and

(2) in subsection (g)(2), by striking ''subsection (f)(2)'' and inserting ''subsection (f)(1)(B)''.

AMENDMENT NO. 5152

(Purpose: To bolster criminal law enforcement of child support orders in cases involving bankruptcy proceedings)

At the appropriate place in the Committee amendment, insert the following new section:

SEC. . ENFORCEMENT OF CHILD SUPPORT.

Section 362(b)(1) of title 11, United States Code, is amended by inserting before the semicolon the following: ''(including the criminal enforcement of a judicial order requiring the payment of child support)''.

AMENDMENT NO. 5153

At the appropriate place, insert the following new section:

SEC. . LIMITATION.

Section 522 of title 11, United States Code, as amended by section 9, is further amended—

(1) in subsection (b)(2)(A), by inserting ''subject to subsection (n),'' before ''any property''; and

(2) by adding at the end the following new subsection:

''(n) As a result of electing under subsection (b)(2)(A) to exempt property under State or local law, a debtor may not exempt an aggregate interest of more than $500,000 in value in—

''(1) real or personal property that the debtor or a dependent of the debtor uses as a residence;

''(2) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence; or

''(3) a burial plot for the debtor or a dependent of the debtor.''.

AMENDMENT NO. 5154

(Purpose: To amend Title 11 of the United States Code)

SECTION 1.

''Section 27'', on page 15, line 3, is redesignated ''Section 28''.

SEC. 2.

On page 15, line 3 insert the following:

''SEC. 27. STANDING TRUSTEES.

(a) Section 330 of Title 11 of the United States Code is amended by adding to the end thereof the following:

''(e) Upon the request of a trustee appointed under Section 586(b) of Title 28, and after all available administrative remedies have been exhausted, the district court in the district in which the trustee resides shall have the exclusive authority, notwithstanding Section 326(b) of this title, to review the determination of the actual, necessary expenses of the standing trustee. In reviewing the determination, the district court shall accord substantial deference to the determination made by the Attorney General, and may reverse the determination only if the Attorney General has abused his or her discretion.''

(b) Section 324 of Title 11, United States Code, is amended by adding to the end thereof the following:

''(c)(1) Notwithstanding any provision of Section 586 of Title 28, in the event the United States Trustee ceases assigning cases to a trustee appointed under Section 586(b) of Title 28, the trustee, after exhausting all available administrative remedies, may seek judicial review of the decision in the district court in the district in which the trustee resides. The district court shall accord substantial deference to the determination made by the United States Trustee, and may reverse the determination only if the United States Trustee has abused his or her discretion.''

''(2) Notwithstanding any other provision of law, the district court may order interim relief under this paragraph only if the court concludes, viewing all facts most favorably to the United States Trustee, that there was no basis for the United States Trustee's decision to cease assigning cases to the trustee. The denial of a request for interim relief shall be final and shall not be subject to further review.''

Mr. STEVENS. Mr. President, I ask unanimous consent that the amendments be considered agreed to, en bloc.

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

The amendments (Nos. 5151, 5152, 5153, and 5154) were agreed to, en bloc.

Mr. STEVENS. Mr. President, I ask unanimous consent that the committee

substitute be agreed to, the bill be deemed read the third time and passed, as amended, the motion to reconsider be laid upon the table, and any statements relating to the bill appear at the appropriate place in the RECORD.

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

The bill (S. 1559), as amended, was deemed read the third time and passed.

(The text of the bill will be printed in a future edition of the RECORD.)

REAUTHORIZATION OF THE INDIAN ENVIRONMENTAL GENERAL ASSISTANCE PROGRAM ACT

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar No. 544, S. 1834.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1834) to reauthorize the Indian Environmental General Assistance Program Act of 1992, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. STEVENS. Mr. President, I ask unanimous consent that the bill be deemed read a third time, passed, the motion to reconsider be laid upon the table, and any statements relating to the bill appear at the appropriate place in the RECORD.

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

The bill (S. 1834) was deemed read the third time and passed, as follows:

S. 1834

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

SECTION 1. REAUTHORIZATION.

Section 502(h) of the Indian Environmental General Assistance Program Act of 1992 (42 U.S.C. 4368b(h)) is amended by striking ''$15,000,000'' and inserting ''such sums as may be necessary''.

FEDERAL FINANCIAL MANAGEMENT IMPROVEMENT ACT OF 1996

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar No. 548, S. 1130.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1130) to provide for the establishment of uniform accounting systems, standards and reporting systems in the Federal Government, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Governmental Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Federal Financial Management Improvement Act of 1996''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds the following:

(1) Much effort has been devoted to strengthening Federal internal accounting controls in the past. Although progress has been made in recent years, Federal accounting standards have not been uniformly implemented in financial management systems for agencies.

(2) Federal financial management continues to be seriously deficient, and Federal financial management and fiscal practices have failed to—

(A) identify costs fully;

(B) reflect the total liabilities of congressional actions; and

(C) accurately report the financial condition of the Federal Government.

(3) Current Federal accounting practices do not accurately report financial results of the Federal Government or the full costs of programs and activities. The continued use of these practices undermines the Government's ability to provide credible and reliable financial data and encourages already widespread Government waste, and will not assist in achieving a balanced budget.

(4) Waste and inefficiency in the Federal Government undermine the confidence of the American people in the Government and reduce the Federal Government's ability to address vital public needs adequately.

(5) To rebuild the accountability and credibility of the Federal Government, and restore public confidence in the Federal Government, agencies must incorporate accounting standards and reporting objectives established for the Federal Government into their financial management systems so that all the assets and liabilities, revenues, and expenditures or expenses, and the full costs of programs and activities of the Federal Government can be consistently and accurately recorded, monitored, and uniformly reported throughout the Federal Government.

(6) Since its establishment in October 1990, the Federal Accounting Standards Advisory Board (hereinafter referred to as the ''FASAB'') has made substantial progress toward developing and recommending a comprehensive set of accounting concepts and standards for the Federal Government. When the accounting concepts and standards developed by FASAB are incorporated into Federal financial management systems, agencies will be able to provide cost and financial information that will assist the Congress and financial managers to evaluate the cost and performance of Federal programs and activities, and will therefore provide important information that has been lacking, but is needed for improved decisionmaking by financial managers and the Congress.

(7) The development of financial management systems with the capacity to support these standards and concepts will, over the long term, improve Federal financial management.

(b) PURPOSES.—The purposes of this Act are to—

(1) provide for consistency of accounting by an agency from one fiscal year to the next, and uniform accounting standards throughout the Federal Government;

(2) require Federal financial management systems to support full disclosure of Federal financial data, including the full costs of Federal programs and activities, to the citizens, the Congress, the President, and agency management, so that programs and activities can be considered based on their full costs and merits;

(3) increase the accountability and credibility of Federal financial management;

(4) improve performance, productivity and efficiency of Federal Government financial management;

(5) establish financial management systems to support controlling the cost of Federal Government;

(6) build upon and complement the Chief Financial Officers Act of 1990 (Public Law 101–576; 104 Stat. 2838), the Government Performance and Results Act of 1993 (Public Law 103–62; 107 Stat. 285), and the Government Management Reform Act of 1994 (Public Law 103–356; 108 Stat. 3410); and

(7) increase the capability of agencies to monitor execution of the budget by more readily permitting reports that compare spending of resources to results of activities.

SEC. 3. IMPLEMENTATION OF FEDERAL FINANCIAL MANAGEMENT IMPROVEMENTS.

(a) IN GENERAL.—Each agency shall implement and maintain financial management systems that comply with Federal financial management systems requirements, applicable Federal accounting standards, and the United States Government Standard General Ledger at the transaction level.

(b) PRIORITY.—Each agency shall give priority in funding and provide sufficient resources to implement this Act.

(c) AUDIT COMPLIANCE FINDING.—

(1) IN GENERAL.—Each audit required by section 3521(e) of title 31, United States Code, shall report whether the agency financial management systems comply with the requirements of subsection (a).

(2) CONTENT OF REPORTS.—When the person performing the audit required by section 3521(e) of title 31, United States Code, reports that the agency financial management systems do not comply with the requirements of subsection (a), the person performing the audit shall include in the report on the audit—

(A) the name and position of any officer or employee responsible for the financial management systems that have been found not to comply with the requirements of subsection (a);

(B) all facts pertaining to the failure to comply with the requirements of subsection (a), including—

(i) the nature and extent of the noncompliance;

(ii) the primary reason or cause of the noncompliance;

(iii) any official responsible for the noncompliance; and

(iv) any relevant comments from any responsible officer or employee; and

(C) a statement with respect to the recommended remedial actions and the timeframes to implement such actions.

(d) COMPLIANCE DETERMINATION.—

(1) IN GENERAL.—No later than the date described under paragraph (2), the Director, acting through the Controller of the Office of Federal Financial Management, shall determine whether the financial management systems of an agency comply with the requirements of subsection (a). Such determination shall be based on—

(A) a review of the report on the applicable agency-wide audited financial statement;

(B) the agency comments on such report; and

(C) any other information the Director considers relevant and appropriate.

(2) DATE OF DETERMINATION.—The determination under paragraph (1) shall be made no later than 90 days after the earlier of—

(A) the date of the receipt of an agency-wide audited financial statement; or

(B) the last day of the fiscal year following the year covered by such statement.

(e) COMPLIANCE IMPLEMENTATION.—

(1) IN GENERAL.—If the Director determines that the financial management systems of an agency do not comply with the requirements of subsection (a), the head of the agency, in consultation with the Director, shall establish a remediation plan that shall include the resources, remedies, and intermediate target dates necessary to bring the agency's financial management systems into compliance.

(2) TIME PERIOD FOR COMPLIANCE.—A remediation plan shall bring the agency's financial management systems into compliance no later

than 2 years after the date on which the Director makes a determination under paragraph (1), unless the agency, with concurrence of the Director—

(A) determines that the agency's financial management systems are so deficient as to preclude compliance with the requirements of subsection (a) within 2 years;

(B) specifies the most feasible date for bringing the agency's financial management systems into compliance with the requirements of subsection (a); and

(C) designates an official of the agency who shall be responsible for bringing the agency's financial management systems into compliance with the requirements of subsection (a) by the date specified under subparagraph (B).

(3) TRANSFER OF FUNDS FOR CERTAIN IMPROVEMENTS.—For an agency that has established a remediation plan under paragraph (2), the head of the agency, to the extent provided in an appropriation and with the concurrence of the Director, may transfer not to exceed 2 percent of available agency appropriations to be merged with and to be available for the same period of time as the appropriation or fund to which transferred, for priority financial management system improvements. Such authority shall be used only for priority financial management system improvements as identified by the head of the agency, with the concurrence of the Director, and in no case for an item for which Congress has denied funds. The head of the agency shall notify Congress 30 days before such a transfer is made pursuant to such authority.

(4) REPORT IF NONCOMPLIANCE WITHIN TIME PERIOD.—If an agency fails to bring its financial management systems into compliance within the time period specified under paragraph (2), the Director shall submit a report of such failure to the Committees on Governmental Affairs and Appropriations of the Senate and the Committees on Government Reform and Oversight and Appropriations of the House of Representatives. The report shall include—

(A) the name and position of any officer or employee responsible for the financial management systems that have been found not to comply with the requirements of subsection (a);

(B) the facts pertaining to the failure to comply with the requirements of subsection (a), including the nature and extent of the noncompliance, the primary reason or cause for the failure to comply, and any extenuating circumstances;

(C) a statement of the remedial actions needed; and

(D) a statement of any administrative action to be taken with respect to any responsible officer or employee.

(f) PERSONAL RESPONSIBILITY.—Any financial officer or program manager who knowingly and willfully commits, permits, or authorizes material deviation from the requirements of subsection (a) may be subject to administrative disciplinary action, suspension from duty, or removal from office.

SEC. 4. APPLICATION TO CONGRESS AND THE JUDICIAL BRANCH.

(a) IN GENERAL.—The Federal financial management requirements of this Act may be adopted by—

(1) the Senate by resolution as an exercise of the rulemaking power of the Senate;

(2) the House of Representatives by resolution as an exercise of the rulemaking power of the House of Representatives; or

(3) the Judicial Conference of the United States by regulation for the judicial branch.

(b) STUDY AND REPORT.—No later than October 1, 1997—

(1) the Secretary of the Senate and the Clerk of the House of Representatives shall jointly conduct a study and submit a report to Congress on how the offices and committees of the Senate and the House of Representatives, and all offices and agencies of the legislative branch may achieve compliance with financial management and accounting standards in a manner comparable to the requirements of this Act; and

(2) the Chief Justice of the United States shall conduct a study and submit a report to Congress on how the judiciary may achieve compliance with financial management and accounting standards in a manner comparable to the requirements of this Act.

SEC. 5. REPORTING REQUIREMENTS.

(a) REPORTS BY DIRECTOR.—No later than March 31 of each year, the Director shall submit a report to the Congress regarding implementation of this Act. The Director may include the report in the financial management status report and the 5-year financial management plan submitted under section 3512(a)(1) of title 31, United States Code.

(b) REPORTS BY THE COMPTROLLER GENERAL.—No later than October 1, 1997, and October 1, of each year thereafter, the Comptroller General of the United States shall report to the appropriate committees of the Congress concerning—

(1) compliance with the requirements of section 3(a) of this Act, including whether the financial statements of the Federal Government have been prepared in accordance with applicable accounting standards; and

(2) the adequacy of uniform accounting standards for the Federal Government.

SEC. 6. CONFORMING AMENDMENTS.

(a) AUDITS BY AGENCIES.—Section 3521(f)(1) of title 31, United States Code, is amended in the first sentence by inserting ''and the Controller of the Office of Federal Financial Management'' before the period.

(b) FINANCIAL MANAGEMENT STATUS REPORT.—Section 3512(a)(2) of title 31, United States Code, is amended by—

(1) in subparagraph (D) by striking ''and'' after the semicolon;

(2) by redesignating subparagraph (E) as subparagraph (F); and

(3) by inserting after subparagraph (D) the following:

''(E) a listing of agencies whose financial management systems do not comply substantially with the requirements of the Federal Financial Management Improvement Act of 1996, the period of time that such agencies have not been in compliance, and a summary statement of the efforts underway to remedy the noncompliance; and''.

SEC. 7. DEFINITIONS.

For purposes of this Act:

(1) AGENCY.—The term ''agency'' means a department or agency of the United States Government as defined in section 901(b) of title 31, United States Code.

(2) DIRECTOR.—The term ''Director'' means the Director of the Office of Management and Budget.

(3) FEDERAL ACCOUNTING STANDARDS.—The term ''Federal accounting standards'' means applicable accounting principles, standards, and requirements consistent with section 902(a)(3)(A) of title 31, United States Code, and includes concept statements with respect to the objectives of Federal financial reporting.

(4) FINANCIAL MANAGEMENT SYSTEMS.—The term ''financial management systems'' includes the financial systems and the financial portions of mixed systems necessary to support financial management, including automated and manual processes, procedures, controls, data, hardware, software, and support personnel dedicated to the operation and maintenance of system functions.

(5) FINANCIAL SYSTEM.—The term ''financial system'' includes an information system, comprised of one or more applications, that is used for—

(A) collecting, processing, maintaining, transmitting, or reporting data about financial events;

(B) supporting financial planning or budgeting activities;

(C) accumulating and reporting costs information; or

(D) supporting the preparation of financial statements.

(6) MIXED SYSTEM.—The term ''mixed system'' means an information system that supports both financial and nonfinancial functions of the Federal Government or components thereof.

SEC. 8. EFFECTIVE DATE.

This Act shall take effect on October 1, 1996.

Mr. BROWN. Mr. President, several years ago, in an effort to identify excess spending in the federal budget, I inquired as to overhead costs in federal programs. I was advised that the federal accounting system makes it impossible to identify overhead expenses for most federal operations. The Federal Government, it turned out, has over two hundred separate primary accounting systems, making it impossible to compare something as basic as overhead costs.

Worse, many of these systems are shamefully inadequate even on their own terms. A 1995 General Accounting Office report reveals that the Pentagon made more than $400 billion in adjustments to correct errors in defense reporting data for fiscal years 1991 to 1993—and the resulting statements still were not reliable. The Pentagon paid vendors $29 billion that could not be matched with supporting documents to determine if these payments were proper. The Pentagon made an estimated $3 million in fraudulent payments to a former Navy supply officer for more than 100 false invoice claims, and approximately $8 million in Army payroll payments were made to unauthorized persons, including six ''ghost'' soldiers and 76 deserters.

The Internal Revenue Service offers another disturbing example of poor financial management and its consequences. The General Accounting Office testified before the Governmental Affairs Committee on June 6, 1996 that despite years of criticism, ''fundamental, persistent problems remain uncorrected'' at the IRS. For example, the IRS cannot substantiate the amounts reported for specific types of taxes collected, such as social security taxes, income taxes, and excise taxes. The IRS cannot even verify a significant portion of its own nonpayroll operating expenses, which total $3 billion. One can hardly resist observing that this is the agency that demands precision from every taxpayer in America.

The General Accounting Office also reports that the Medicare program is undermined by flawed payment policies, weak billing controls and inconsistent program management. Instances of fraud and abuse abound in the $190 billion program. In a January 1996 report, GAO detailed a long list of frauds. They include a $4.3 million overpayment to a company providing heart monitoring services as well as 4,000 fraudulent claims by a Medicare supplier totaling approximately $1.5 million. GAO discovered that frauds like these are perpetrated on a vast scale; one recently uncovered was operating across 20 states. The GAO report

locates the root of the problem in financial management: ''[O]ur work shows that outlandish charges or very large reimbursements routinely escape the controls and typically go unquestioned.'' Even when fraudulent billing is discovered, Medicare usually has paid out the money and rarely acts effectively to recover it.

Together the Department of Defense, the IRS, and the Medicare Program are just a small part of a government so massive and complex that it controls and directs cash resources of almost $2 trillion per year, issuing 900 million checks and maintaining a payroll and benefits system for over 5 million government employees. Clearly it is imperative that the government use a uniform and widely accepted set of accounting standards across the hundreds of agencies and departments that make up this government.

Today we are taking a great step toward putting Federal financial management in order. The Federal Financial Management Improvement Act of 1996 requires that all Federal agencies implement and maintain uniform accounting standards. The result will be more accurate and reliable information for program managers and leaders in Congress, meaning better decisions will be made: tax dollars will be put to better use, and a measure of confidence in the government will be restored. While this is not the kind of legislation that makes headlines, it is of great significance and I am proud that the Senate has passed it. I am very grateful to Senator STEVENS for steering the bill through his Committee.

Mr. GLENN. Mr. President, over the last 6 years, we have enacted several laws to improve Federal agency financial management. The Chief Financial Officers Act of 1990 put into place the first requirements for agencies to prepare annual audited financial statements. These requirements were strengthened by the Government Management Reform Act of 1994, and now all the major agencies are covered by the CFO Act requirements.

In oversight hearings conducted by the Governmental Affairs Committee, both when I was Chair and now as Ranking Minority Member, we have seen how these laws are making significant improvements in agency financial management. Unfortunately, we also have seen that many agencies still have a ways to go to make the necessary reforms.

The legislation before us today, the ''Federal Financial Management Improvement Act'' (S. 1130), which I cosponsored, helps agencies go those final miles to put into place necessary financial management systems and provide real accountability for the expenditure of public funds.

The legislation addresses the financial management systems that are needed to provide financial accountability. Annual financial statements will not do it alone, if agencies do not have the systems or personnel in place to account for their financial operations. Accordingly, the bill requires agencies to comply with applicable accounting standards and systems requirements.

The legislation further requires auditors to identify agencies with deficient financial management systems. This puts added teeth in the CFO Act financial statement process, and will lead to practical remediation steps, to be overseen by OMB. I am concerned, however, that the legislation's requirements for auditors to identify officials responsible for agency financial systems may have the untoward consequence of intimidating our civil servants.

If this requirement is used to identify specific decisions that have frustrated the development of needed financial management reforms, it will be a success. It will also be a success if it creates incentives for improved training for financial management personnel. If, however, it is used to unfairly blame managers who are constrained by resource or policy decisions made above them, whether in the agency or by Congress, then we will have to revisit this requirement. At this point, however, I believe that on balance the time has come to demand more accountability from our agencies and agency officials for their financial management performance.

I commend Senator BROWN for introducing this bill and for working with us in Committee to improve it. I believe the ''Federal Financial Management Improvement Act'' is important legislation and will work to improve agency financial management. I urge my colleagues to support it.

Mr. STEVENS. Mr. President, I ask unanimous consent that the committee substitute be agreed to, the bill be deemed read the third time, passed, the motion to reconsider be laid upon the table, and any statement relating to this bill appear at the appropriate place in the RECORD.

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

The bill (S. 1130), as amended, was deemed read the third time and passed.

NATIONAL ENVIRONMENTAL EDUCATION AMENDMENT ACT OF 1996

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar 542, S. 1873.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1873) to amend the National Environmental Education Act to extend programs under the Act, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Environment and Public Works, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Environmental Education Amendments Act of 1996''.

SEC. 2. OFFICE OF ENVIRONMENTAL EDUCATION.

Section 4 of the National Environmental Education Act (20 U.S.C. 5503) is amended—

(1) in subsection (b)—

(A) in paragraph (1) by inserting after ''support'' the following: ''balanced and scientifically sound'';

(B) by striking paragraph (6);

(C) by redesignating paragraphs (7) through (13) as paragraphs (6) through (12), respectively; and

(D) in paragraph (12) (as so redesignated), by inserting before the period the following: ''through the headquarters and the regional offices of the Agency''; and

(2) by striking subsection (c) and inserting the following:

''(c) STAFF.—The Office of Environmental Education shall—

''(1) include a headquarters staff of not more than 10 full-time equivalent employees; and

''(2) be supported by 1 full-time equivalent employee in each Agency regional office.

''(d) ACTIVITIES.—The Administrator may carry out the activities specified in subsection (b) directly or through awards of grants, cooperative agreements, or contracts.''.

SEC. 3. ENVIRONMENTAL EDUCATION GRANTS.

Section 6 of the National Environmental Education Act (20 U.S.C. 5505) is amended—

(1) in the second sentence of subsection (i), by striking ''25 percent'' and inserting ''15 percent''; and

(2) by adding at the end the following:

''(j) LOBBYING ACTIVITIES.—A grant under this section may not be used to support a lobbying activity (as described in the documents issued by the Office of Management and Budget and designated as OMB Circulars No. A–21 and No. A–122).''.

SEC. 4. ENVIRONMENTAL INTERNSHIPS AND FELLOWSHIPS.

(a) IN GENERAL.—The National Environmental Education Act is amended—

(1) by striking section 7 (20 U.S.C. 5506); and

(2) by redesignating sections 8 through 11 (20 U.S.C. 5507 through 5510) as sections 7 through 10, respectively.

(b) CONFORMING AMENDMENTS.—The National Environmental Education Act is amended—

(1) in the table of contents in section 1(b) (20 U.S.C. prec. 5501)—

(A) by striking the item relating to section 7; and

(B) by redesignating the items relating to sections 8 through 11 as items relating to sections 7 through 10, respectively;

(2) in section 4(b) (20 U.S.C. 5503(b))—

(A) in paragraph (6) (as redesignated by section 2(1)(C)), by striking ''section 8 of this Act'' and inserting ''section 7''; and

(B) in paragraph (7) (as so redesignated), by striking ''section 9 of this Act'' and inserting ''section 8'';

(3) in section 6(c)(3) (20 U.S.C. 5505(c)(3)), by striking ''section 9(d) of this Act'' and inserting ''section 8(d)'';

(4) in the matter preceding subsection (c)(3)(A) of section 9 (as redesignated by subsection (a)(2)), by striking ''section 10(a) of this Act'' and inserting ''subsection (a)''; and

(5) in subsection (c)(2) of section 10 (as redesignated by subsection (a)(2)), by striking ''section 10(d) of this Act'' and inserting ''section 9(d)''.

SEC. 5. NATIONAL EDUCATION AWARDS.

Section 7 of the National Environmental Education Act (as redesignated by section 4(a)(2)) is amended to read as follows:

''SEC. 7. NATIONAL EDUCATION AWARDS.

''The Administrator may provide for awards to be known as the 'President's Environmental

Youth Awards' to be given to young people in grades kindergarten through 12 for outstanding projects to promote local environmental awareness.''.

SEC. 6. ENVIRONMENTAL EDUCATION ADVISORY COUNCIL AND TASK FORCE.

Section 8 of the National Environmental Education Act (as redesignated by section 4(a)(2)) is amended—

(1) in subsection (b)(2), by striking the first and second sentences and inserting the following: ''The Advisory Council shall consist of not more than 11 members appointed by the Administrator after consultation with the Secretary. To the extent practicable, the Administrator shall appoint to the Advisory Council at least 1 representative from each of the following sectors: primary and secondary education; colleges and universities; not-for-profit organizations involved in environmental education; State departments of education and natural resources; business and industry; and senior Americans.'';

(2) in subsection (c), by striking paragraph (2) and inserting the following:

''(2) MEMBERSHIP.—Membership on the Task Force shall be open to representatives of any Federal agency actively engaged in environmental education.''; and

(3) in subsection (d), by striking paragraph (1) and inserting the following:

''(1) BIENNIAL MEETINGS.—The Advisory Council shall hold a biennial meeting on timely issues regarding environmental education and issue a report and recommendations on the proceedings of the meeting.''.

SEC. 7. NATIONAL ENVIRONMENTAL EDUCATION AND TRAINING FOUNDATION.

(a) CHANGE IN NAME.—

(1) IN GENERAL.—The first sentence of subsection (a)(1)(A) of section 9 of the National Environmental Education Act (as redesignated by section 4(a)(2)) is amended by striking ''National Environmental Education and Training Foundation'' and inserting ''Foundation for Environmental Education''.

(2) CONFORMING AMENDMENTS.—The National Environmental Education Act (20 U.S.C. 5501 et seq.) is amended—

(A) in the item relating to section 9 (as redesignated by section 4(b)(1)(B)) of the table of contents in section 1(b) (20 U.S.C. prec. 5501), by striking ''National Environmental Education and Training Foundation'' and inserting ''Foundation for Environmental Education'';

(B) in section 3 (20 U.S.C. 5502)—

(i) by striking paragraph (12) and inserting the following:

''(12) FOUNDATION.—'Foundation' means the Foundation for Environmental Education established by section 9; and''; and

(ii) in paragraph (13), by striking ''National Environmental Education and Training Foundation'' and inserting ''Foundation for Environmental Education'';

*(C) in the heading of section 9 (as redesignated by section 4(a)(2)), by striking ''**NATIONAL ENVIRONMENTAL EDUCATION AND TRAINING FOUNDATION**'' and inserting ''**FOUNDATION FOR ENVIRONMENTAL EDUCATION**''; and*

(D) in subsection (c) of section 10 (as redesignated by section 4(a)(2)), by striking ''National Environmental Education and Training Foundation'' and inserting ''Foundation for Environmental Education''.

(b) BOARD OF DIRECTORS; NUMBER OF DIRECTORS.—The first sentence of subsection (b)(1)(A) of section 9 of the National Environmental Education Act (as redesignated by section 4(a)(2)) is amended by striking ''13'' and inserting ''19''.

(c) ACKNOWLEDGMENT OF DONATIONS.—Section 9(d) of the National Environmental Education Act (as redesignated by section 4(a)(2)) is amended by striking paragraph (3) and inserting the following:

''(3) ACKNOWLEDGMENT OF DONORS.—The Foundation may acknowledge receipt of donations by means of a listing of the names of donors in materials distributed by the Foundation, but any such acknowledgment—

''(A) shall not appear in educational material to be presented to students; and

''(B) shall not identify a donor by means of a logo, letterhead, or other corporate commercial symbol, slogan, or product.''.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

Section 10 of the National Environmental Education Act (as redesignated by section 4(a)(2)) is amended by striking subsections (a) and (b) and inserting the following:

''(a) IN GENERAL.—There are authorized to be appropriated to the Environmental Protection Agency to carry out this Act—

''(1) $10,000,000 for each of fiscal years 1997, 1998, 1999, 2000, 2001, and 2002; and

''(2) such sums as are necessary for each of fiscal years 2003 through 2007.

''(b) LIMITATIONS.—

''(1) IN GENERAL.—Subject to paragraph (2), of the amounts appropriated under subsection (a) for a fiscal year—

''(A) not more than 25 percent may be used for the activities of the Office of Environmental Education;

''(B) not more than 25 percent may be used for the operation of the environmental education and training program;

''(C) not less than 40 percent shall be used for environmental education grants; and

''(D) 10 percent shall be used for the Foundation for Environmental Education.

''(2) ADMINISTRATIVE EXPENSES.—Of the amounts made available under paragraph (1) for a fiscal year for the activities of the Office of Environmental Education, not more than 25 percent may be used for administrative expenses.''.

SEC. 9. EFFECTIVE DATE.

The amendments made by this Act shall take effect as of the later of—

(1) October 1, 1996; or

(2) the date of enactment of this Act.

Mr. INHOFE. Mr. President, today the Senate is passing an important piece of legislation, S. 1873, the National Environmental Education Act amendments. I introduced this bill on June 13 along with my colleagues, Senators CHAFEE, LIEBERMAN, FAIRCLOTH, KEMPTHORNE, MOYNIHAN, REID, and LUGAR. Since that date nine more senators have joined me in this bipartisan show of support for this legislation.

This bill will reauthorize the educational efforts at the National Environmental Education and Training Foundation and the EPA's Office of Environmental Education. These programs support environmental education at the local level. They provide grant money and seed money to encourage local primary and secondary schools and universities to educate children on environmental issues.

With the importance of the environment and the continuing debate on how best to protect it, it is vital to educate our children so that they truly understand how the environment functions.

Over the last few years environmental education has been criticized for being one-sided and heavy-handed. People have accused environmental advocates of trying to brainwash children and of pushing an environmental agenda that is not supported by the facts or by science. They also accuse the Federal Government of setting one curriculum standard and forcing all schools to subscribe to their views. This is not how these two environmental education programs have worked, and I have taken specific steps to ensure that they never work this way.

The programs that this act reauthorizes have targeted the majority of their grants at the local level, allowing the teachers in our community schools to design their environmental programs to teach our children, and this is where the decisions should be made. In addition, the grants have not been used for advocacy or to lobby the Government, as other grant programs have been accused of doing.

This legislation accomplishes two important functions. First, it cleans up the current law to make the programs run more efficiently. And second, it places two very important safeguards in the program to ensure its integrity in the future.

I have placed in this bill language to ensure that the EPA programs are balanced and scientifically sound. It is important that environmental education is presented in an unbiased and balanced manner. The personal values and prejudices of the educators should not be instilled in our children. Instead we must teach them to think for themselves after they have been presented with all of the facts and information. Environmental ideas must be grounded in sound science and not emotional bias. While these programs have not been guilty of this in the past, this is an important safeguard to protect the future of environmental education.

Second, I have included language which prohibits any of the funds to be used for lobbying efforts. While these programs have not used the grant process to lobby the Government, there are other programs which have been accused of this and this language will ensure that this program never becomes a vehicle to lobby Congress or the Executive branch.

This bill also makes a number of housekeeping changes to the programs which are supported by both the EPA and the Education Foundation which will both streamline the programs and make them more efficient.

For those people who remain concerned about the Federal role in environmental education let me assure everyone that I will be personally monitoring these programs. If there are abuses or questionable grants or programs I will be the first to call for an investigation or to invoke the oversight functions of Congress. Educating our children is a serious matter and should not be abused by anyone. It is my intent and goal that these programs provide objective material in a balanced and scientifically sound manner that does not instill any particular viewpoint in our Nation's youths. We need to teach our children the facts and let them reach their own conclusions, and I believe this bill accomplishes this goal.

I thank my colleagues for supporting this bill and I hope the House can act

quickly and this legislation can be signed into law.

Mr. CHAFEE. Mr. President, I join Senator INHOFE in urging the Senate to pass S. 1873, the National Environmental Education Act Amendments of 1996. I commend Senator INHOFE for his leadership on this bill. Mr. INHOFE and other members of the Senate Environment and Public Works Committee have crafted a reauthorization of the National Environmental Education Act of 1990. It is a bipartisan bill sponsored by 11 members of the Environment and Public Works Committee, including myself and Senators INHOFE, BAUCUS, LIEBERMAN, FAIRCLOTH, KEMPTHORNE, MOYNIHAN, REID, LAUTENBERG, SMITH, and GRAHAM.

S. 1873 extends the authorization for programs authorized by the National Environmental Education Act until 2007. The bill also includes a number of changes to make programs authorized under the act operate more effectively and efficiently.

The goal of the National Environmental Education Act is to increase public understanding of the environment and to advance and develop environmental education and training.

The act has been successful in supporting environmental education through grants and training programs aimed at schools, nature centers, museums, and other educational organizations. The act has benefited thousands of teachers and millions of students—children and adults.

Educational programs supported through this act increase the public's awareness and knowledge about environmental issues, and provide them with the skills needed to make informed decisions.

I urge my colleagues to support passage of this important environmental education legislation.

Mr. STEVENS. Mr. President, I ask unanimous consent that the committee substitute be agreed to, the bill be deemed read the third time, passed, the motion to reconsider be laid upon the table, and any statements relating to this bill appear at the appropriate place in the RECORD.

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

The bill (S. 1873), as amended, was deemed read the third time and passed.

AUTHORIZING PRODUCTION OF RECORDS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of a Senate resolution 287 submitted earlier today by Senators LOTT and DASCHLE.

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

The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 287) to authorize the production of records by the Permanent Subcommittee on Investigations.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. LOTT. Mr. President, the Permanent Subcommittee on Investigations has received a request from the New Jersey Attorney General's Office for copies of subcommittee records relevant to a background investigation that the office is conducting in connection with a solid waste disposal company's licensing application.

In the course of drug enforcement hearings in the mid-1970's, the subcommittee investigated allegations relating to an individual who was then a Federal drug enforcement official and is now a principal in the solid waste firm seeking licensure from the State of New Jersey. The Attorney General's Office is seeking access to subcommittee records to enable the office to fulfill its responsibilities under State law to conduct a thorough background investigation of this individual.

Mr. President, this resolution would authorize the chairman and ranking minority member of the Permanent Subcommittee on Investigations, acting jointly, to provide subcommittee records in response to this request.

Mr. STEVENS. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble agreed to, the motion to reconsider be laid on the table, and any statements relating to this resolution appear at this point in the RECORD.

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

The resolution (S. Res. 287) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 287

Whereas the Office of the Attorney General of the State of New Jersey has requested that the Permanent Subcommittee on Investigations provide it with copies of subcommittee records in connection with a licensing investigation that the office is currently conducting;

Whereas by the privileges of the Senate of the United States and rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas when it appears that documents, papers, and records under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved, That the chairman and ranking minority member of the Permanent Subcommittee on Investigations, acting jointly, are authorized to provide to the office of the Attorney General of the State of New Jersey copies of subcommittee records that the office has requested for use in connection with its pending licensing investigation.

DAY OF NATIONAL CONCERN ABOUT YOUNG PEOPLE AND GUN VIOLENCE

Mr. STEVENS. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Resolution 282, designating October 10, 1996, as ''Day of National Concern About Young People and Gun Violence,'' and that the Senate then 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:

A resolution (S. Res. 282) to designate October 10, 1996, as the ''Day of National Concern about Young People and Gun Violence.''

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. STEVENS. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to, en bloc, and the motion to reconsider be laid upon the table; further, that any statements relating thereto be placed in the RECORD at the appropriate place as if read.

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

The resolution (S. Res. 282) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 282

Whereas violent crime among juveniles in American society has dramatically escalated in recent years;

Whereas between 1989 and 1994, juvenile arrest rates for murder in this country skyrocketed 42 percent;

Whereas in 1993, more than 10 children were murdered each day in America;

Whereas America's young people are this country's most important resource, and Americans have a vested interest in helping children survive, free from fear and violence, to become healthy adults;

Whereas America's young people can, by taking individual and collective responsibility for their own decisions and actions, help chart a new and less violent direction for the entire country;

Whereas American school children will be invited to participate in a national observance involving millions of their fellow students and will thereby be empowered to see themselves as the agents of positive social change; and

Whereas this observance will give American school children the opportunity to make a solemn decision about their future and control their destiny by voluntarily signing a pledge promising that they will never take a gun to school, will never use a gun to resolve a dispute, and will use their influence to prevent friends from using guns to settle disputes: Now, therefore, be it

Resolved, That the Senate designates October 10, 1996, as the ''Day of National Concern About Young People and Gun Violence''. The President is authorized and requested to issue a proclamation calling upon the school children of the United States to observe such day with appropriate activities.

NATIONAL SILVER HAIRED CONGRESS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate

proceed to the immediate consideration of Calendar No. 554, Senate Concurrent Resolution 52.

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

The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 52) to recognize and encourage the convening of a National Silver Haired Congress.

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. STEVENS. Mr. President, I ask unanimous consent that the concurrent resolution and preamble be agreed to, en bloc, and the motion to reconsider be laid upon the table, that any statements related thereto appear at the appropriate place in the RECORD as if read.

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

The concurrent resolution (S. Con. Res. 52) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, is as follows:

S. CON. RES. 52

Whereas many States have encouraged and facilitated the creation of senior citizen legislative and advocacy bodies;

Whereas in creating such bodies such States have provided to many older Americans the opportunity to express concerns, promote appropriate interests, and advance the common good by influencing the legislation and actions of State government; and

Whereas a National Silver Haired Congress, with representatives from each State, would provide a national forum for a nonpartisan evaluation of grassroots solutions to concerns shared by an increasing number of older Americans: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress hereby recognizes and encourages the convening of an annual National Silver Haired Congress in the District of Columbia.

AUTHORIZING THE AGENCY FOR INTERNATIONAL DEVELOPMENT TO OFFER VOLUNTARY SEPARATION INCENTIVE PAYMENTS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 3870, which was received from the House.

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

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3870) to authorize the Agency for International Development to offer voluntary separation incentive payments to employees of that agency.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. STEVENS. Mr. President, I ask unanimous consent that the bill be deemed read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at the appropriate place in the RECORD.

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

The bill (H.R. 3870) was deemed read the third time, and passed.

UNITED STATES TOURISM ORGANIZATION ACT

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 551, S. 1735.

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

The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1735) to establish the United States Tourism Organization as a nongovernmental entity for the purpose of promoting tourism in the United States.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 1735

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 ''United States Tourism Organization Act''.

SEC. 2. FINDINGS.

The Congress finds that—

(1) the travel and tourism industry is the second largest retail or service industry in the United States, and travel and tourism services ranked as the largest United States export in 1995, generating an $18.6 billion trade surplus for the United States;

(2) domestic and international travel and tourism expenditures totaled $433 billion in 1995, $415 billion spent directly within the United States and an additional $18 billion spent by international travelers on United States flag carriers traveling to the United States;

(3) direct travel and tourism receipts make up 6 percent of the United States gross domestic product;

(4) in 1994 the travel and tourism industry was the nation's second largest employer, directly responsible for 6.3 million jobs and indirectly responsible for another 8 million jobs;

(5) employment in major sectors of the travel industry is expected to increase 35 percent by the year 2005;

(6) 99.7 percent of travel businesses are defined by the Federal Government as small businesses; and

(7) the White House Conference on Travel and Tourism in 1995 brought together 1,700 travel and tourism industry executives from across the nation and called for the establishment, by federal charter, of a new national tourism organization to promote international tourism to all parts of the United States.

SEC. 3. UNITED STATES TOURISM ORGANIZATION.

(a) ESTABLISHMENT.—There is established with a Federal charter, the United States Tourism Organization (hereafter in this Act referred to as the ''Organization''). The Organization shall be a **[**nonprofit**]** *not for profit* organization. The Organization shall maintain its principal offices and national headquarters in the **[**city of Washington, District of Columbia,**]** *greater metropolitan area of Washington, D.C.,* and may hold its annual and special meetings in such places as the Organization shall determine.

(b) ORGANIZATION NOT A FEDERAL AGENCY.—Notwithstanding any other provision of the law, the Organization shall not be considered a Federal agency for the purposes of civil service laws or any other provision of Federal law governing the operation of Federal agencies, including personnel or budgetary matters relating to Federal agencies. The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Organization or any entities within the Organization.

(c) DUTIES.—The Organization shall—

(1) facilitate the development and use of public-private partnerships for travel and tourism policymaking;

(2) seek to, and work for, an increase in the share of the United States in the global tourism market;

(3) implement the national travel and tourism strategy developed by the National Tourism Board under section 4;

(4) operate travel and tourism promotion programs outside the United States in partnership with the travel and tourism industry in the United States;

(5) establish a travel-tourism data bank and, through that data bank collect and disseminate international market data:

(6) conduct market research necessary for the effective promotion of the travel and tourism market; and

(7) promote United States travel and tourism.

(d) POWERS.—The Organization—

(1) shall have perpetual succession;

(2) shall represent the United States in its relations with international tourism agencies;

(3) may sue and be sued;

(4) may make contracts;

(5) may acquire, hold, and dispose of real and personal property as may be necessary for its corporate purposes;

(6) may accept gifts, legacies, and devices in furtherance of its corporate purposes;

(7) may provide financial assistance to any organization or association, other than a corporation organized for profit, in furtherance of the purpose of the corporation;

(8) may adopt and alter a corporate seal;

(9) may establish and maintain offices for the conduct of the affairs of the Organization;

(10) may publish a newspaper, magazine, or other publication consistent with its corporate purposes;

(11) may do any and all acts and things necessary and proper to carry out the purposes of the Organization; and

(12) may adopt and amend a constitution and bylaws not inconsistent with the laws of the United States or of any State, except that the Organization may amend its constitution only if it—

(A) publishes in its principal publication a general notice of the proposed alteration of the constitution, including the substantive terms of the alteration, the time and place of the Organization's regular meeting at which the alteration is to be decided, and a provision informing interested persons that they may submit materials as authorized in subparagraph (B); and

(B) gives to all interested persons, prior to the adoption of any amendment, an opportunity to submit written data, views, or arguments concerning the proposed amendment for a period of at least 60 days after the date of publication of the notice.

(e) NONPOLITICAL NATURE OF THE ORGANIZATION.—The Organization shall be nonpolitical and shall not promote the candidacy of any person seeking public office.

(f) PROHIBITION AGAINST ISSUANCE OF STOCK OR BUSINESS ACTIVITIES.—The Organization shall have no power to issue capital stock or to engage in business for pecuniary profit or gain.

SEC. 4. NATIONAL TOURISM BOARD.

(a) ESTABLISHMENT.—The Organization shall be governed by a Board of Directors known as the National Tourism Board (hereinafter in this Act referred to as the ''Board'').

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Board shall be composed of 46 members, and shall be self-perpetuating. Initial members shall be appointed as provided in paragraph (2). The Board shall elect a chair from among its members.

(2) FOUNDING MEMBERS.—The founding members of the Board shall be appointed, or elected, as follows:

(A) The Under Secretary of Commerce for International Trade Administration shall serve as a member ex officio.

(B) 5 State Travel Directors elected by the National Council of State Travel Directors.

(C) 5 members elected by the International Association of Convention and Visitor Bureaus.

(D) 3 members elected by the Air Transport Association.

(E) 1 member elected by the National Association of Recreational Vehicle Parks and Campgrounds; 1 member elected by the Recreation Vehicle Industry Association.

(F) 2 members elected by the International Association of Amusement Parks and Attractions.

(G) 3 members appointed by major companies in the travel payments industry.

(H) 5 members elected by the American Hotel and Motel Association.

(I) 2 members elected by the American Car Rental Association; 1 member elected by the American Automobile Association; 1 member elected by the American Bus Association; 1 member elected by Amtrak.

(J) 1 member elected by the National Tour Association; 1 member elected by the United States Tour Operators Association.

(K) 1 member elected by the Cruise Lines International Association; 1 member elected by the National Restaurant Association; one member elected by the National Park Hospitality Association; 1 member elected by the Airports Council International; 1 member elected by the Meeting Planners International; 1 member elected by the American Sightseeing International; 4 members elected by the Travel Industry Association of [America.] *America; 1 member elected by the Retail Travel Agents Association; 1 member elected by the American Society of Travel Agents; and 1 member elected by the Rural Tourism Development Foundation.*

(3) TERMS.—Terms of Board members and of the Chair shall be determined by the Board and made part of the Organization bylaws.

(c) DUTIES OF THE BOARD.—The Board shall—

(1) develop a national travel and tourism strategy for increasing tourism to and within the United States; and

(2) advise the President, the Congress, and members of the travel and tourism industry concerning the implementation of the national strategy referred to in paragraph (1) and other matters that affect travel and tourism.

(d) AUTHORITY.—The Board is hereby authorized to meet to complete the organization of the Organization by the adoption of a constitution and bylaws, and by doing all things necessary to carry into effect the provisions of this Act.

(e) INITIAL MEETINGS.—Not later than 30 days after the date on which all members of the Board have been appointed, the Board shall have its first meeting.

(f) MEETINGS.—The Board shall meet at the call of the Chair, but not less frequently than semiannually.

(g) COMPENSATION AND EXPENSES.—The chairman and members of the Board shall serve without compensation but may be compensated for expenses incurred in carrying out the duties of the Board.

(h) TESTIMONY, REPORTS, AND SUPPORT.—The Board may present testimony to the President, to the Congress, and to the legislatures of the States and issue reports on its findings and recommendations.

(i) IMMUNITY.—Members of the Board shall not be personally liable for any action taken by the Board.

SEC. 5. SYMBOLS, EMBLEMS, TRADEMARKS, AND NAMES.

(a) IN GENERAL.—The Organization shall provide for the design of such symbols, emblems, trademarks, and names as may be appropriate and shall take all action necessary to protect and regulate the use of such symbols, emblems, trademarks, and names under law.

(b) UNAUTHORIZED USE; CIVIL ACTION.—Any person who, without the consent of the Organization, uses—

(1) the symbol of the Organization;

(2) the emblem of the Organization;

(3) any trademark, trade name, sign, symbol, or insignia falsely representing association with, or authorization by, the Organization; or

(4) the words ''United States Tourism Organization'', or any combination or simulation thereof tending to cause confusion, to cause mistake, to deceive, or to falsely suggest a connection with the Organization or any Organization activity;

for the purpose of trade, to induce the sale of any goods or services, or to promote any exhibition shall be subject to suit in a civil action brought in the appropriate court by the Organization for the remedies provided in the Act of July 5, 1946 (60 Stat. 427; 15 U.S.C. 1501 et seq.), popularly known as the Trademark Act of 1946. Paragraph (4) of this subsection shall not be construed to prohibit any person who, before the date of enactment of this Act, actually used the words ''United States Tourism Organization'' for any lawful purpose from continuing such lawful use for the same purpose and for the same goods and services.

(c) CONTRIBUTORS AND SUPPLIERS.—The Organization may authorize contributors and suppliers of goods and services to use the trade name of the Organization as well as any trademark, symbol, insignia, or emblem of the Organization in advertising that the contributions, goods, or services were donated, supplied, or furnished to or for the use of, approved, selected, or used by the Organization.

(d) EXCLUSIVE RIGHT OF THE ORGANIZATION.—The Organization shall have exclusive right to use the name ''United States Tourism Organization'', the symbol described in subsection (b)(1), the emblem described in subsection (b)(2), and the words ''United States Tourism Organization'', or any combination thereof, subject to the use reserved by the second sentence of subsection (b).

SEC. 6. UNITED STATES GOVERNMENT COOPERATION.

(a) SECRETARY OF STATE.—The Secretary of State shall—

(1) place a high priority on implementing recommendations by the Organization; and

(2) cooperate with the Organization in carrying out its duties.

(b) DIRECTOR OF THE UNITED STATES INFORMATION AGENCY.—The Director of the United States Information Agency shall—

(1) place a high priority on implementing recommendations by the Organization; and

(2) cooperate with the Organization in carrying out its duties.

(c) TRADE PROMOTION COORDINATING COMMITTEE.—Section 2312 of the Export Enhancement Act of 1988 (15 U.S.C. 4727) is amended—

(1) by striking out ''and'' at the end of subsection (c)(4);

(2) by striking the period at the end of subsection (c)(5) and inserting a semicolon and the word ''and'';

(3) by adding at the end thereof the following:

''(6) reflect recommendations by the National Tourism Board established under the United States Tourism Organization Act.'' and

(2) in paragraph (d)(1) by striking ''and'' in subparagraph (L), by redesignating subparagraph (M) as subparagraph (N), and by inserting the following:

''(M) the Chairman of the Board of the United States Tourism Organization, as established under the United States Tourism Organization Act; and''.

SEC. 7. SUNSET.

If, by the date that is 2 years after the date of incorporation of the Organization, a plan for the long-term financing of the Organization has not been implemented, the Organization and the Board shall terminate.

AMENDMENT NO. 5156

(Purpose: To make minor and technical corrections in the bill as reported)

Mr. STEVENS. 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 Alaska [Mr. STEVENS], for Mr. PRESSLER, proposes an amendment numbered 5156.

Mr. STEVENS. 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 7, line 8, strike ''46'' and insert ''48''.

On page 9, beginning in line 3, strike ''Retail Travel Agents Association;'' and insert ''Association of Retail Travel Agents;''.

On page 9, between lines 6 and 7, insert the following:

(L) 1 member elected by the National Trust for Historic Preservation.

(M) 1 member elected by the American Association of Museums.

Mr. PRESSLER. Mr. President, I am pleased that today the Senate has approved S. 1735, the United States Tourism Organization Act, legislation I introduced on May 8, 1996. This bill is aimed at promoting the United States as a tourist destination in the increasingly competitive world tourism market. Passage of this bipartisan measure would help to ensure the United States

remains a leader in this growing industry. In particular, I thank my distinguished colleague from Nevada, Senator RICHARD BRYAN, and my good friend from Virgina, Senator JOHN WARNER, who joined me in sponsoring this legislation.

Mr. President, the travel and tourism industry is the second most productive in the world. In the United States, the tourism industry employs more than 6.3 million people—making it the second largest employer in the country.

Unfortunately, the United States is no longer the world's No. 1 tourist destination. As other nations have recognized the economic potential of tourism, the United States has allowed itself to fall behind. We must reverse this trend.

As Chairman of the U.S. Senate Committee on Commerce, Science, and Transportation and Co-chair of the Senate Tourism Caucus, I am committed to increasing tourism—both in my home State of South Dakota and across the nation. S. 1735 is designed to keep the industry vibrant and growing. Most significantly, the legislation would develop a public-private partnership, charged with research, advertising, and marketing our country as a tourism destination.

This bill also would establish a U.S. Tourism Organization—a non-profit, private group to promote the United States both in our country and abroad. This is not an expensive new program funded by the hard-earned dollars of America's taxpayers. Instead, the organization would be funded primarily by members of the tourism industry.

One source of revenue made possible by this bill is from the sale of U.S. tourism logos, trademarks or emblems, similar to the five adjoining rings used with great financial success by the U.S. Olympic Committee. In addition, American business could pay an annual fee to become an official member of the U.S. Tourism Organization and use the logo for advertising and business promotion. Not only would this boost individual businesses, it also would advance the tourism industry as a whole.

Significantly, under this legislation, the structure of the tourism organization would ensure that no member business—big or small—would be left behind. A National Tourism Board would represent all aspects of the tourism industry—from transportation to accommodations, from dining and entertainment to tour guides. This board would put South Dakota's small-business owners on an equal footing with New York City's larger businesses as they compete for potential visitors.

This provision would be particularly helpful to small-business owners in South Dakota like Al Johnson who runs the Palmer Gulch Resort near Hill City, or for Alfred Mueller, owner of Al's Oasis in Chamberlain—the famous home of the buffalo burger.

U.S. tourism needs to aim for high-tech promotion. Today's technology has enormous potential to shape positively and promote the tourism industry. Tomorrow's technology will be even more useful. In this area, the travel and tourism industry will benefit significantly from legislation I sponsored earlier in this Congress, the Telecommunications Act of 1996. That new law will unleash even more advanced communications technologies and services. South Dakotans, like the Husteads, owners of the famous Wall Drug, in Wall, SD, already are taking advantage of such technologies as the World Wide Web. These evolving technologies can transmit information on U.S. tourism destinations to all corners of the globe.

Austrians could learn about the world-class Shrine to Music Museum in Vermillion. Kenyan safari hunters would be able to find out when hunting season is in Redfield, SD—the pheasant capital of the world. Dog-sledders in the Yukon may want to try out the snowmobile trails of the Black Hills National Forest.

The use of the latest developments in communications technology could promote places like the city of Deadwood—one of the fastest growing tourist destinations in South Dakota. Across the globe, people could learn that Deadwood's main street is lined with old-fashioned saloons and gaming halls—inspiring memories of the 1890's gold rush. This, in turn, might inspire them to visit Saloon No. 10 where Wild Bill Hickock was shot—making famous his poker hand of aces and eights, the ''Deadman's Hand.''

S. 1735 represents just one more step in a series of actions I've taken to boost tourism in South Dakota and the Nation. For instance, earlier this year, I wrote to foreign Ambassadors and other heads of missions in the United States urging them to promote the virtues of South Dakota as a prime U.S. tourist attraction. I gave them copies of the South Dakota vacation guide to pass along to appropriate officials in their embassies and home governments who are responsible for disseminating tourism information. Not long after receiving my letter, the Ambassador from Austria visited our State. Foreign visitors are our fastest growing tourist population. We welcome them.

The U.S. Tourism Organization would partner the Federal Government with the men and women who are the tourism industry. This type of public-private partnership was discussed by South Dakotans like Vince Coyle, of Deadwood, and Julie Jensen, of Rapid City, when they attended the White House conference on tourism last year. The legislation we are considering today was drafted using the recommendations of the White House conference. Working together, we can make tourism the new key to this country's economic success.

This is our opportunity to forge ahead. There is no reason the U.S. travel and tourism should be relegated to the back seat any longer. I am pleased that the Senate has given this legislation its unanimous support. I look forward to working with my colleagues in the House to send this bill to the President before the end of the 104th Congress. The time is now. We must once again make the United States the top tourist destination in the world.

Mr. STEVENS. Mr. President, I ask unanimous consent that the amendment be considered read and agreed to, the bill be deemed read the third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The amendment (No. 5156) was agreed to.

The bill (S. 1735) was deemed read the third time, and passed, as follows:

S. 1735

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 ''United States Tourism Organization Act''.

SEC. 2. FINDINGS.

The Congress finds that—

(1) the travel and tourism industry is the second largest retail or service industry in the United States, and travel and tourism services ranked as the largest United States export in 1995, generating an $18.6 billion trade surplus for the United States;

(2) domestic and international travel and tourism expenditures totaled $433 billion in 1995, $415 billion spent directly within the United States and an additional $18 billion spent by international travelers on United States flag carriers traveling to the United States;

(3) direct travel and tourism receipts make up 6 percent of the United States gross domestic product;

(4) in 1994 the travel and tourism industry was the nation's second largest employer, directly responsible for 6.3 million jobs and indirectly responsible for another 8 million jobs;

(5) employment in major sectors of the travel industry is expected to increase 35 percent by the year 2005;

(6) 99.7 percent of travel businesses are defined by the Federal Government as small businesses; and

(7) the White House Conference on Travel and Tourism in 1995 brought together 1,700 travel and tourism industry executives from across the nation and called for the establishment, by federal charter, of a new national tourism organization to promote international tourism to all parts of the United States.

SEC. 3. UNITED STATES TOURISM ORGANIZATION.

(a) ESTABLISHMENT.—There is established with a Federal charter, the United States Tourism Organization (hereafter in this Act referred to as the ''Organization''). The Organization shall be a not for profit organization. The Organization shall maintain its principal offices and national headquarters in the greater metropolitan area of Washington, D.C., and may hold its annual and special meetings in such places as the Organization shall determine.

(b) ORGANIZATION NOT A FEDERAL AGENCY.—Notwithstanding any other provision of the law, the Organization shall not be considered a Federal agency for the purposes of civil service laws or any other provision of Federal law governing the operation of Federal agencies, including personnel or budgetary matters relating to Federal agencies.

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Organization or any entities within the Organization.

(c) DUTIES.—The Organization shall—

(1) facilitate the development and use of public-private partnerships for travel and tourism policymaking;

(2) seek to, and work for, an increase in the share of the United States in the global tourism market;

(3) implement the national travel and tourism strategy developed by the National Tourism Board under section 4;

(4) operate travel and tourism promotion programs outside the United States in partnership with the travel and tourism industry in the United States;

(5) establish a travel-tourism data bank and, through that data bank collect and disseminate international market data:

(6) conduct market research necessary for the effective promotion of the travel and tourism market; and

(7) promote United States travel and tourism.

(d) POWERS.—The Organization—

(1) shall have perpetual succession;

(2) shall represent the United States in its relations with international tourism agencies;

(3) may sue and be sued;

(4) may make contracts;

(5) may acquire, hold, and dispose of real and personal property as may be necessary for its corporate purposes;

(6) may accept gifts, legacies, and devices in furtherance of its corporate purposes;

(7) may provide financial assistance to any organization or association, other than a corporation organized for profit, in furtherance of the purpose of the corporation;

(8) may adopt and alter a corporate seal;

(9) may establish and maintain offices for the conduct of the affairs of the Organization;

(10) may publish a newspaper, magazine, or other publication consistent with its corporate purposes;

(11) may do any and all acts and things necessary and proper to carry out the purposes of the Organization; and

(12) may adopt and amend a constitution and bylaws not inconsistent with the laws of the United States or of any State, except that the Organization may amend its constitution only if it—

(A) publishes in its principal publication a general notice of the proposed alteration of the constitution, including the substantive terms of the alteration, the time and place of the Organization's regular meeting at which the alteration is to be decided, and a provision informing interested persons that they may submit materials as authorized in subparagraph (B); and

(B) gives to all interested persons, prior to the adoption of any amendment, an opportunity to submit written data, views, or arguments concerning the proposed amendment for a period of at least 60 days after the date of publication of the notice.

(e) NONPOLITICAL NATURE OF THE ORGANIZATION.—The Organization shall be nonpolitical and shall not promote the candidacy of any person seeking public office.

(f) PROHIBITION AGAINST ISSUANCE OF STOCK OR BUSINESS ACTIVITIES.—The Organization shall have no power to issue capital stock or to engage in business for pecuniary profit or gain.

SEC. 4. NATIONAL TOURISM BOARD.

(a) ESTABLISHMENT.—The Organization shall be governed by a Board of Directors known as the National Tourism Board (hereinafter in this Act referred to as the ''Board'').

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Board shall be composed of 48 members, and shall be self-perpetuating. Initial members shall be appointed as provided in paragraph (2). The Board shall elect a chair from among its members.

(2) FOUNDING MEMBERS.—The founding members of the Board shall be appointed, or elected, as follows:

(A) The Under Secretary of Commerce for International Trade Administration shall serve as a member ex officio.

(B) 5 State Travel Directors elected by the National Council of State Travel Directors.

(C) 5 members elected by the International Association of Convention and Visitor Bureaus.

(D) 3 members elected by the Air Transport Association.

(E) 1 member elected by the National Association of Recreational Vehicle Parks and Campgrounds; 1 member elected by the Recreation Vehicle Industry Association.

(F) 2 members elected by the International Association of Amusement Parks and Attractions.

(G) 3 members appointed by major companies in the travel payments industry.

(H) 5 members elected by the American Hotel and Motel Association.

(I) 2 members elected by the American Car Rental Association; 1 member elected by the American Automobile Association; 1 member elected by the American Bus Association; 1 member elected by Amtrak.

(J) 1 member elected by the National Tour Association; 1 member elected by the United States Tour Operators Association.

(K) 1 member elected by the Cruise Lines International Association; 1 member elected by the National Restaurant Association; one member elected by the National Park Hospitality Association; 1 member elected by the Airports Council International; 1 member elected by the Meeting Planners International; 1 member elected by the American Sightseeing International; 4 members elected by the Travel Industry Association of America; 1 member elected by the Association of Retail Travel Agents; 1 member elected by the American Society of Travel Agents; and 1 member elected by the Rural Tourism Development Foundation.

(L) 1 member elected by the National Trust for Historic Preservation.

(M) 1 member elected by the American Association of Museums.

(3) TERMS.—Terms of Board members and of the Chair shall be determined by the Board and made part of the Organization bylaws.

(c) DUTIES OF THE BOARD.—The Board shall—

(1) develop a national travel and tourism strategy for increasing tourism to and within the United States; and

(2) advise the President, the Congress, and members of the travel and tourism industry concerning the implementation of the national strategy referred to in paragraph (1) and other matters that affect travel and tourism.

(d) AUTHORITY.—The Board is hereby authorized to meet to complete the organization of the Organization by the adoption of a constitution and bylaws, and by doing all things necessary to carry into effect the provisions of this Act.

(e) INITIAL MEETINGS.—Not later than 30 days after the date on which all members of the Board have been appointed, the Board shall have its first meeting.

(f) MEETINGS.—The Board shall meet at the call of the Chair, but not less frequently than semiannually.

(g) COMPENSATION AND EXPENSES.—The chairman and members of the Board shall serve without compensation but may be compensated for expenses incurred in carrying out the duties of the Board.

(h) TESTIMONY, REPORTS, AND SUPPORT.—The Board may present testimony to the President, to the Congress, and to the legislatures of the States and issue reports on its findings and recommendations.

(i) IMMUNITY.—Members of the Board shall not be personally liable for any action taken by the Board.

SEC. 5. SYMBOLS, EMBLEMS, TRADEMARKS, AND NAMES.

(a) IN GENERAL.—The Organization shall provide for the design of such symbols, emblems, trademarks, and names as may be appropriate and shall take all action necessary to protect and regulate the use of such symbols, emblems, trademarks, and names under law.

(b) UNAUTHORIZED USE; CIVIL ACTION.—Any person who, without the consent of the Organization, uses—

(1) the symbol of the Organization;

(2) the emblem of the Organization;

(3) any trademark, trade name, sign, symbol, or insignia falsely representing association with, or authorization by, the Organization; or

(4) the words ''United States Tourism Organization'', or any combination or simulation thereof tending to cause confusion, to cause mistake, to deceive, or to falsely suggest a connection with the Organization or any Organization activity; for the purpose of trade, to induce the sale of any goods or services, or to promote any exhibition shall be subject to suit in a civil action brought in the appropriate court by the Organization for the remedies provided in the Act of July 5, 1946 (60 Stat. 427; 15 U.S.C. 1501 et seq.), popularly known as the Trademark Act of 1946. Paragraph (4) of this subsection shall not be construed to prohibit any person who, before the date of enactment of this Act, actually used the words ''United States Tourism Organization'' for any lawful purpose from continuing such lawful use for the same purpose and for the same goods and services.

(c) CONTRIBUTORS AND SUPPLIERS.—The Organization may authorize contributors and suppliers of goods and services to use the trade name of the Organization as well as any trademark, symbol, insignia, or emblem of the Organization in advertising that the contributions, goods, or services were donated, supplied, or furnished to or for the use of, approved, selected, or used by the Organization.

(d) EXCLUSIVE RIGHT OF THE ORGANIZATION.—The Organization shall have exclusive right to use the name ''United States Tourism Organization'', the symbol described in subsection (b)(1), the emblem described in subsection (b)(2), and the words ''United States Tourism Organization'', or any combination thereof, subject to the use reserved by the second sentence of subsection (b).

SEC. 6. UNITED STATES GOVERNMENT COOPERATION.

(a) SECRETARY OF STATE.—The Secretary of State shall—

(1) place a high priority on implementing recommendations by the Organization; and

(2) cooperate with the Organization in carrying out its duties.

(b) DIRECTOR OF THE UNITED STATES INFORMATION AGENCY.—The Director of the United States Information Agency shall—

(1) place a high priority on implementing recommendations by the Organization; and

(2) cooperate with the Organization in carrying out its duties.

(c) TRADE PROMOTION COORDINATING COMMITTEE.—Section 2312 of the Export Enhancement Act of 1988 (15 U.S.C. 4727) is amended—

(1) by striking out ''and'' at the end of subsection (c)(4);

(2) by striking the period at the end of subsection (c)(5) and inserting a semicolon and the word ''and'';

(3) by adding at the end thereof the following:

''(6) reflect recommendations by the National Tourism Board established under the United States Tourism Organization Act.'' and

(2) in paragraph (d)(1) by striking ''and'' in subparagraph (L), by redesignating subparagraph (M) as subparagraph (N), and by inserting the following:

''(M) the Chairman of the Board of the United States Tourism Organization, as established under the United States Tourism Organization Act; and''.

SEC. 7. SUNSET.

If, by the date that is 2 years after the date of incorporation of the Organization, a plan for the long-term financing of the Organization has not been implemented, the Organization and the Board shall terminate.

MEASURE PLACED ON CALENDAR—S. 1965

Mr. STEVENS. Mr. President, I ask unanimous consent that S. 1965 be placed on the calendar.

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

L. CLURE MORTON POST OFFICE AND COURTHOUSE LEGISLATION

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of calendar No. 549, S. 1931.

The PRESIDING OFFICER. Without objection, so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1931) to provide that the U.S. Post Office building that is to be located at 9 East Broad Street, Cookeville, Tennessee, shall be known and designated as the ''L. Clure Morton Post Office and Courthouse.''

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. STEVENS. Mr. President, I ask unanimous consent that the committee substitute be agreed to, the bill be deemed read the third time and passed, the motion to reconsider be laid upon the table, the amendment to the title be agreed to, and that any statements relating to the bill appear at this point in the RECORD.

The committee amendment was agreed to.

The bill was deemed read the third time, and passed, as follows:

S. 1931

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

SECTION 1. DESIGNATION OF L. CLURE MORTON UNITED STATES POST OFFICE AND COURTHOUSE.

The United States Post Office and Courthouse building located at 9 East Broad Street, Cookeville, Tennessee, shall be known and designated as the ''L. Clure Morton United States Post Office and Courthouse''.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States Post Office and Courthouse building referred to in section 1 shall be deemed to be a reference to the ''L. Clure Morton United States Post Office and Courthouse''.

The title was amended so as to read: ''A bill to provide that the United States Post Office and Courthouse building located at 9 East Broad Street, Cookeville, Tennessee, shall be known and designated as the 'L. Clure Morton United States Post Office and Courthouse'.''.

ROSE Y. CARACAPPA UNITED STATES POST OFFICE BUILDING

Mr. STEVENS. I ask unanimous consent that the Senate now proceed to the consideration of H.R. 3139, which was received from the House.

The PRESIDING OFFICER. Without objection, so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3139) to redesignate the United States Post Office Building located at 245 Centereach Mall on Middle Country Road in Centereach, New York, as the ''Rose Y. Caracappa United States Post Office Building.''

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. STEVENS. Mr. President, I ask unanimous consent that the bill be deemed read the third time, and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at this point in the RECORD.

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

The bill (H.R. 3139) was deemed read the third time, and passed.

ROGER P. McAULIFFE POST OFFICE

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate now proceed to consideration of the House bill H.R. 3834, which was received from the House.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3834) to redesignate the Dunning Post Office in Chicago, Illinois, as the ''Roger P. McAuliffe Post Office.''

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. STEVENS. I ask unanimous consent that the bill be deemed read a third time and passed, the motion to reconsider be laid upon the table, and that any statements appear at this point in the RECORD.

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

The bill (H.R. 3834) was deemed read the third time and passed.

FEDERAL OIL AND GAS ROYALTY SIMPLIFICATION AND FAIRNESS ACT OF 1995

Mr. STEVENS. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 500, which is House bill H.R. 1975.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1975) to improve the management of royalties from Federal and Outer Continental Shelf oil and gas leases, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. MURKOWSKI. Mr. President, I rise to urge my Senate colleagues to support H.R. 1975, the Federal Oil and Gas Royalty Fairness and Simplification Act, also known as the ''royalty fairness'' bill, which passed the House of Representatives on July 16, 1996. H.R. 1975 is identical in every respect to S. 1014, reported to the Senate by the Committee on Energy and Natural Resources on May 1 by a unanimous voice vote, with one exception: It makes a technical amendment in the effective date section that was not made in S. 1014. The technical amendment was included at the urging of the administration and, as a result, the Clinton administration strongly supports H.R. 1975. The bill also is supported by the governors of fourteen States.

This is historic legislation, Mr. President. It is the only legislative initiative taken in the last 14 years to cost effectively increase the Nation's third largest source of revenue—mineral royalties from Federal lands, more specifically, oil and gas royalties. This legislation would establish a comprehensive statutory plan to increase the collection of royalty receipts due the United States. Those receipts will help reduce our budget deficit. Without this legislation, an ineffective and costly royalty collection system will continue, perpetuating long delays and uncollected royalties.

Let me make clear, Mr. President: This legislation does not apply to Indian lands. It applies only to royalties from oil and gas production on Federal lands.

Let me also make absolutely clear that this bill does not—repeat, does not—provide royalty relief or lower royalty rates for oil and gas producers who operate on Federal onshore lands or the Outer Continental Shelf. H.R. 1975 is about royalty collection, not royalty rates. This bill is about improving government efficiency, not about increasing government bureaucracy. And this bill is about increasing

revenues to the Federal Treasury, not about giving money away.

This legislation is historic for another reason, Mr. President: It would empower States to perform oil and gas royalty management functions, such as auditing and collecting, that are essential to bringing additional receipts to the Treasury and the States within a 7-year limitation period established by this legislation. By expanding the States' role in performing Federal oil and gas royalty management and collection functions consistent with Federal law and regulation, States will be given a great economic incentive that will benefit the Federal Treasury. The more aggressive States are in performing delegated functions, the greater their share of net receipts under the Mineral Leasing Act. That act requires 50 percent of all royalties from Federal onshore oil and gas production to be shared with the States from which that production comes.

H.R. 1975 establishes a framework for the federal oil and gas royalty collection program that will accelerate the collection of offsetting receipts to the Treasury by $80 million in the 1997–2002 period, half of which moneys would be shared with the States. These receipts result primarily from: (1) requiring the Secretary of the Interior and delegated States to timely collect all claims within 7 years rather than allow the claims to become stale and uncollectible; (2) requiring early resolution and collection of disputed claims before their value diminishes; (3) requiring federal and State resources to be used in a manner that maximizes receipts through more aggressive collection activities; and (4) increasing production on federal lands by creating economic and regulatory incentives. Without the statutory framework of this legislation, the Nation's third largest revenue source (the Interior Department's Minerals Management Service is the third largest source of revenue behind the IRS and Customs Service) will continue to be subject to greatly delayed collections and the risk of reduced receipts due to non-collection over time.

To achieve the goal of maximizing collections through more timely and aggressive collection efforts, this legislation would do the following specific things. It would require the Secretary, delegated States, and lessees to take action respecting a royalty obligation within seven years from the date that obligation became due. The provisions require that judicial proceedings or demands (*e.g.*, orders to pay) be commenced or issued within seven years of the date when the obligation became due or be barred. Lessees would be required to maintain their records during the 7-year period in order to verify production volumes.

H.R. 1975 would expedite the administrative appeals process at the Interior Department by establishing a 33-month limitation on appeals. Presently, over $450 million in disputed claims languish in a bureaucratic appeals process and continue to lose value. By speeding up the appeals process, the Secretary would increase the value of those obligations and collections to the Treasury.

The legislation also would level the playing field for royalty payors by authorizing the payment of interest on overpayments. Present law requires lessees to pay interest on late payments and underpayments as a disincentive for being tardy or underpaying royalties, but does not compensate lessees who overpay royalties and who lose the time value of that money through some legitimate error.

And finally, Mr. President, the legislation would authorize the Secretary to allow prepayment of royalties and to provide other regulatory relief for ''marginal properties,'' and require that adjustments or requests for refunds for underpayments or overpayments be pursued within a 6-year window coinciding with the 7-year limitation period.

Mr. President, I want to thank my colleague, Senator NICKLES, for introducing the Senate companion to H.R. 1975, S. 1014, last June. Senator DOMENICI and I joined Senator NICKLES as sponsors of this historic bill, and Senator THOMAS has been deeply involved as well. I want to thank Senators NICKLES, DOMENICI, and THOMAS for their efforts in regard to the royalty fairness legislation.

Mr. President, the fact that S. 1014 was reported from the Committee on Energy and Natural Resources on May 1 by a unanimous voice vote and subsequently drew the support of the Clinton administration, and the fact that the House swiftly passed H.R. 1975, speaks to the merits of this legislation, the lengths to which we have gone to resolve differences with the administration over the language of the bill, and the fact that this legislation is not partisan legislation.

This is good-government legislation, and no mater what criticism we may hear of it, it will be good for the taxpayers, good for the States, and good for the energy producing sector of our economy.

Importantly, Mr. President, H.R. 1975 will empower States to join in partnership with the Federal Government in assuming certain royalty management functions pursuant to a delegation of authority. By providing States with a role in performing oil and gas royalty management functions, we will be giving States the economic incentive to perform those functions in a more cost effective manner. Aggressive pursuit of royalty obligations by States will be rewarded by higher net receipts shares for the States, because 50 percent of oil and gas receipts are shared with the States, and it will result in higher receipts to the federal treasury.

This is a fiscal ''win-win'' no matter how you view it. This is good public policy. I urge my colleagues to join me in supporting the Federal Oil and Gas Royalty Simplification and Fairness Act.

Mr. President, I ask unanimous consent that a letter dated June 6, 1996, from the Department of the Interior; a statement of administration policy, dated July 16, 1996, from OMB; a letter dated May 30, 1996, from Leon Panetta; and a DOE news release dated July 16, 1996, be printed in the RECORD.

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

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, June 6, 1996.

Hon. FRANK MURKOWSKI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to express the views of the Department of the Interior on S. 1014, the ''Federal Oil and Gas Royalty Simplification and Fairness Act of 1996.'' As you are aware, we have conducted extensive discussions with the staff of the Senate Energy and Natural Resources Committee in an effort to address concerns and resolve differences raised by both parties.

S. 1014, as marked up and passed by the full Committee on May 1, incorporated negotiated language that is acceptable to the Department. After marking up the bill, the Committee staff and the Minerals Management Service identified a technical error, and the Committee has developed an amendment for Senate floor consideration. The amendment would correct an error in section 11, so that the effective date exception will apply to the appeals provision in section 115(h) and not to the records retention provision in section 115(f). The Department supports S. 1014 as reported out of the Committee, with the adoption of the pending technical amendment.

In general, S. 1014 would amend the Federal Oil and Gas Royalty Management Act, the Outer Continental Shelf Lands Act, and the Mineral Leasing Act. The amendments change the requirements that govern how the Secretary of the Interior manages royalty payments from Federal oil and gas leases onshore and on the OCS. The bill would limit the persons that can be held liable for royalty payments; establish a 7-year statute of limitations and detail the circumstances under which the statute of limitations can be tolled; establish time limits for administrative appeals decisions; require the Secretary to pay interest on all overpayments; process OCS refunds and credits in the same manner as onshore leases; undertake measures to encourage efficiency and reduce duplicate reporting; and relax reporting and payment requirements on marginal producing leases, including accepting prepayments of future royalties. Lastly, S. 1014 would change existing statutory authority for the Secretary to delegate royalty management activities to States.

This delegation issue has been of particular interest to the Department. Our priority has been to ensure that the delegation provision does not contain unacceptable bars to the exercise of Secretarial discretion. We believe that the language contained in the current version of S. 1014 provides new benefits for states by expanding the list of delegable authorities which a state may seek and requiring the Secretary, to make a decision regarding any pending state application for delegation within 90 days of its submission. At the same time, however, the bill preserves the Secretary's discretion regarding important decisions affecting public lands, unlike similar language in the companion House

bill (H.R. 1975) which unacceptably diminishes the Secretary's discretionary authority. Certainly, we could not accept any amendments that would weaken the Secretary's authority as currently provided in S. 1014.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

SYLVIA V. BACA,
Acting Assistant Secretary for Land and Minerals Management.

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, July 16, 1996.

STATEMENT OF ADMINISTRATION POLICY

(This statement has been coordinated by OMB with the concerned agencies.)

H.R. 1975—FEDERAL OIL AND GAS ROYALTY SIMPLIFICATION/FAIRNESS

(Calvert (R) CA) and 10 cosponsors)

The Administration is committed to ensuring the efficient management of the Federal oil and gas program and to finding new ways for the States to work cooperatively and creatively with the Federal Government. Accordingly, the Administration strongly supports enactment of H.R. 1975 if amended to adopt the language of S. 1014, as reported by the Senate, with the technical amendment agreed upon by the Administration and the Senate Energy and Natural Resources Committee. The Senate reported bill maintains Federal discretion in delegating royalty collection and other duties to States while expanding the list of delegable authorities that a State may seek.

THE WHITE HOUSE,
Washington, DC, May 30, 1996.

Hon. FRANK H. MURKOWSKI,
U.S. Senate,
Washington, DC.

DEAR MR. MURKOWSKI: I am writing to inform you of the Administration's position regarding the pending Oil and Gas Royalty Simplification and Fairness legislation (S. 1014). Let me assure you that the Administration remains committed to ensuring the efficient management of Federal lands and finding new ways for the States to work cooperatively and creatively with the Federal Government. The President shares your hope that an agreement can be reached on the State delegation issue.

In an effort to resolve this issue, Administration representatives, working with the staff of the Senate Energy Committee, were successful in reaching an agreement on language that would expand the list of delegable royalty management authorities, without reducing the Secretary of the Interior's responsibility with respect to the management of Federal lands. That language was included in S. 1014, which was reported out of the Senate Energy Committee on May 1st. The Administration supports S. 1014 as reported out of Committee, but will seek a minor technical amendment. The Administration believes this bill's State delegation language is acceptable, unlike the language included in H.R. 1975, the House Resources Committee bill on Royalty Simplification.

The Administration will continue to work with Congress as the legislative process moves forward, and stands ready to work in support of the language included in the Senate Energy Committee bill. I appreciate your interest and support in this important legislation.

Sincerely,

LEON E. PANETTA, *Chief of Staff.*

DOE NEWS

STATEMENT OF CHARLES B. CURTIS, DEPUTY SECRETARY, U.S. DEPARTMENT OF ENERGY ON ROYALTY FAIRNESS

''The Clinton Administration is extremely pleased by passage in the House today of H.R. 1975, the Federal Oil and Gas Royalty Simplification and Fairness Act. This legislation will improve the competitiveness of America's natural gas and oil industry by reducing red tape and making the federal regulatory structure more efficient and responsive.

''The Administration has worked hard to advance this legislation because we believe that simplifying royalty collection procedures will make it less costly for domestic energy producers to find and produce more natural gas and oil on federal lands. That, in turn, will reduce America's reliance on foreign oil. Furthermore, the Congressional Budget Office estimates that enactment of this measure will contribute an additional $51 million in federal revenues and $33 million in state revenues over seven years.

''The bipartisan support in the House for this bill is a major step forward in making government work for the American people. If the Senate also approves this legislation, it will be good news for American workers, good news for the U.S. Treasury and, most important, good news for our Nation's energy and National security.''

Mr. DOMENICI. Mr. President, I speak today about extremely important legislation that we will pass in the Senate: The Federal Oil and Gas Royalty Simplification and Fairness Act of 1996.

This bill is a win-win solution for our beleaguered domestic oil and gas industry, oil and gas-producing States like my State of New Mexico, and the Federal Treasury.

As one of the three cosponsors of this legislation, I wish to commend Senator NICKLES for introducing the bill, Senator MURKOWSKI for joining with me as a cosponsor, and Senator THOMAS for fighting hard with us to move this bill through committee and past initial administration objections.

The bill before us reflects solid bipartisan support and the hard work of the majority and the minority to narrow our differences and reach a good compromise.

The Royalty Fairness bill will generate more revenue for the State and Federal Government, which means more funding will be available for New Mexico schools and for other vital State programs that depend on revenues from oil and gas royalties.

According to CBO, the Royalty Fairness bill has the potential to save taxpayers more than $50 million over 7 years. States keep half of the oil and gas royalties, and because of our legislation will have the potential to receive over $30 million of additional royalty revenue into their State treasuries when this bill is enacted into law.

Let me remind my colleagues that the Federal royalty collection system is our Nation's third largest source of revenue, and this bill makes long-needed improvements to that system.

This bill will finally give the oil patch more consistency and less uncertainty in the royalty collection process, which will, in turn, give a much-needed boost to our domestic oil and gas industry and lessen our dependence on foreign imports.

This is a good-government bill, a win-win bill, and I urge the President to sign this bill into law as soon as possible.

Mr. NICKLES. Mr. President, today we have finally passed the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996. I introduced this bill last year. It is a bipartisan bill that has the support of the administration as well as 14 State Governors who represent 99 percent of all Federal onshore production, the Interstate Oil and Gas Compact Commission and industry trade associations who represent virtually 100 percent of all Federal lessees.

This bill amends the Federal Oil and Gas Royalty Management Act of 1982 and applies to leases issued by the Secretary of the Interior on Federal onshore lands and the Outer Continental Shelf. The bill's objectives are to provide greater certainty, simplicity, fairness and administrative efficiencies in the laws that govern Federal royalties.

Over time, serious problems have developed with the ways courts and consequently the Minerals Management Service [MMS] have interpreted the Federal statute of limitations governing royalty collection. Basically the issue is: At what time does the statute of limitations begin to run on the underpayment of royalties?

Some courts claim that the statute of limitations does not begin to run until the MMS ''should have known about the deficiency'' in the amount the producer has paid [Mesa versus U.S. (10th Cir. 1994)]. Other courts have held that the current 6-year statute ''is tolled until such time as the government could reasonably have known about a fact material to its right of action.'' [Phillips versus Lujan (10th Cir. 1993)].

Either of the above interpretations subjects producers to unlimited liability—a period that well exceeds the statute of limitations on other agency actions regarding producers. This situation has created a climate of deep uncertainty in the payment of royalties that was not intended by Congress and that is not in the best interests of consumers, producers, or ultimately the U.S. Government.

Oil and gas producers pay billions of dollars every year for the opportunity to drill on Federal land. The payment of royalties is a routine part of doing business with the Federal Government. There is no attempt here to alter that obligation to pay.

However, as in all other businesses, oil and gas producers need certainty in their business relationships and in their business transactions with the Federal Government. That certainty is not now present in the MMS's regulations or in numerous court decisions interpreting the applicable statute of limitations. Certainty can be achieved

only through legislation. For that reason, I introduced the Royalty Fairness Act of 1995.

The main objective of this legislation is to establish a clear statute of limitations and identify the time when the statute of limitations begins to run on royalty payments. This bill establishes a 7-year statute of limitations and in most cases, the statute will begin to run when the obligation to pay the royalty begins.

In addition, this bill permits the Secretary of the Interior to delegate royalty collections and related activities to the States, it provides for adjustments or refund requests to correct underpayments or overpayments of obligations, it authorizes the payment of interest to lessees who make overpayments, and it provides alternatives for marginal properties including prepayment of royalties or regulatory relief.

In conclusion, the Congressional Budget Office estimates this bill would increase revenues to the U.S. Treasury by $36 million over 6 years, and cumulatively to the States by $9 million during the same interval. I am confident that passage of this bill is much needed to create a climate of certainty in the oil and gas industry as well as being very much in the national economic interest.

Mr. STEVENS. Mr. President, I ask unanimous consent that the bill be deemed read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

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

The bill (H.R. 1975) was deemed read the third time and passed.

TECHNICAL CORRECTIONS IN THE ENROLLMENT OF H.R. 1975

Mr. STEVENS. Mr. President, I now ask unanimous consent that the Senate proceed to the immediate consideration of Senate Concurrent Resolution 70 submitted earlier today by Senator MURKOWSKI; further, that the resolution be agreed to and the motion to reconsider be laid upon the table.

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

The concurrent resolution (S. Con. Res. 70) was agreed to, as follows:

S. CON. RES. 70

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the bill (H.R. 1975) to improve the management of royalties from Federal and Outer Continental Shelf oil and gas leases, and for other purposes, the Clerk of the House of Representatives shall make the following corrections:

(1) On page 5, line 23, strike the word ''provision'' and insert in lieu thereof the word ''provisions''.

(2) On page 29, line 23, insert the word ''so'' before the word ''demonstrate''.

(3) On page 36, line 2, insert the word ''not'' after the word ''shall''.

(4) On page 36, line 19, insert the word ''rate'' and insert in lieu thereof the word ''date''.

(5) On page 36, line 24, insert the word ''owned'' and insert in lieu thereof the word ''owed''.

(6) On page 39, line 8, insert the word ''dues'' and insert in lieu thereof the word ''due''.

(7) On page 44, line 24, insert the word ''it'' and insert in lieu thereof the word ''its''.

ORDERS FOR TUESDAY, SEPTEMBER 3, 1996

Mr. STEVENS. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 11 a.m. on Tuesday, September 3; further, that immediately following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, and the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and that there then be a period for morning business until the hour of 2 p.m. with the first 90 minutes under the control of Senator DASCHLE or his designee, and that the second 90 minutes be under the control of Senator COVERDELL or his designee.

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

Mr. STEVENS. I ask unanimous consent that following morning business on Tuesday, September 3, the Senate proceed to the consideration of House bill H.R. 3666, the VA-HUD appropriations bill.

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

PROGRAM

Mr. STEVENS. Mr. President, there will be no rollcall votes on September 3.

The Senate may also be asked to turn to consideration of any other executive or legislative items cleared for action. There are a number of available appropriations conference reports, such as the D.C. appropriations, military construction appropriations, legislative appropriations, as well as the defense authorization conference report. On Wednesday the Senate will resume consideration of the VA-HUD appropriations bill or any of the above mentioned reports with rollcall votes expected. On Thursday the Senate will consider the Defense of Marriage Act under a previous unanimous-consent agreement.

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 104–132, appoints Robert M. Stewart, of South Carolina, as a member of the Commission on the Advancement of Federal Law Enforcement.

APPOINTMENT BY THE MINORITY LEADER

The PRESIDING OFFICER. The Chair, on behalf of the minority leader, pursuant to Public Law 104–132, appoints Donald C. Dahlin, of South Dakota, as a member of the Commission on the Advancement of Federal Law Enforcement.

ADJOURNMENT UNTIL 11 A.M., TUESDAY, SEPTEMBER 3, 1996

Mr. STEVENS. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment in accordance with House concurrent resolution 203.

There being no objection, the Senate, at 9:16 p.m., adjourned until Tuesday, September 3, 1996, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate August 2, 1996:

THE JUDICIARY

ROBERT W. PRATT, OF IOWA, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF IOWA VICE HAROLD D. VIETOR, RETIRED.

CONFIRMATIONS

Executive nominations confirmed by the Senate August 2, 1996:

COMMODITY FUTURES TRADING COMMISSION

BROOKSLEY ELIZABETH BORN, OF THE DISTRICT OF COLUMBIA, TO BE A COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING APRIL 13, 1999.

BROOKSLEY ELIZABETH BORN, OF THE DISTRICT OF COLUMBIA, TO BE CHAIRMAN OF THE COMMODITY FUTURES TRADING COMMISSION.

DAVID D. SPEARS, OF KANSAS, TO BE A COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION FOR THE TERM EXPIRING APRIL 13, 2000.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

THE JUDICIARY

ANN D. MONTGOMERY, OF MINNESOTA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF MINNESOTA.

DEPARTMENT OF TRANSPORTATION

CHARLES A. HUNNICUTT, OF GEORGIA, TO BE AN ASSISTANT SECRETARY OF TRANSPORTATION.

UNITED STATES ENRICHMENT CORPORATION

CHARLES WILLIAM BURTON, OF TEXAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE U.S. ENRICHMENT CORPORATION FOR A TERM EXPIRING FEBRUARY 24, 2001.

CHRISTOPHER M. COBURN, OF OHIO, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE U.S. ENRICHMENT CORPORATION FOR A TERM EXPIRING FEBRUARY 24, 2000.

COMMODITY FUTURES TRADING COMMISSION

BROOKSLEY ELIZABETH BORN, OF THE DISTRICT OF COLUMBIA, TO BE A COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING APRIL 13, 1999.

BROOKSLEY ELIZABETH BORN, OF THE DISTRICT OF COLUMBIA, TO BE CHAIRMAN OF THE COMMODITY FUTURES TRADING COMMISSION.

DAVID D. SPEARS, OF KANSAS, TO BE A COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION FOR THE TERM EXPIRING APRIL 13, 2000.

PANAMA CANAL COMMISSION

ALBERTO ALEMAN ZUBIETA, A CITIZEN OF THE REPUBLIC OF PANAMA, TO BE ADMINISTRATOR OF THE PANAMA CANAL COMMISSION.

UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

EVERETT ALVAREZ, JR., OF MARYLAND, TO BE A MEMBER OF THE BOARD OF REGENTS OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES FOR A TERM EXPIRING MAY 1, 1999.

CONSUMER PRODUCT SAFETY COMMISSION

THOMAS HILL MOORE, OF FLORIDA, TO BE A COMMISSIONER OF THE CONSUMER PRODUCT SAFETY COMMISSION FOR A TERM OF 7 YEARS FROM OCTOBER 26, 1996.

NUCLEAR REGULATORY COMMISSION

EDWARD MCGAFFIGAN, JR., OF VIRGINIA, TO BE A MEMBER OF THE NUCLEAR REGULATORY COMMISSION FOR THE TERM OF 5 YEARS EXPIRING JUNE 30, 2000.

NILS J. DIAZ, OF FLORIDA, TO BE A MEMBER OF THE NUCLEAR REGULATORY COMMISSION FOR THE TERM OF 5 YEARS EXPIRING JUNE 30, 2001.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

THE JUDICIARY

ANN D. MONTGOMERY, OF MINNESOTA, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF MINNESOTA.

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR PROMOTION IN THE REGULAR AIR FORCE OF THE UNITED STATES TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

To be brigadier general

COL. GILBERT J. REGAN, 000–00–0000, U.S. AIR FORCE.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE, TO THE GRADE INDICATED, UNDER TITLE 10, UNITED STATES CODE, SECTIONS 8374, 12201, AND 12212:

To be brigadier general

COL. CHRISTOPHER J. LUNA, 000–00–0000, AIR NATIONAL GUARD OF THE UNITED STATES.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE U.S. AIR FORCE WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. ROGER G. DEKOK, 000–00–0000.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE U.S. AIR FORCE WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. PATRICK K. GAMBLE, 000–00–0000.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE U.S. AIR FORCE WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

LT. GEN. LESTER L. LYLES, 000–00–0000.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE U.S. AIR FORCE WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. JOHN B. SAMS, JR., 000–00–0000, U.S. AIR FORCE.

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

LT. GEN. CHARLES T. ROBERTSON, 000–00–0000, U.S. AIR FORCE.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. FRANK B. CAMPBELL, 000–00–0000, U.S. AIR FORCE.

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE U.S. ARMY WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. DAVID L. BENTON, 000–00–0000.

THE FOLLOWING-NAMED ARMY MEDICAL SERVICE CORPS COMPETITIVE CATEGORY OFFICER FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES TO THE GRADE OF BRIGADIER GENERAL UNDER THE PROVISIONS OF THE TITLE 10, UNITED STATES CODE, SECTIONS 611(A) AND 624(C):

To be brigadier general

COL. MACK C. HILL, 000–00–0000, U.S. ARMY.

THE FOLLOWING-NAMED ARMY MEDICAL CORPS COMPETITIVE CATEGORY OFFICERS FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES TO THE GRADE OF BRIGADIER GENERAL UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 611(A) AND 624(C):

To be brigadier general

COL. RALPH O. DEWITT, JR., 000–00–0000, U.S. ARMY.
COL. KEVIN C. KILEY, 000–00–0000, U.S. ARMY.
COL. MICHAEL J. KUSSMAN, 000–00–0000, U.S. ARMY.
COL. DARREL R. PORR, 000–00–0000, U.S. ARMY.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE U.S. ARMY WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. ERIC K. SHINSEKI, 000–00–0000.

THE FOLLOWING-NAMED OFFICERS FOR PROMOTION IN THE REGULAR ARMY OF THE UNITED STATES TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTIONS 611(A) AND 624:

To be major general

BRIG. GEN. MICHAEL W. ACKERMAN, 000–00–0000.
BRIG. GEN. FRANK H. AKERS, JR., 000–00–0000.
BRIG. GEN. LEO J. BAXTER, 000–00–0000.
BRIG. GEN. ROY E. BEAUCHAMP, 000–00–0000.
BRIG. GEN. KENNETH R. BOWRA, 000–00–0000.
BRIG. GEN. KEVIN P. BYRNES, 000–00–0000.
BRIG. GEN. MICHAEL A. CANAVAN, 000–00–0000.
BRIG. GEN. ROBERT T. CLARK, 000–00–0000.
BRIG. GEN. MICHAEL L. DODSON, 000–00–0000.
BRIG. GEN. ROBERT B. FLOWERS, 000–00–0000.
BRIG. GEN. PETER C. FRANKLIN, 000–00–0000.
BRIG. GEN. THOMAS W. GARRETT, 000–00–0000.
BRIG. GEN. EMMITT E. GIBSON, 000–00–0000.
BRIG. GEN. DAVID L. GRANGE, 000–00–0000.
BRIG. GEN. DAVID R. GUST, 000–00–0000.
BRIG. GEN. MARK R. HAMILTON, 000–00–0000.
BRIG. GEN. PATRICIA R.P. HICKERSON, 000–00–0000.
BRIG. GEN. ROBERT R. IVANY, 000–00–0000.
BRIG. GEN. JOSEPH K. KELLOGG, JR., 000–00–0000.
BRIG. GEN. JOHN M. LEMOYNE, 000–00–0000.
BRIG. GEN. JOHN M. MCDUFFIE, 000–00–0000.
BRIG. GEN. FREDDY E. MCFARREN, 000–00–0000.
BRIG. GEN. MARIO F. MONTERO, JR., 000–00–0000.
BRIG. GEN. STEPHEN T. RIPPE, 000–00–0000.
BRIG. GEN. JOHN J. RYNESKA, 000–00–0000.
BRIG. GEN. ROBERT D. SHADLEY, 000–00–0000.
BRIG. GEN. EDWIN P. SMITH, 000–00–0000.
BRIG. GEN. JOHN B. SYLVESTER, 000–00–0000.
BRIG. GEN. RALPH G. WOOTEN, 000–00–0000

IN THE MARINE CORPS

THE FOLLOWING-NAMED BRIGADIER GENERALS OF THE U.S. MARINE CORPS RESERVE FOR PROMOTION TO THE GRADE OF MAJOR GENERAL, UNDER THE PROVISIONS OF SECTION 5898 OF TITLE 10, UNITED STATES CODE:

To be major general

BRIG. GEN. JOHN W. HILL, 000–00–0000, USMCR.
BRIG. GEN. DENNIS M. MCCARTHY, 000–00–0000, USMCR.

THE FOLLOWING-NAMED COLONELS OF THE U.S. MARINE CORPS FOR PROMOTION TO THE GRADE OF BRIGADIER GENERAL, UNDER THE PROVISIONS OF SECTION 624 OF TITLE 10, UNITED STATES CODE:

To be brigadier general

COL. ROBERT R. BLACKMAN, JR., 000–00–0000, USMC.
COL. WILLIAM G. BOWDON, III, 000–00–0000, USMC.
COL. JAMES T. CONWAY, 000–00–0000, USMC.
COL. KEITH T. HOLCOMB, 000–00–0000, USMC.
COL. HAROLD MASHBURN, JR., 000–00–0000, USMC.
COL. GREGORY S. NEWBOLD, 000–00–0000, USMC.

THE FOLLOWING-NAMED COLONEL OF THE U.S. MARINE CORPS FOR PROMOTION TO THE GRADE OF BRIGADIER GENERAL, UNDER THE PROVISIONS OF SECTION 624 OF TITLE 10, UNITED STATES CODE:

To be brigadier general

COL. GUY M. VANDERLINDEN, 000–00–0000, USMC.

THE FOLLOWING-NAMED COLONEL OF THE U.S. MARINE CORPS FOR PROMOTION TO THE GRADE OF BRIGADIER GENERAL, UNDER THE PROVISIONS OF SECTION 624 OF TITLE 10, UNITED STATES CODE:

To be brigadier general

COL. ARNOLD FIELDS, 000–00–0000, USMC.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE U.S. MARINE CORPS WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER THE PROVISIONS OF SECTION 601(A), TITLE 10, UNITED STATES CODE:

To be lieutenant general

MAJ. GEN. CARLTON W. FULFORD, JR., 000–00–0000.

THE FOLLOWING-NAMED OFFICER, ON THE ACTIVE-DUTY LIST, FOR PROMOTION TO THE GRADE OF BRIGADIER GENERAL IN THE U.S. MARINE CORPS IN ACCORDANCE WITH SECTION 5046 OF TITLE 10, UNITED STATES CODE:

THEODORE G. HESS, 000–00–0000.

IN THE NAVY

THE FOLLOWING-NAMED OFFICERS FOR PROMOTION IN THE NAVAL RESERVE OF THE UNITED STATES TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 5912:

UNRESTRICTED LINE

To be rear admiral

REAR ADM. (LH) JAMES WAYNE EASTWOOD, 000–00–0000, U.S. NAVAL RESERVE.

REAR ADM. (LH) JOHN EDWIN KERR, 000–00–0000, U.S. NAVAL RESERVE.

REAR ADM. (LH) JOHN BENJAMIN TOTUSHEK, 000–00–0000, U.S. NAVAL RESERVE.

RESTRICTED LINE

To be rear admiral

REAR ADM. (LH) ROBERT HULBURT WEIDMAN, JR., 000–00–0000, U.S. NAVAL RESERVE.

STAFF CORPS

To be rear admiral

REAR ADM. (LH) M. EUGENE FUSSELL, 000–00–0000, U.S. NAVAL RESERVE.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF VICE ADMIRAL IN THE U.S. NAVY WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10 U.S.C., SECTION 601:

To be vice admiral

REAR ADM. (SELECTEE) LYLE G. BIEN, 000–00–0000.

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF ADMIRAL IN THE U.S. NAVY WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTIONS 601 AND 5033:

CHIEF OF NAVAL OPERATIONS

To be admiral

ADM. JAY L. JOHNSON, 000–00–0000.

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL IN THE U.S. AIR FORCE WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10 UNITED STATES CODE, SECTION 601:

To be general

LT. GEN. HOWELL M. ESTES, III. 000–00–0000.

IN THE ARMY

THE FOLLOWING U.S. ARMY NATIONAL GUARD OFFICER FOR PROMOTION IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTIONS 3385, 3392, AND 12203(A):

To be major general

BRIG. GEN. GERALD A. RUDISILL, JR., 000–00–0000.

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR PROMOTION IN THE REGULAR AIR FORCE OF THE UNITED STATES TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

To be brigadier general

COL. GARRY R. TREXLER, 000–00–0000.

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE, TO THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, U.S.C., SECTIONS 8373, 8374, 12201, AND 12212:

To be major general

BRIG. GEN. KEITH D. BJERKE, 000–00–0000, AIR NATIONAL GUARD.
BRIG. GEN. EDMOND W. BOENISCH, JR., 000–00–0000, AIR NATIONAL GUARD.
BRIG. GEN. STEWART R. BYRNE, 000–00–0000, AIR NATIONAL GUARD.
BRIG. GEN. JOHN H. FENIMORE, V, 000–00–0000, AIR NATIONAL GUARD.
BRIG. GEN. JOHNNY J. HOBBS, 000–00–0000, AIR NATIONAL GUARD.
BRIG. GEN. STEPHEN G. KEARNEY, 000–00–0000, AIR NATIONAL GUARD.
BRIG. GEN. WILLIAM B. LYNCH, 000–00–0000, AIR NATIONAL GUARD.

To be brigadier general

COL. BRIAN E. BARENTS, 000–00–0000, AIR NATIONAL GUARD.
COL. GEORGE P. CHRISTAKOS, 000–00–0000, AIR NATIONAL GUARD.
COL. WALTER C. CORISH, JR., 000–00–0000, AIR NATIONAL GUARD.
COL. FRED E. ELLLIS, 000–00–0000, AIR NATIONAL GUARD.
COL. FREDERICK D. FEINSTEIN, 000–00–0000, AIR NATIONAL GUARD.
COL. WILLIAM P. GRALOW, 000–00–0000, AIR NATIONAL GUARD.
COL. DOUGLAS E. HENNEMAN, 000–00–0000, AIR NATIONAL GUARD.
COL. EDWARD R. JAYNE, II, 000–00–0000, AIR NATIONAL GUARD.
COL. RAYMOND T. KLOSOWSKI, 000–00–0000, AIR NATIONAL GUARD.
COL. FRED N. LARSON, 000–00–0000, AIR NATIONAL GUARD.
COL. BRUCE W. MACLANE, 000–00–0000, AIR NATIONAL GUARD.
COL. RONALD W. MIELKE, 000–00–0000, AIR NATIONAL GUARD.
COL. FRANK A. MITOLO, 000–00–0000, AIR NATIONAL GUARD.

COL. FRANK D. REZAC, 000–00–0000, AIR NATIONAL GUARD.
COL. JOHN P. SILLIMAN, JR., 000–00–0000, AIR NATIONAL GUARD.
COL. GEORGE E. WILSON, III, 000–00–0000, AIR NATIONAL GUARD.

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING GREGORY O. ALLEN, AND ENDING STEPHEN M. WOLFE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 3, 1996.

AIR FORCE NOMINATIONS BEGINNING DERRICK K. ANDERSON, AND ENDING JONI E. YOUNG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 3, 1996.

AIR FORCE NOMINATIONS BEGINNING STEPHEN D. CHIABOTTI, AND ENDING JOHN M. LOPARDI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 9, 1996.

IN THE ARMY

ARMY NOMINATION OF WAYNE E. ANDERSON, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 18, 1996.

ARMY NOMINATIONS BEGINNING ANN L. BAGLEY, AND ENDING BURKHARDT H. ZORN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 11, 1996.

ARMY NOMINATIONS BEGINNING JAMES W. BAIK, AND ENDING PETER C. YOUNG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 11, 1996.

IN THE MARINE CORPS

MARINE CORPS NOMINATIONS BEGINNING RICHARD L. WEST, AND ENDING PAUL P. HARRIS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 9, 1996.

MARINE CORPS NOMINATIONS BEGINNING JOHN JOSPEH CANNEY, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 11, 1996.

IN THE NAVY

NAVY NOMINATIONS BEGINNING MICHAEL P. AGOR, AND ENDING DONALD H. FLOWERS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 17, 1996.

NAVY NOMINATIONS BEGINNING WILLIAM S. ADSIT, AND ENDING CRISPIN A. TOLEDO, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 3, 1996.

NAVY NOMINATIONS BEGINNING JOHNNY P. ALBUS, AND ENDING MARK E. SCHULTZ, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 3, 1996.

NAVY NOMINATIONS BEGINNING ANTHONY L. EVANGELISTA, AND ENDING LAURA C. MCCLELLAND, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 9, 1996.