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# Senate

The Senate met at 9 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:

Almighty God, we thank You for this moment of quiet in which we can reaffirm who we are, whose we are, and why we are here. Once again, we commit ourselves to You as sovereign Lord of our lives and our Nation. Our ultimate goal is to please and serve You. You have called us to be servant leaders who glorify You in seeking to know and to do Your will in the unfolding of Your vision for America.

We spread out before You the specific decisions that must be made today. We claim Your presence in all that we do this day. Guide our thinking and our speaking. May our convictions be based on undeniable truth which has been refined by You.

Bless the women and men of this Senate as they work together to find the best solutions for the problems before our Nation. Help them to draw on the supernatural resources of Your spirit. Give them divine wisdom, penetrating discernment, and indomitable courage.

When this day draws to a close, may our deepest joy be that we received Your best for us and worked together for what is best for our Nation. In the name of our Lord and Saviour. Amen.

## RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able Senator from Alaska is recognized.

Mr. MURKOWSKI. Mr. President, I wish the Senate a good morning and a good day.

## SCHEDULE

Mr. MURKOWSKI. On behalf of the leader, this morning the Senate will resume consideration of S. 104, the Nuclear Policy Act. Under the order, following 3 minutes for debate, there will be a series of rollcall votes on or in relationship to the pending amendments. The last vote in that series will be final passage of the Nuclear Policy Act.

Following disposition of S. 104, there will be a period of morning business until the hour of 12:30 p.m. The Senate will recess at 12:30 p.m. until the hour of 2:15 to allow for the weekly policy conferences to meet. When the Senate reconvenes after the luncheons, it is hoped that we will be able to begin discussions on legislation regarding the IRS's unauthorized access to tax records. Therefore, Senators can expect additional votes today following the policy luncheons.

## RESERVATION OF LEADER TIME

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

## NUCLEAR WASTE POLICY ACT AMENDMENTS

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 104 which the clerk will report.

The bill clerk read as follows:

A bill (S. 104) to amend the Nuclear Waste Policy Act of 1982.

The Senate resumed consideration of the bill.

Pending:

Murkowski amendment No. 26, in the nature of a substitute.

Lott (for Domenici) amendment No. 42 (to amendment No. 26) to provide that no points of order, which require 60 votes in order to adopt a motion to waive such point of order, shall be considered to be waived during the consideration of a joint resolution under section 401 of this act.

Lott (for Murkowski) amendment No. 43 (to amendment No. 42) to establish the level of annual fee for each civilian nuclear power reactor.

Bingaman amendment No. 31 (to amendment No. 26) to provide for the case in which the Yucca Mountain site proves to be unsuitable or cannot be licensed and to strike the automatic default to a site in Nevada.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. BRYAN. Mr. President, I ask unanimous consent that privileges of the floor be extended to a staff member of mine, Brent Heberlee, throughout consideration of S. 104 and amendments thereto.

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

AMENDMENT NO. 31

The PRESIDING OFFICER. There will now be 3 minutes debate prior to the vote on the Bingaman amendment No. 31.

Mr. MURKOWSKI. Mr. President, let me very briefly address the Bingaman amendment which I feel introduces some serious loopholes in S. 104's ironclad process toward a safe, central interim storage facility.

The loopholes will be used, as they have in the past, to keep the nuclear waste where it is at 80 sites in 41 States, near schools and residential neighborhoods—right where it is today.

The history of the nuclear waste issue has taught us some simple lessons we must heed: Any decision regarding nuclear waste that can be delayed will be delayed; any decision that can be ignored will be ignored. That is why we have spent $6 billion over 15 years, and the Federal Government is still unable to meet its legal and moral obligation to take the waste in 1998.

I implore my colleagues: Let us not be fooled again. S. 104 is designed to make sure there are no trap doors. The chart that I explained to my colleagues yesterday attempts to make a decision, force a decision now, not leave us with a way out or a copout.

I suggest to you that the Bingaman amendment as it is structured opens a loophole. It opens the process to political pressure. It invites indecision. It

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



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continues the legacy of failure that the Department of Energy's nuclear waste program is noted for.

It would be my intention, Mr. President, to move to table the Bingaman amendment.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, first, I ask unanimous consent that Anne Marie Murphy, who is a Congressional Fellow on Senator DURBIN's staff, be granted privileges of the floor today, April 15.

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

Mr. BINGAMAN. Mr. President, the amendment I have offered goes to the heart of a flaw in S. 104. Without the amendment that I am offering, S. 104 will send nuclear waste to the site right next to Yucca Mountain even if Yucca Mountain fails as the geologic repository. We will then have a permanent aboveground repository rather than a geologic repository and will be able to shuffle off the responsibility for dealing with nuclear waste to our children and grandchildren.

There is an attempt in the bill to disguise this unfair policy with a provision that allows the President to send waste somewhere else if we pass a law to that effect within 24 months. But we are not going to pass a new nuclear waste law in 24 months especially if the reward for not doing so is to keep sending all the waste to Nevada where we can forget about it.

My amendment stops construction and operation of an interim storage site in Nevada if Yucca Mountain fails as a candidate repository at any time before it opens. If Yucca Mountain is not suitable as a repository, then it is not the right place for interim storage. We must have certainty that our ultimate solution for nuclear waste is based on having a geologic repository and that any action on an interim storage facility rises or falls with the fate of a permanent facility.

I urge my colleagues to support the amendment.

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

The question is on agreeing to the amendment.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I move to table the Bingaman amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NICKLES. I announce that the Senator from Indiana [Mr. COATS] is necessarily absent.

Mr. FORD. I announce that the Senator from West Virginia [Mr. ROCKEFELLER] is necessarily absent.

The result was announced—yeas, 59, nays, 39, as follows:

[Rollcall Vote No. 40 Leg.]

YEAS—59

| | | |
|---|---|---|
| Abraham | Grams | McConnell |
| Allard | Grassley | Moseley-Braun |
| Ashcroft | Gregg | Murkowski |
| Bennett | Hagel | Murray |
| Bond | Hatch | Nickles |
| Brownback | Helms | Roberts |
| Burns | Hollings | Roth |
| Cochran | Hutchinson | Santorum |
| Collins | Hutchison | Sessions |
| Coverdell | Inhofe | Shelby |
| Craig | Jeffords | Smith (NH) |
| D'Amato | Johnson | Smith (OR) |
| DeWine | Kempthorne | Snowe |
| Domenici | Kohl | Specter |
| Enzi | Kyl | Stevens |
| Faircloth | Leahy | Thomas |
| Frist | Lott | Thompson |
| Gorton | Lugar | Thurmond |
| Graham | Mack | Warner |
| Gramm | McCain | |

NAYS—39

| | | |
|---|---|---|
| Akaka | Daschle | Landrieu |
| Baucus | Dodd | Lautenberg |
| Biden | Dorgan | Levin |
| Bingaman | Durbin | Lieberman |
| Boxer | Feingold | Mikulski |
| Breaux | Feinstein | Moynihan |
| Bryan | Ford | Reed |
| Bumpers | Glenn | Reid |
| Byrd | Harkin | Robb |
| Campbell | Inouye | Sarbanes |
| Chafee | Kennedy | Torricelli |
| Cleland | Kerrey | Wellstone |
| Conrad | Kerry | Wyden |

NOT VOTING—2

| | |
|---|---|
| Coats | Rockefeller |

The motion to lay on the table the amendment (No. 31) was agreed to.

Mr. MURKOWSKI. The Senate is not in order, Mr. President.

The PRESIDING OFFICER. The Senate will be in order. There will now be 3 minutes for debate prior to the vote——

Mr. MURKOWSKI. Mr. President, I did not hear the vote count, and I wonder if my other colleagues did. I wonder if the President will repeat it.

The PRESIDING OFFICER. On the motion to table, Senators voting in the affirmative 59, voting in the negative 39. The motion to table is agreed to.

Mr. MURKOWSKI. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 43

The PRESIDING OFFICER. There will now be 3 minutes of debate prior to the vote on the Murkowski amendment No. 43.

The Senator from Alaska is recognized.

Mr. MURKOWSKI. I thank the Chair.

Mr. President, the purpose of this amendment is to protect the taxpayer by making it clear that nuclear waste user fees cannot exceed 1 mill per kilowatt hour without specified congressional authorization. The spent fuel disposal program is paid for with a fee that is currently set to 1 mill per kilowatt hour. My amendment simply protects the ratepayer by making it clear that the user fee cannot exceed 1 mill without congressional authorization. DOE's own budget projections show that a 1 mill fee is sufficient.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, in 1982, when this body adopted the Nuclear Waste Policy Act, we set, as the distinguished chairman of the committee has said, the amount the utilities would pay to build a permanent repository at 1 mill per kilowatt hour. In 14 years, we have collected $8 billion. The total cost of the program is $34 billion. The utilities' share of that cost is $27 billion. So we are looking for the 1 mill fee to produce $27 billion. The defense program's share is $7 billion. The interest on the excess that sits in the Treasury is expected to make up the balance.

In 14 years, the Secretary of Energy has had the discretion, which we gave the Secretary, to raise this 1 mill fee to whatever it would take to pay the utilities' share of the program's cost. In 14 years, he or she has never seen fit to raise it. There is no point in tinkering with it now because it is working fine.

If there ever was a case where we are trying to fix a problem that does not exist, this is it. Leave the law as it is. We are adding $2 billion to the $27 billion cost now with the Murkowski bill. That is going to up the ante $2 billion. One mill is fine for now. The utilities are happy with it. It is producing the amount of money we want. There is absolutely no reason for this amendment. I do not think we will have to raise it, but we might.

Mr. President, I yield back such time as I have.

The PRESIDING OFFICER. If all time is yielded back, the question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from Indiana [Mr. COATS] is necessarily absent.

Mr. FORD. I announce that the Senator from West Virginia [Mr. ROCKEFELLER] is necessarily absent.

The result was announced—yeas 66, nays 32, as follows:

[Rollcall Vote No. 41 Leg.]

YEAS—66

| | | |
|---|---|---|
| Abraham | Collins | Gorton |
| Allard | Coverdell | Graham |
| Bennett | Craig | Gramm |
| Bond | D'Amato | Grams |
| Breaux | DeWine | Grassley |
| Brownback | Dodd | Gregg |
| Burns | Domenici | Hagel |
| Campbell | Enzi | Hatch |
| Chafee | Faircloth | Helms |
| Cochran | Frist | Hollings |

| | | |
|---|---|---|
| Hutchinson | Lott | Sarbanes |
| Hutchison | Lugar | Sessions |
| Inhofe | Mack | Shelby |
| Inouye | McCain | Smith (NH) |
| Jeffords | McConnell | Smith (OR) |
| Johnson | Mikulski | Snowe |
| Kempthorne | Murkowski | Specter |
| Kohl | Nickles | Stevens |
| Kyl | Robb | Thomas |
| Leahy | Roberts | Thompson |
| Levin | Roth | Thurmond |
| Lieberman | Santorum | Warner |

NAYS—32

| | | |
|---|---|---|
| Akaka | Daschle | Landrieu |
| Ashcroft | Dorgan | Lautenberg |
| Baucus | Durbin | Moseley-Braun |
| Biden | Feingold | Moynihan |
| Bingaman | Feinstein | Murray |
| Boxer | Ford | Reed |
| Bryan | Glenn | Reid |
| Bumpers | Harkin | Torricelli |
| Byrd | Kennedy | Wellstone |
| Cleland | Kerrey | Wyden |
| Conrad | Kerry | |

NOT VOTING—2

| | |
|---|---|
| Coats | Rockefeller |

The amendment (No. 43) was agreed to.

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

Mr. STEVENS. Mr. President, I move to lay it on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 42

The PRESIDING OFFICER. There will now be 3 minutes for debate prior to the vote on the Domenici amendment No. 42.

Mr. MURKOWSKI. I ask unanimous consent the yeas and nays be vitiated on the substitute amendment. I understand the underlying Domenici amendment is acceptable.

Mr. DOMENICI. Mr. President, my amendment is, in effect, a technical amendment which ensures that any joint resolution addressing a change to the fee set out in this bill does not automatically escape Budget Act scrutiny.

The underlying bill provides fast-track procedures for enacting the joint resolution. The procedures provide that all points of order are waived. My amendment provides that Budget Act points of order are not waived: It would be a bad precedent to waive Budget Act points of order when we don't have the measure before us for review.

The PRESIDING OFFICER. If there is no future debate, the question is on agreeing to the Domenici amendment.

The amendment (No. 42) was agreed to.

Mr. DOMENICI. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. MURKOWSKI. I now ask for the yeas and nays on the passage of Senate bill 104.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The yeas and nays were ordered.

AMENDMENT NO. 26

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the Murkowski amendment in the nature of a substitute, as amended.

The amendment (No. 26), as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. There are 2 minutes for debate evenly divided at this time.

Mr. MURKOWSKI. Mr. President, the question before the body now is whether we want to leave the waste where it is, 41 States in 80 sites, or do something about the waste. Do we want the waste to move out again because of an inability to reach a decision? Where would it move? Nobody wants it in any of the 50 States. It would move out to the Pacific. God knows where it would move. Today we must make an important environmental decision which will lead to a safer future for all Americans.

Currently, Mr. President, as I have noted, we have the waste stored in 80 sites in 41 States. This is in addition to waste stored at DOE facilities, and it is in our backyards across the land. Do we want that waste to stay there, or do we want to move it? That is the question.

Every year that goes by our ability to continue to store nuclear waste at each of these sites in a safe and environmentally responsible way diminishes. Our temporary storage facilities were designed for just that—temporary storage. We have struggled with this nuclear waste issue for more than a decade. We have collected $13 billion from the taxpayers, but some are unprepared to meet the Government's promise to take the waste by 1998, next year.

The administration's position would suggest that we are undermining the permanent repository program. They have not read the bill. The reality is that it is the only way to save the permanent repository program.

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

The PRESIDING OFFICER. The Senator is correct. Order in the Chamber.

Mr. BYRD. Let's get order in the Senate. The rule requires that the Chair secure and maintain order in the Senate and in the galleries without a point of order being made from the floor.

I hope the Chair will insist on it, and I hope that Senators will respect the Chair.

Mr. MURKOWSKI. Let me remind you that the U.S. court of appeals has ruled that the Department of Energy has an obligation to take possession of the nuclear waste in 1998, whether or not a repository is ready. Damages for the Department of Energy's failure to perform are going to cost the American taxpayer tens of billions of dollars.

Now, the administration says that S. 104 would effectively establish Nevada as a site for an interim storage facility before the viability assessment of Yucca Mountain as a permanent repository is completed. Well, they have not read the bill, Mr. President. S. 104 does not choose a site for interim storage before the viability assessment of Yucca Mountain is completed. If the viability assessment is positive, the bill provides that the interim storage facility will be constructed at the Nevada test site. If the viability assessment is negative, the bill provides that the President has 18 months and Congress has 2 years to choose another interim storage site.

This bill, Senate 104, protects the public health, environment, and extends the schedule for siting and licensing. It requires environmental impact statements. It provides the interim facility will be licensed. It shortens the license term of the interim facility to 40 years; it balance State and Federal laws, preempting only those State laws that are inconsistent with the act; it provides that the Environmental Protection Agency will set standards for a permanent repository, based upon the National Academy of Science recommendation.

So we have reached a crossroad, Mr. President. The job of fixing this program is ours. The time for fixing the program is now. Much progress has been made at Yucca Mountain. The 5-mile exploratory tunnel will soon be complete. If Yucca is found on unsuitable or is not licensed, it will be vital that we have a centralized interim site. I have a simple bottom line. We must chart a safe, predictable, and sure course to interim and permanent waste storage. There can be no trapdoors, Mr. President. I don't want to have to stand here next year or the year after doing this again. We have to ask ourselves, do we want to move the waste or simply leave it where it is?

We can choose now whether the Nation needs 80 interim storage sites, or just one. The arid, remote Nevada test site, where we have exploded scores of nuclear bombs during the cold war, is a safe and remote location for a monitored interim site. The time is now. I think S. 104 is the answer. So ask yourself, do you want to leave the waste where it is, in 40 States at 80 sites? Or do you want to move the waste from your State to one location, and that is the Nevada test site?

I reserve the remainder of my time for the Senator from Idaho, Senator CRAIG.

Mr. REID. Mr. President, how much time do the opponents of the legislation have?

The PRESIDING OFFICER (Mr. FRIST). Five minutes.

Mr. REID. The proponents have how much time?

The PRESIDING OFFICER. They have 33 seconds.

Mr. REID. I ask the Chair to advise the Senator when I have used 2 minutes.

Members of the Senate, you have seen bad legislation in your day, but

this is the worst. S. 104, as written, was bad. S. 104 in the substitute form is just as bad. People like Senator BINGAMAN have tried to improve this legislation. Senator BINGAMAN worked very hard. They tinkered with the edges. The proponents tried to pacify Senator BINGAMAN and others, and the legislation was not improved upon with their tinkering.

This legislation is bad in its substitute form and in its amended form. They have failed to deal with the transportation system at all. They haven't dealt with it. In Germany, in recent months, they tried to move six casks. They called out 30,000 police to take care of that—30,000. There were 170 people injured and 500 arrested. It cost $150 million to move it less than 300 miles. The German parliament is reconsidering the program. There is nothing in this legislation to allow it to be carried through your State safely. Every environmental group in America opposes this legislation.

The terrorism possibilities with this legislation are replete, as we laid out on the floor yesterday. The Washington Post is only one newspaper that said ''don't do it.'' Many newspapers throughout the country have said ''don't do it.''

The President is going to veto this because it is bad legislation, as agreed upon by his Secretary of Energy, head of the EPA, and by the Council of Environmental Quality. We picked a scientific group to give us insight and oversight of this legislation. They have told us that this legislation is bad. We, the Congress chartered these scientists. They are not from Nevada. They are bipartisan scientists, and they said the legislation is bad.

The United Transportation Union doesn't like the legislation. Doctors oppose this legislation. Churches, like the Lutheran Church and the Baptist ministry oppose this legislation. A group of environmentalists who deal with Native Americans in this country oppose this legislation.

This is bad legislation. If you want to cast a good vote, vote against this. It is a bad bill.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? Time will be charged equally against both sides.

Mr. BRYAN. Mr. President, what the Senate is asked to do this morning is a total repudiation and rejection of good science. S. 104 is opposed by the Nuclear Waste Technical Review Board, a body of eminent scientists, created pursuant to an act of Congress. They reviewed it last year in 1996 and last year. They say two things. First, it is unnecessary. Second, it interferes with the citing process, which is currently taking place. We dismantle the environmental laws in America if we enact this legislation.

In 1992, the Energy Efficiency Act directed the National Academy of Sciences in conjunction with EPA to develop a standard. They are about ready to do that. This legislation rejects that standard and proposes a limitation on the ability of the National Academy of Sciences and the EPA to develop the standard that would provide minimal protections for health and safety.

The third point that needs to be made is that the Nevada test site is frequently referenced. That is the proposed site for the alternative storage, the interim storage. No study has ever been made that would indicate that the Nevada test site is either desirable or suitable as an interim storage facility.

The fourth point I make is that this legislation, in fact, preempts laws in my own State, unlike it does any other State in America. The environmental protection laws are essentially delegated to the States with their ability to enforce. This legislation would preempt that ability. So in Nevada we could not enforce clean air, clean water, safe drinking, RCRA, and other provisions.

The fifth point is that the National Environmental Policy Act is gutted by the provisions. It is bad legislation. I urge my colleagues to reject it, and I reserve the remainder of my time.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, the sky is not falling. The National Academy of Science adopts standards and EPA uses them. That is in the bill. Save $25 to $30 billion. Honor our commitment since 1982 to abide by the law and the contracts of our Government and the Federal court and find a single, safe repository for nuclear waste. This is the number one environmental bill this year, if you are concerned about 80 sites spread across this country. The issue is good policy. S. 104 is good law. The Senate ought to support it unanimously.

The PRESIDING OFFICER. The opponents have 24 seconds.

Mr. BRYAN. Mr. President, let me take 12 seconds. It is late in the game. Any Senator who believes we do not eviscerate and emasculate the standards set by the National Academy of Science, look at page 37, my friends. That is why no environmental organization in America supports it; they all oppose it.

Ms. LANDRIEU. Mr. President, as we have engaged in this debate on the nation's strategy to deal with temporary storage of high-level nuclear waste, I have come to several conclusions. Certainly storage is a troublesome issue that has remained unresolved for the past 16 years. As time has gone by, it has become clearer and clearer that the Nation needs a more comprehensive strategy, not a piecemeal strategy, to handle all the issues associated with long-term storage of nuclear waste. Furthermore, given the vehemently strong opinions expressed by citizens, administrators, State and local officials, and others who would be affected by a centralized storage plan, I believe we need to have the utmost confidence in the way we choose to dispose of spent fuel.

When we began to consider the Nuclear Waste Policy Act of 1997, I was optimistic about our ability to work toward the common goal of providing guidance on this issue. Supporters of the bill made an extremely credible case to me that something needs to be done. The Nuclear Waste Act of 1982 set up a trust fund to help pay for the cost of a permanent geologic repository. As part of the deal, the Department of Energy was directed to contract with utilities to accept spent fuel at a permanent repository by 1998, but now it cannot. The Nation's nuclear reactors have begun to run out of space for spent fuel in pools at reactor sites. Soon, more and more utilities will have to build above ground storage casks. I am sympathetic to the frustrations expressed by State governments and utilities over this breach. I am sure many of my colleagues agree with me.

Another issue that demands attention is the Nuclear Waste Fund. Congress has established 172 trust funds financed by taxpayers for specific purposes. Few have maintained their integrity in the spending process. The Nuclear Waste Fund is one of the few where the Government entered into an actual contract to perform a duty—to take on spent nuclear fuel by a time certain. Considering the history of this issue, I am opposed to the idea that ratepayers, who have already contributed over $12 billion to the Nuclear Waste Fund for the construction of a permanent repository, should also have the cost of on-site storage passed on to them. Louisianians have paid over $140 million into this fund since 1982, with no results. This is unacceptable. The public should be getting its money's worth. Otherwise, the money should not be spent.

Conversely, and most importantly, I am hesitant to commit to the construction of an interim storage facility if there are uncertainties associated with the designated permanent repository site. So much rests on a decision to place an interim site near Yucca Mountain. Will we transport the waste more than once if Yucca Mountain is unsuitable? How wise is it to ignore this possible outcome? This body several years ago requested a study from the Nuclear Waste Technical Review Board. Their findings were illustrative of the complexity of this effort. It seems that a particular element was found in the exploratory tunnel at Yucca Mountain. This element is generally present when there is fast flowing water in a location. No one expected this finding. Nor did anyone expect the Board to determine that utilities could go on safely storing nuclear waste at reactor sites for another decade. Both these findings show that certainties are hard to come by, even when from all indications, a clear outcome is expected. Mr. President, we

should not create a nuclear waste policy based on incomplete information. This issue is just too important.

For these reasons, I am unable at this time to support S. 104. I believe that the rationale for a comprehensive approach to waste storage is evident. The working process I have witnessed over the last few weeks between the leaders on this issue, if continued, could result in a measure that addresses all of the concerns raised by industry, State and local administrators including tribes, and the administration. I have felt for some time that a compromise on the provisions of S. 104 exists. In fact, a compromise was nearly achieved.

Mr. President, it is said that a rolling stone gathers no moss. I submit that we cannot afford to let moss grow. We need to adopt a clear policy sooner rather than later on this question. I am disappointed that compromise could not be found at this time, but I urge my colleagues to continue to work on finding solutions so that we can have a sensible nuclear waste policy for this Nation.

In closing I will say that permanent storage of nuclear waste is something that we need to do—we need to do it once and only once. It is of paramount importance that it be done correctly and to the satisfaction of all.

Mr. CHAFEE. Mr. President, I would like to make a few remarks about S. 104, the Nuclear Waste Policy Act of 1997.

Last year, I voted against S. 1936, the Nuclear Waste Policy Act of 1996 for several reasons. I felt that the measure rushed to build the interim site before the viability of the permanent site was considered. Also, under last year's bill, NEPA, the National Environmental Policy Act, would not have applied until quite late in the game, after great time and resources had been expended. It only would have applied to the licensing of the facility. It wouldn't have applied to construction of the facility at all. Finally, the radiation standards provided in S. 1936 were too lax, and EPA was virtually shut out of the process of setting such standards. Last year's bill was a take-it-or-leave-it proposal, and I chose to leave it.

When S. 104 was reported by the Energy Committee earlier this year, I had every intention of opposing the Nuclear Waste Policy Act, S. 104, again. But this year, the Energy Committee has worked hard to address the concerns that were raised about last year's proposal. After reviewing the changes made in the Murkowski substitute amendment, I have decided to vote in favor of the bill before us. While it is not perfect, the substitute is a significant improvement over last year's bill and this year's bill as reported by the Energy Committee. Is it a perfect bill? Not at all, but it is a far more reasonable solution to a terribly difficult situation than we have ever had before.

Years ago, Congress rejected reprocessing as an alternative to waste storage. There aren't a lot of options when it comes to disposing of nuclear waste. Either it stays on site, or it goes to a centralized storage facility. I support centralized storage of nuclear waste; however, I believe that the effects of designating a central site must be considered before such a critical decision is reached.

The Department of Energy is committed to completing a viability study of Yucca Mountain as the permanent repository by the end of next year. Until that study is completed, I feel strongly that there is no reason to go forward with an interim facility at the nearby test site in Nevada. Under last year's bill, as well as the bill reported by the committee, the viability study was disregarded. Site preparation and construction would begin upon enactment of the legislation. Senator BINGAMAN worked closely with Senator MURKOWSKI and the Energy Committee to address this issue. The committee substitute amendment specifically precludes any work, beyond generic design, from going forward at the interim site, before the viability study of Yucca Mountain is completed. I also supported Senator BINGAMAN's amendment, which would have ensured that the interim storage facility would not become a de facto permanent repository if Yucca Mountain were deemed to be unsuitable. Regrettably, that amendment failed. While I was disappointed with the failure of this amendment, it was not enough to cause me to vote against the bill. Simply put, I believe it is highly unlikely that the viability study will be negative.

The substitute also strengthens the role of NEPA. Site preparation, construction, and the use of the interim facility are no longer exempt from NEPA. In fact, no construction at the interim site could proceed before an environmental impact statement is completed by the Nuclear Regulatory Commission. This is an enormous improvement over last year's bill, which disregarded NEPA at every step prior to the licensing of the facility.

The process for setting standards to protect the public from radiation at the Yucca Mountain site also is a marked improvement over previous measures. Rather than setting an arbitrary statutory standard, the substitute incorporates recent recommendations made by the National Academy of Sciences in setting an overall radiation standard for the repository.

Let me close by saying that the arguments on both sides of this issue have been persuasive. I want to recognize the undaunted persistence of Senators BRYAN and REID in articulating the potential implications of the bill and in arguing relentlessly for the interests of Nevada. I also want to commend Senator MURKOWSKI for his hard work and determination. Senator MURKOWSKI ably managed this very complex measure and was willing to accept suggestions and changes from other Senators that vastly improved the bill.

The bill, as passed, did not resolve all of my concerns, but it did resolve most of them.

Mr. DODD. Mr. President, I would like to say a few words about the Nuclear Waste Policy Act of 1997. My State of Connecticut is heavily dependent on nuclear power. I have long supported this energy source, and long been concerned about how to safely dispose of its waste.

I support the need for a national, permanent, geological repository for nuclear waste, but I cannot support the bill before us today. The Nuclear Waste Policy Act mandates construction of an above-ground, interim storage facility even before the scientific findings on the permanent repository at Yucca Mountain are completed. The Department of Energy has said that the viability studies for Yucca Mountain should be completed in 1998.

I remain concerned that construction of an interim facility would effectively stifle efforts to establish a permanent, geological repository. It is a costly and risky diversion from what should be our primary goal in this area: finding a safe, permanent place to store our nation's nuclear waste. We have already spent almost $5 billion on the permanent facility and it is not even finished. It is estimated that the interim facility would cost an additional $2 billion.

Let me remind you that the interim facility is above ground. If for any reason the scientific assessments for Yucca Mountain are negative, either the interim facility would become the de facto permanent repository without establishing its suitability as such, or the waste would have to be moved again. Either alternative is unacceptable.

One of the main reasons that I cannot support this bill, is my fear of what could happen if we must move the nuclear waste multiple times. Let us not forget that transporting nuclear waste is inherently risky and any accident or act of terrorism could prove disastrous. I do not want our communities in Connecticut and around the Nation to be at risk because we acted imprudently.

The supporters of this bill have tried to assure us that transporting nuclear waste is safe, and that environmental safeguards would be in place. I am convinced that this bill does not adequately protect public health and safety and that too many environmental laws are weakened.

In fact, this bill restricts the Environmental Protection Agency's [EPA] ability to set a drinking water standard at the nuclear waste repository. Let me remind you that last Congress the Senate passed the Safe Drinking Water amendments by a resounding vote of 98–0. Clearly, upholding Federal drinking water standards should be a priority in Nevada no less than in Connecticut. EPA is further restricted in its ability to adequately protect the population from radiation emissions. Granted, EPA can continue to set the

annual acceptable dose limit for radiation exposure, but the bill remains vague on any further action that EPA could take to protect the public health and safety from dangerous emission levels. Furthermore, language in the bill is so vague that it is unclear whether compliance with the Clean Water Act or the Clean Air Act would be required.

It seems to me that threatening public health and safety is the price of expediency. State laws that could slow the process of interim storage are simply preempted. The National Environmental Policy Act [NEPA], passed by Congress in 1969, establishes an environmental impact process for major Federal projects, like Yucca Mountain. The goal of the environmental impact process is to look at all alternatives to ensure that the most environmentally sound alternative is chosen. This bill severely restricts the NEPA decision-making process regarding transportation and the design of either repository. In effect, the public has no role in the decision-making process.

Now, I would like to clarify a few statements that have been made during this debate regarding the State of Connecticut.

I recognize the importance of safely storing nuclear waste and the impact this has on my State. It has been said that the situation in Connecticut is urgent. However, it is my understanding that there is sufficient capacity. The fuel pool at one of the facilities in my State should be able to accommodate waste from the other reactors until the end of their licenses and well into the next century. Decisions concerning the fourth facility, Connecticut Yankee, await a final decommissioning plan.

Last week, my colleague from Alaska, Mr. MURKOWSKI, mentioned a Hartford Courant editorial that, I might say, only marginally supported the bill. In fact, I believe the editorial was entitled, ''The Lesser of Two Evils''—hardly a rousing endorsement.

Mr. President, I ask unanimous consent that there be printed in the RECORD another Connecticut editorial. This one is from the New London Day, a newspaper located in the southeastern part of Connecticut, just down the road from three of our nuclear reactors. The editorial, entitled, ''Nagging Nuclear Waste Problem,'' states that ''Many safety advocates believe that waste should not be sent to Yucca Mountain unless the facility is designated as suitable to hold the material long-term.'' The editorial goes on to say that, ''Otherwise, opponents say, if the site is ultimately found to be unsuitable, waste will have to be shipped out again. It doesn't make any sense to have nuclear waste from 109 plants shipped all over the country unless it can be shipped once.''

Mr. President, I concur with the rationale of the New London Day. We should wait for scientific verification of Yucca Mountain as a permanent storage site, before shipping nuclear waste throughout Connecticut and our country.

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

NAGGING NUCLEAR-WASTE PROBLEM

America's difficulty in finding a solution to permanent storage for nuclear waste isn't confined to these shores. Europe is in an uproar about the same issue. A salt mine in the German town of Gorleben has been chosen as an interim storage disposal facility for German nuclear waste. The decision sparked widespread protests.

Adding outrage to the protests was the derailment of a train carrying casks holding radioactive material bound for the site. The casks weren't harmed. But the accident illustrated the point of opponents, which is that radiation shouldn't be shipped all over Europe.

The Senate Energy Committee is set to vote on a similar interim-storage facility for America, designating Yucca Mountain, Nev., for that distinction. The president has threatened to veto such a bill if it reaches his desk.

WAITING MAKES SENSE

President Bill Clinton is right. Although the country needs a site for nuclear waste, and an interim storage facility is appealing, it probably makes more sense to wait until a permanent facility is approved.

Many safety advocates believe that waste should not be sent to Yucca Mountain unless the facility is designated as suitable to hold the material long-term. Otherwise, opponents say, if the site is ultimately found to be unsuitable, waste will have to be shipped out again. It doesn't make any sense to have nuclear waste from 109 plants shipped all over the country unless it can be shipped once, stored * * *.

So far, though, the political process has been maddeningly inadequate to handle this touchy subject. Congress for years has forced the nuclear industry to pay billions to help build a storage facility that was supposed to be up and running by the end of this century. Instead, that facility won't open for at least a decade. In the meantime, all over the country nuclear plants' 40-foot-deep, spent-fuel pools are filling up with spent nuclear waste. The pools were never designed for long-term storage.

It might make more sense to rebate to the industry some of the many millions it has sent to the government to spend on other things while Congress and the Energy Department delayed building a waste facility. With the money, the nuclear plants can put their spent fuel rods in dry-cask storage, considered an expensive but extremely safe method of storing nuclear fuel.

The typical ''cask'' for such a task is 18 feet long, 8½ feet in diameter and made of concrete. It weighs 90 tons fully loaded and holds anywhere from nine to 25 fuel rods. This type of storage is considered safer than spent-fuel pools, because the pools have been known to leak occasionally, risking exposure of the fuel.

The best of all possible worlds would be for our political system to prove adequate to such thorny problems as nuclear waste. So far, such has not been the case. So the safest interim solution must be sought. With 109 plants around the country, shipping waste to a temporary facility seems short-sighted. Better to choose the safest temporary solution, and work for a permanent answer.

The PRESIDING OFFICER. All time has expired. The yeas and nays have been ordered.

The question occurs on final passage of S. 104, as amended.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from West Virginia [Mr. ROCKEFELLER] is necessarily absent.

I further announce that, if present and voting, the Senator from West Virginia [Mr. ROCKEFELLER] would vote ''nay.''

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

The result was announced—yeas 65, nays 34, as follows:

[Rollcall Vote No. 42 Leg.]

YEAS—65

| | | |
|---|---|---|
| Abraham | Grams | McConnell |
| Allard | Grassley | Moseley-Braun |
| Ashcroft | Gregg | Murkowski |
| Bennett | Hagel | Murray |
| Bond | Harkin | Nickles |
| Brownback | Hatch | Robb |
| Burns | Helms | Roberts |
| Chafee | Hollings | Roth |
| Cleland | Hutchinson | Santorum |
| Cochran | Hutchison | Sessions |
| Collins | Inhofe | Shelby |
| Coverdell | Jeffords | Smith (NH) |
| Craig | Johnson | Smith (OR) |
| D'Amato | Kempthorne | Snowe |
| DeWine | Kohl | Specter |
| Domenici | Kyl | Stevens |
| Enzi | Leahy | Thomas |
| Faircloth | Levin | Thompson |
| Frist | Lott | Thurmond |
| Gorton | Lugar | Warner |
| Graham | Mack | Wyden |
| Gramm | McCain | |

NAYS—34

| | | |
|---|---|---|
| Akaka | Daschle | Landrieu |
| Baucus | Dodd | Lautenberg |
| Biden | Dorgan | Lieberman |
| Bingaman | Durbin | Mikulski |
| Boxer | Feingold | Moynihan |
| Breaux | Feinstein | Reed |
| Bryan | Ford | Reid |
| Bumpers | Glenn | Sarbanes |
| Byrd | Inouye | Torricelli |
| Campbell | Kennedy | Wellstone |
| Coats | Kerrey | |
| Conrad | Kerry | |

NOT VOTING—1

Rockefeller

The bill (S. 104), as amended, was passed, as follows:

S. 104

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Nuclear Waste Policy Act of 1982 is amended to read as follows:

**''SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

''(a) SHORT TITLE.—This Act may be cited as the 'Nuclear Waste Policy Act of 1997'.

''(b) TABLE OF CONTENTS.—

''Sec. 1. Short title and table of contents.
''Sec. 2. Definitions.

''TITLE I—OBLIGATIONS

''Sec. 101. Obligations of the Secretary of Energy.

''TITLE II—INTEGRATED MANAGEMENT SYSTEM

''Sec. 201. Intermodal transfer.
''Sec. 202. Transportation planning.
''Sec. 203. Transportation requirements.
''Sec. 204. Viability assessment and Presidential determination
''Sec. 205. Interim storage facility.
''Sec. 206. Permanent repository.
''Sec. 207. Compliance with the National Environmental Policy Act.
''Sec. 208. Land withdrawal.

''TITLE III—LOCAL RELATIONS

''Sec. 301. Financial assistance.

''Sec. 302. On-Site Representative.
''Sec. 303. Acceptance of benefits.
''Sec. 304. Restrictions on use of funds.
''Sec. 305. Land conveyances.

''TITLE IV—FUNDING AND ORGANIZATION

''Sec. 401. Program funding.
''Sec. 402. Office of Civilian Radioactive Waste Management.
''Sec. 403. Federal contribution.

''TITLE V—GENERAL AND MISCELLANEOUS PROVISIONS

''Sec. 501. Compliance with other laws.
''Sec. 502. Judicial review of agency actions.
''Sec. 503. Licensing of facility expansions and transshipments.
''Sec. 504. Siting a second repository.
''Sec. 505. Financial arrangements for low-level radioactive waste site closure.
''Sec. 506. Nuclear Regulatory Commission training authority.
''Sec. 507. Emplacement schedule.
''Sec. 508. Transfer of title.
''Sec. 509. Decommissioning Pilot Program.
''Sec. 510. Water rights.

''TITLE VI—NUCLEAR WASTE TECHNICAL REVIEW BOARD

''Sec. 601. Definitions.
''Sec. 602. Nuclear Waste Technical Review Board.
''Sec. 603. Functions.
''Sec. 604. Investigatory powers.
''Sec. 605. Compensation of members.
''Sec. 606. Staff.
''Sec. 607. Support services.
''Sec. 608. Report.
''Sec. 609. Authorization of appropriations.
''Sec. 610. Termination of the board.

''TITLE VII—MANAGEMENT REFORM

''Sec. 701. Management reform initiatives.
''Sec. 702. Reporting.

''TITLE VIII—MISCELLANEOUS

''Sec. 801. Sense of the Senate.
''Sec. 802. Effective date.

**''SEC. 2. DEFINITIONS.**

''For purposes of this Act:

''(1) ACCEPT, ACCEPTANCE.—The terms 'accept' and 'acceptance' mean the Secretary's act of taking possession of spent nuclear fuel or high-level radioactive waste.

''(2) AFFECTED INDIAN TRIBE.—The term 'affected Indian tribe' means any Indian tribe—

''(A) whose reservation is surrounded by or borders an affected unit of local government, or

''(B) whose federally defined possessory or usage rights to other lands outside of the reservation's boundaries arising out of congressionally ratified treaties may be substantially and adversely affected by the locating of an interim storage facility or a repository if the Secretary of the Interior finds, upon the petition of the appropriate governmental officials of the tribe, that such effects are both substantial and adverse to the tribe.

''(3) AFFECTED UNIT OF LOCAL GOVERNMENT.—The term 'affected unit of local government' means the unit of local government with jurisdiction over the site of a repository or interim storage facility. Such term may, at the discretion of the Secretary, include other units of local government that are contiguous with such unit.

''(4) ATOMIC ENERGY DEFENSE ACTIVITY.—The term 'atomic energy defense activity' means any activity of the Secretary performed in whole or in part in carrying out any of the following functions:

''(A) Naval reactors development.

''(B) Weapons activities including defense inertial confinement fusion.

''(C) Verification and control technology.

''(D) Defense nuclear materials production.

''(E) Defense nuclear waste and materials byproducts management.

''(F) Defense nuclear materials security and safeguards and security investigations.

''(G) Defense research and development.

''(5) CIVILIAN NUCLEAR POWER REACTOR.—The term 'civilian nuclear power reactor' means a civilian nuclear power plant required to be licensed under section 103 or 104 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134(b)).

''(6) COMMISSION.—The term 'Commission' means the Nuclear Regulatory Commission.

''(7) CONTRACTS.—The term 'contracts' means the contracts, executed prior to the date of enactment of the Nuclear Waste Policy Act of 1997, under section 302(a) of the Nuclear Waste Policy Act of 1982, by the Secretary and any person who generates or holds title to spent nuclear fuel or high-level radioactive waste of domestic origin for acceptance of such waste or fuel by the Secretary and the payment of fees to offset the Secretary's expenditures, and any subsequent contracts executed by the Secretary pursuant to section 401(a) of this Act.

''(8) CONTRACT HOLDERS.—The term 'contract holders' means parties (other than the Secretary) to contracts.

''(9) DEPARTMENT.—The term 'Department' means the Department of Energy.

''(10) DISPOSAL.—The term 'disposal' means the emplacement in a repository of spent nuclear fuel, high-level radioactive waste, or other highly radioactive material with no foreseeable intent of recovery, whether or not such emplacement permits recovery of such material for any future purpose.

''(11) DISPOSAL SYSTEM.—The term 'disposal system' means all natural barriers and engineered barriers, and engineered systems and components, that prevent the release of radionuclides from the repository.

''(12) EMPLACEMENT SCHEDULE.—The term 'emplacement schedule' means the schedule established by the Secretary in accordance with section 507(a) for emplacement of spent nuclear fuel and high-level radioactive waste at the interim storage facility.

''(13) ENGINEERED BARRIERS AND ENGINEERED SYSTEMS AND COMPONENTS.—The terms 'engineered barriers' and 'engineered systems and components', mean man-made components of a disposal system. These terms include the spent nuclear fuel or high-level radioactive waste form, spent nuclear fuel package or high-level radioactive waste package, and other materials placed over and around such packages.

''(14) HIGH-LEVEL RADIOACTIVE WASTE.—The term 'high-level radioactive waste' means—

''(A) the highly radioactive material resulting from the reprocessing of spent nuclear fuel, including liquid waste produced directly in reprocessing and any solid material derived from such liquid waste that contains fission products in sufficient concentrations; and

''(B) other highly radioactive material that the Commission, consistent with existing law, determines by rule requires permanent isolation, which includes any low-level radioactive waste with concentrations of radionuclides that exceed the limits established by the Commission for class C radioactive waste, as defined by section 61.55 of title 10, Code of Federal Regulations, as in effect on January 26, 1983.

''(15) FEDERAL AGENCY.—The term 'Federal agency' means any Executive agency, as defined in section 105 of title 5, United States Code.

''(16) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary of the Interior because of their status as Indians including any Alaska Native village, as defined in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c)).

''(17) INTEGRATED MANAGEMENT SYSTEM.—The term 'integrated management system' means the system developed by the Secretary for the acceptance, transportation, storage, and disposal of spent nuclear fuel and high-level radioactive waste under title II of this Act.

''(18) INTERIM STORAGE FACILITY.—The term 'interim storage facility' means a facility designed and constructed for the receipt, handling, possession, safeguarding, and storage of spent nuclear fuel and high-level radioactive waste in accordance with title II of this Act.

''(19) INTERIM STORAGE FACILITY SITE.—The term 'interim storage facility site' means the specific site within Area 25 of the Nevada Test Site that is designated by the Secretary and withdrawn and reserved in accordance with this Act for the location of the interim storage facility.

''(20) LOW-LEVEL RADIOACTIVE WASTE.—The term 'low-level radioactive waste' means radioactive material that—

''(A) is not spent nuclear fuel, high-level radioactive waste, transuranic waste, or byproduct material as defined in section 11 e.(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)(2)); and

''(B) the Commission, consistent with existing law, classifies as low-level radioactive waste.

''(21) METRIC TONS URANIUM.—The terms 'metric tons uranium' and 'MTU' means the amount of uranium in the original unirradiated fuel element whether or not the spent nuclear fuel has been reprocessed.

''(22) NUCLEAR WASTE FUND.—The terms 'Nuclear Waste Fund' and 'waste fund' mean the nuclear waste fund established in the United States Treasury prior to the date of enactment of this Act under section 302(c) of the Nuclear Waste Policy Act of 1982.

''(23) OFFICE.—The term 'Office' means the Office of Civilian Radioactive Waste Management established within the Department prior to the date of enactment of this Act under the provisions of the Nuclear Waste Policy Act of 1982.

''(24) PROGRAM APPROACH.—The term 'program approach' means the Civilian Radioactive Waste Management Program Plan, dated May 6, 1996, as modified by this Act, and as amended from time to time by the Secretary in accordance with this Act.

''(25) REPOSITORY.—The term 'repository' means a system designed and constructed under title II of this Act for the geologic disposal of spent nuclear fuel and high-level radioactive waste, including both surface and subsurface areas at which spent nuclear fuel and high-level radioactive waste receipt, handling, possession, safeguarding, and storage are conducted.

''(26) SECRETARY.—The term 'Secretary' means the Secretary of Energy.

''(27) SITE CHARACTERIZATION.—The term 'site characterization' means activities, whether in a laboratory or in the field, undertaken to establish the geologic condition and the ranges of the parameters of a candidate site relevant to the location of a repository, including borings, surface excavations, excavations of exploratory facilities, limited subsurface lateral excavations and borings, and in situ testing needed to evaluate the licensability of a candidate site for the location of a repository, but not including preliminary borings and geophysical testing needed to assess whether site characterization should be undertaken.

''(28) SPENT NUCLEAR FUEL.—The term 'spent nuclear fuel' means fuel that has been withdrawn from a nuclear reactor following irradiation, the constituent elements of

which have not been separated by reprocessing.

''(29) STORAGE.—The term 'storage' means retention of spent nuclear fuel or high-level radioactive waste with the intent to recover such waste or fuel for subsequent use, processing, or disposal.

''(30) WITHDRAWAL.—The term 'withdrawal' has the same definition as that set forth in section 103(j) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(j)).

''(31) YUCCA MOUNTAIN SITE.—The term 'Yucca Mountain site' means the area in the State of Nevada that is withdrawn and reserved in accordance with this Act for the location of a repository.

''(32) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.

''(33) SUITABLE.—The term 'suitable' means that there is reasonable assurance that the site features of a repository and the engineered barriers contained therein will allow the repository, as an overall system, to provide containment and isolation of radionuclides sufficient to meet applicable standards for protection of public health and safety.

**"TITLE I—OBLIGATIONS**

**"SEC. 101. OBLIGATIONS OF THE SECRETARY OF ENERGY.**

''(a) DISPOSAL.—The Secretary shall develop and operate an integrated management system for the storage and permanent disposal of spent nuclear fuel and high-level radioactive waste.

''(b) INTERIM STORAGE.—The Secretary shall store spent nuclear fuel and high-level radioactive waste from facilities designated by contract holders at an interim storage facility pursuant to section 205 in accordance with the emplacement schedule, beginning no later than 18 months after issuance of a license for an interim storage facility under section 205(g).

''(c) TRANSPORTATION.—The Secretary shall provide for the transportation of spent nuclear fuel and high-level radioactive waste accepted by the Secretary. The Secretary shall procure all systems and components necessary to transport spent nuclear fuel and high-level radioactive waste from facilities designated by contract holders to and among facilities comprising the Integrated Management System. Consistent with the Buy American Act (41 U.S.C. 10a–10c), unless the Secretary shall determine it to be inconsistent with the public interest, or the cost to be unreasonable, all such systems and components procured by the Secretary shall be manufactured in the United States, with the exception of any transportable storage systems purchased by contract holders prior to the effective date of the Nuclear Waste Policy Act of 1997 and procured by the Secretary from such contract holders for use in the integrated management system.

''(d) INTEGRATED MANAGEMENT SYSTEM.—The Secretary shall expeditiously pursue the development of each component of the integrated management system, and in so doing shall seek to utilize effective private sector management and contracting practices.

''(e) PRIVATE SECTOR PARTICIPATION.—In administering the Integrated Management System, the Secretary shall, to the maximum extent possible, utilize, employ, procure and contract with, the private sector to fulfill the Secretary's obligations and requirements under this Act.

''(f) PRE-EXISTING RIGHTS.—Nothing in this Act is intended to or shall be construed to modify—

''(1) any right of a contract holder under section 302(a) of the Nuclear Waste Policy Act of 1982, or under a contract executed prior to the date of enactment of this Act under that section; or

''(2) obligations imposed upon the Federal Government by the United States District Court of Idaho in an order entered on October 17, 1995 in United States v. Batt (No. 91–0054–S–EJL).

''(g) LIABILITY.—Subject to subsection (f), nothing in this Act shall be construed to subject the United States to financial liability for the Secretary's failure to meet any deadline for the acceptance or emplacement of spent nuclear fuel or high-level radioactive waste for storage or disposal under this Act.

**"TITLE II—INTEGRATED MANAGEMENT SYSTEM**

**"SEC. 201. INTERMODAL TRANSFER.**

''(a) ACCESS.—The Secretary shall utilize heavy-haul truck transport to move spent nuclear fuel and high-level radioactive waste from the mainline rail line at Caliente, Nevada, to the interim storage facility site.

''(b) CAPABILITY DATE.—The Secretary shall develop the capability to commence rail to truck intermodal transfer at Caliente, Nevada, no later than 18 months after issuance of a license under section 205(g) for an interim storage facility designated under section 204(c)(1). Intermodal transfer and related activities are incidental to the interstate transportation of spent nuclear fuel and high-level radioactive waste.

''(c) ACQUISITIONS.—The Secretary shall acquire lands and rights-of-way necessary to commence intermodal transfer at Caliente, Nevada.

''(d) REPLACEMENTS.—The Secretary shall acquire and develop on behalf of, and dedicate to, the City of Caliente, Nevada, parcels of land and right-of-way within Lincoln County, Nevada, as required to facilitate replacement of land and city wastewater disposal facilities necessary to commence intermodal transfer pursuant to this Act. Replacement of land and city wastewater disposal activities shall occur no later than 2 years after the effective date of this section.

''(e) NOTICE AND MAP.—No later than 6 months after the effective date of this section, the Secretary shall—

''(1) publish in the Federal Register a notice containing a legal description of the sites and rights-of-way to be acquired under this subsection; and

''(2) file copies of a map of such sites and rights-of-way with the Congress, the Secretary of the Interior, the State of Nevada, the Archivist of the United States, the Board of Lincoln County Commissioners, the Board of Nye County Commissioners, and the Caliente City Council.

Such map and legal description shall have the same force and effect as if they were included in this Act. The Secretary may correct clerical and typographical errors and legal descriptions and make minor adjustments in the boundaries.

''(f) IMPROVEMENTS.—The Secretary shall make improvements to existing roadways selected for heavy-haul truck transport between Caliente, Nevada, and the interim storage facility site as necessary to facilitate year-round safe transport of spent nuclear fuel and high-level radioactive waste.

''(g) LOCAL GOVERNMENT INVOLVEMENT.—The Commission shall enter into a Memorandum of Understanding with the City of Caliente and Lincoln County, Nevada, to provide advice to the Commission regarding intermodal transfer and to facilitate on-site representation. Reasonable expenses of such representation shall be paid by the Secretary.

''(h) BENEFITS AGREEMENT.—

''(1) IN GENERAL.—The Secretary shall offer to enter into an agreement with the City of Caliente and Lincoln County, Nevada concerning the integrated management system.

''(2) AGREEMENT CONTENT.—Any agreement shall contain such terms and conditions, including such financial and institutional arrangements, as the Secretary and agreement entity determine to be reasonable and appropriate and shall contain such provisions as are necessary to preserve any right to participation or compensation of the City of Caliente and Lincoln County, Nevada.

''(3) AMENDMENT.—An agreement entered into under this subsection may be amended only with the mutual consent of the parties to the amendment and terminated only in accordance with paragraph (4).

''(4) TERMINATION.—The Secretary shall terminate the agreement under this subsection if any major element of the integrated management system may not be completed.

''(5) LIMITATION.—Only 1 agreement may be in effect at any one time.

''(6) JUDICIAL REVIEW.—Decisions of the Secretary under this section are not subject to judicial review.

''(i) CONTENT OF AGREEMENT.—

''(1) SCHEDULE.—In addition to the benefits to which the City of Caliente and Lincoln County is entitled to under this title, the Secretary shall make payments under the benefits agreement in accordance with the following schedule:

BENEFITS SCHEDULE

(amounts in millions)

| Event | Payment |
|---|---|
| (A) Annual payments prior to first receipt of spent fuel | $2.5 |
| (B) Annual payments beginning upon first spent fuel receipt | $5 |
| (C) Payment upon closure of the intermodal transfer facility | $5 |

''(2) DEFINITIONS.—For purposes of this section, the term—

''(A) 'spent fuel' means high-level radioactive waste or spent nuclear fuel; and

''(B) 'first spent fuel receipt' does not include receipt of spent fuel or high-level radioactive waste for purposes of testing or operational demonstration.

''(3) ANNUAL PAYMENTS.—Annual payments prior to first spent fuel receipt under paragraph (1)(A) shall be made on the date of execution of the benefits agreement and thereafter on the anniversary date of such execution. Annual payments after the first spent fuel receipt until closure of the facility under paragraph (1)(C) shall be made on the anniversary date of such first spent fuel receipt.

''(4) REDUCTION.—If the first spent fuel payment under paragraph (1)(B) is made within 6 months after the last annual payment prior to the receipt of spent fuel under paragraph (1)(A), such first spent fuel payment under paragraph (1)(B) shall be reduced by an amount equal to 1/12 of such annual payment under paragraph (1)(A) for each full month less than 6 that has not elapsed since the last annual payment under paragraph (1)(A).

''(5) RESTRICTIONS.—The Secretary may not restrict the purposes for which the payments under this section may be used.

''(6) DISPUTE.—In the event of a dispute concerning such agreement, the Secretary shall resolve such dispute, consistent with this Act and applicable State law.

''(7) CONSTRUCTION.—The signature of the Secretary on a valid benefits agreement under this section shall constitute a commitment by the United States to make payments in accordance with such agreement under section 401(c)(2).

''(j) INITIAL LAND CONVEYANCES.—

''(1) CONVEYANCES OF PUBLIC LANDS.—One hundred and twenty days after enactment of this Act, all right, title and interest of the United States in the property described in paragraph (2), and improvements thereon, together with all necessary easements for utilities and ingress and egress to such property, including, but not limited to, the right to improve those easements, are conveyed by operation of law to the County of Lincoln, Nevada, unless the county notifies the Secretary of the Interior or the head of such other appropriate agency in writing within 60 days of such date of enactment that it elects not to take title to all or any part of the property, except that any lands conveyed to the County of Lincoln under this subsection that are subject to a Federal grazing permit or lease or a similar federally granted permit or lease shall be conveyed between 60 and 120 days of the earliest time the Federal agency administering or granting the permit or lease would be able to legally terminate such right under the statutes and regulations existing at the date of enactment of this Act, unless Lincoln County and the affected holder of the permit or lease negotiate an agreement that allows for an earlier conveyance.

''(2) SPECIAL CONVEYANCES.—Notwithstanding any other law, the following public lands depicted on the maps and legal descriptions dated October 11, 1995, shall be conveyed under paragraph (1) to the County of Lincoln, Nevada:

Map 10: Lincoln County, Parcel M, Industrial Park Site

Map 11: Lincoln County, Parcel F, Mixed Use Industrial Site

Map 13: Lincoln County, Parcel J, Mixed Use, Alamo Community Expansion Area

Map 14: Lincoln County, Parcel E, Mixed Use, Pioche Community Expansion Area

Map 15: Lincoln County, Parcel B, Landfill Expansion Site.

''(3) CONSTRUCTION.—The maps and legal descriptions of special conveyances referred to in paragraph (2) shall have the same force and effect as if they were included in this Act. The Secretary may correct clerical and typographical errors in the maps and legal descriptions and make minor adjustments in the boundaries of the sites.

''(4) EVIDENCE OF TITLE TRANSFER.—Upon the request of the County of Lincoln, Nevada, the Secretary of the Interior shall provide evidence of title transfer.

''(k) This section shall become effective on the date on which the Secretary submits a license application under section 205 for an interim storage facility at a site designated under section 204(c)(1).

**''SEC. 202. TRANSPORTATION PLANNING.**

''(a) TRANSPORTATION READINESS.—The Secretary—

''(1) shall take such actions as are necessary and appropriate to ensure that the Secretary is able to transport safely spent nuclear fuel and high-level radioactive waste from sites designated by the contract holders to mainline transportation facilities and from the mainline transportation facilities to the interim storage facility or repository, using routes that minimize, to the maximum practicable extent consistent with Federal requirements governing transportation of hazardous materials, transportation of spent nuclear fuel and high-level radioactive waste through populated areas; and

''(2) not later than 24 months after the Secretary submits a license application under section 205 for an interim storage facility shall, in consultation with the Secretary of Transportation and affected States and tribes, and after an opportunity for public comment, develop and implement a comprehensive management plan that ensures safe transportation of spent nuclear fuel and high-level radioactive waste from the sites designated by the contract holders to the interim storage facility site.

''(b) TRANSPORTATION PLANNING.—

''(1) IN GENERAL.—In conjunction with the development of the logistical plan in accordance with subsection (a), the Secretary shall update and modify, as necessary, the Secretary's transportation institutional plans to ensure that institutional issues are addressed and resolved on a schedule to support the commencement of transportation of spent nuclear fuel and high-level radioactive waste to the interim storage facility.

''(2) MATTERS TO BE ADDRESSED.—Among other things, planning under paragraph (1) shall provide a schedule and process for addressing and implementing, as necessary—

''(A) transportation routing plans;

''(B) transportation contracting plans;

''(C) transportation training in accordance with section 203;

''(D) public education regarding transportation of spent nuclear fuel and high-level radioactive waste; and

''(E) transportation tracking programs.

''(c) SHIPPING CAMPAIGN TRANSPORTATION PLANS.—

''(1) IN GENERAL.—The Secretary shall develop a transportation plan for the implementation of each shipping campaign (as that term is defined by the Secretary) from each site at which high-level nuclear waste is stored, consistent with the principles and procedures stated in Department of Energy Order No. 460.2 and the Program Manager's Guide.

''(2) REQUIREMENTS.—A shipping campaign transportation plan shall—

''(A) be fully integrated with State and tribal government notification, inspection, and emergency response plans along the preferred shipping route or State-designated alternative route identified under subsection (d) (unless the Secretary certifies in the plan that the State or tribal government has failed to cooperate in fully integrating the shipping campaign transportation plan with the applicable State or tribal government plans); and

''(B) be consistent with the principles and procedures developed for the safe transportation of transuranic waste to the Waste Isolation Pilot Plant (unless the Secretary certifies in the plan that a specific principle or procedure is inconsistent with a provision of this Act).

''(d) SAFE SHIPPING ROUTES AND MODES.—

''(1) IN GENERAL.—The Secretary shall evaluate the relative safety of the proposed shipping routes and shipping modes from each shipping origin to the interim storage facility or repository compared with the safety of alternative modes and routes.

''(2) CONSIDERATIONS.—The evaluation under paragraph (1) shall be conducted in a manner consistent with regulations promulgated by the Secretary of Transportation under authority of chapter 51 of title 49, United States Code, and the Nuclear Regulatory Commission under authority of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), as applicable.

''(3) DESIGNATION OF PREFERRED SHIPPING ROUTE AND MODE.—Following the evaluation under paragraph (1), the Secretary shall designate preferred shipping routes and modes from each civilian nuclear power reactor and Department of Energy facility that stores spent nuclear fuel or other high-level defense waste.

''(4) SELECTION OF PRIMARY SHIPPING ROUTE.—If the Secretary designates more than 1 preferred route under paragraph (3), the Secretary shall select a primary route after considering, at a minimum, historical accident rates, population, significant hazards, shipping time, shipping distance, and mitigating measures such as limits on the speed of shipments.

''(5) USE OF PRIMARY SHIPPING ROUTE AND MODE.—Except in cases of emergency, for all shipments conducted under this Act, the Secretary shall cause the primary shipping route and mode or State-designated alternative route under chapter 51 of title 49, United States Code, to be used. If a route is designated as a primary route for any reactor or Department of Energy facility, the Secretary may use that route to transport spent nuclear fuel or high-level radioactive waste from any other reactor or Department of Energy facility.

''(6) TRAINING AND TECHNICAL ASSISTANCE.—Following selection of the primary shipping routes, or State-designated alternative routes, the Secretary shall focus training and technical assistance under section 203(c) on those routes.

''(7) PREFERRED RAIL ROUTES.—

''(A) REGULATION.—Not later than 1 year after the date of enactment of the Nuclear Waste Policy Act of 1997, the Secretary of Transportation, pursuant to authority under other provisions of law, shall promulgate a regulation establishing procedures for the selection of preferred routes for the transportation of spent nuclear fuel and nuclear waste by rail.

''(B) INTERIM PROVISION.—During the period beginning on the date of enactment of the Nuclear Waste Policy Act of 1997 and ending on the date of issuance of a final regulation under subparagraph (A), rail transportation of spent nuclear fuel and high-level radioactive waste shall be conducted in accordance with regulatory requirements in effect on that date and with this section.

**''SEC. 203. TRANSPORTATION REQUIREMENTS.**

''(a) PACKAGE CERTIFICATION.—No spent nuclear fuel or high-level radioactive waste

may be transported by or for the Secretary under this Act except in packages that have been certified for such purposes by the Commission.

''(b) STATE NOTIFICATION.—The Secretary shall abide by regulations of the Commission regarding advance notification of State and tribal governments prior to transportation of spent nuclear fuel or high-level radioactive waste under this Act.

''(c) TECHNICAL ASSISTANCE.—

''(1) IN GENERAL.—

''(A) STATES AND INDIAN TRIBES.—As provided in paragraph (3), the Secretary shall provide technical assistance and funds to States and Indian tribes for training of public safety officials of appropriate units of State, local, and tribal government. A State shall allocate to local governments within the State a portion of any funds that the Secretary provides to the State for technical assistance and funding.

''(B) EMPLOYEE ORGANIZATIONS.—The Secretary shall provide technical assistance and funds for training directly to nonprofit employee organizations and joint labor-management organizations that demonstrate experience in implementing and operating worker health and safety training and education programs and demonstrate the ability to reach and involve in training programs target populations of workers who are or will be directly engaged in the transportation of spent nuclear fuel and high-level radioactive waste, or emergency response or post-emergency response with respect to such transportation.

''(C) TRAINING.—Training under this section—

''(i) shall cover procedures required for safe routine transportation of materials and procedures for dealing with emergency response situations;

''(ii) shall be consistent with any training standards established by the Secretary of Transportation under subsection (g); and

''(iii) shall include—

''(I) a training program applicable to persons responsible for responding to emergency situations occurring during the removal and transportation of spent nuclear fuel and high-level radioactive waste;

''(II) instruction of public safety officers in procedures for the command and control of the response to any incident involving the waste; and

''(III) instruction of radiological protection and emergency medical personnel in procedures for responding to an incident involving spent nuclear fuel or high-level radioactive waste being transported.

''(2) NO SHIPMENTS IF NO TRAINING.—(A) There will be no shipments of spent nuclear fuel and high-level radioactive waste through the jurisdiction of any State or the reservation lands of any Indian tribe eligible for grants under paragraph (3)(B) until the Secretary has made a determination that personnel in all State, local, and tribal jurisdictions on primary and alternative shipping routes have met acceptable standards of training for emergency responses to accidents involving spent nuclear fuel and high-level nuclear waste, as established by the Secretary, and unless technical assistance and funds to implement procedures for the safe routine transportation and for dealing with emergency response situations under paragraph (1)(A) have been available to a State or Indian tribe for at least 3 years prior to any shipment: *Provided, however,* That the Secretary may ship spent nuclear fuel and high-level radioactive waste if technical assistance or funds have not been made available due to (i) an emergency, including the sudden and unforeseen closure of a highway or rail line or the sudden and unforeseen need to remove spent fuel from a reactor because of an accident, or (ii) the refusal to accept technical assistance by a State or Indian tribe, or (iii) fraudulent actions which violate Federal law governing the expenditure of Federal funds.

''(B) In the event the Secretary is required to transport spent fuel or high-level radioactive waste through a jurisdiction prior to 3 years after the provision of technical assistance or funds to such jurisdiction, the Secretary shall, prior to such shipment, hold meetings in each State and Indian reservation through which the shipping route passes in order to present initial shipment plans and receive comments. Department of Energy personnel trained in emergency response shall escort each shipment. Funds and all Department of Energy training resources shall be made available to States and Indian tribes along the shipping route no later than three months prior to the commencement of shipments: *Provided, however,* That in no event shall such shipments exceed 1,000 metric tons per year: *Provided further,* That no such shipments shall be conducted more than four years after the effective date of the Nuclear Waste Policy Act of 1997.

''(3) GRANTS.—

''(A) IN GENERAL.—To implement this section, grants shall be made under section 401(c)(2).

''(B) GRANTS FOR DEVELOPMENT OF PLANS.—

''(i) IN GENERAL.—The Secretary shall make a grant of at least $150,000 to each State through the jurisdiction of which and each federally recognized Indian tribe through the reservation lands of which a shipment of spent nuclear fuel or high-level radioactive waste will be made under this Act for the purpose of developing a plan to prepare for such shipments.

''(ii) LIMITATION.—A grant shall be made under clause (i) only to a State or a federally recognized Indian tribe that has the authority to respond to incidents involving shipments of hazardous material.

''(C) GRANTS FOR IMPLEMENTATION OF PLANS.—

''(i) IN GENERAL.—Annual implementation grants shall be made to States and Indian tribes that have developed a plan to prepare for shipments under this Act under subparagraph (B). The Secretary, in submitting the annual departmental budget to Congress for funding of implementation grants under this section, shall be guided by the State and tribal plans developed under subparagraph (B). As part of the Department of Energy's annual budget request, the Secretary shall report to Congress on—

''(I) the funds requested by States and federally recognized Indian tribes to implement this subsection;

''(II) the amount requested by the President for implementation; and

''(III) the rationale for any discrepancies between the amounts requested by States and federally recognized Indian tribes and the amounts requested by the President.

''(ii) ALLOCATION.—Of funds available for grants under this subparagraph for any fiscal year—

''(I) 25 percent shall be allocated by the Secretary to ensure minimum funding and program capability levels in all States and Indian tribes based on plans developed under subparagraph (B); and

''(II) 75 percent shall be allocated to States and Indian tribes in proportion to the number of shipment miles that are projected to be made in total shipments under this Act through each jurisdiction.

''(4) AVAILABILITY OF FUNDS FOR SHIPMENTS.—Funds under paragraph (1) shall be provided for shipments to an interim storage facility or repository, regardless of whether the interim storage facility or repository is operated by a private entity or by the Department of Energy.

''(d) PUBLIC EDUCATION.—The Secretary shall conduct a program to educate the public regarding the transportation of spent nuclear fuel and high-level radioactive waste, with an emphasis upon those States, units of local government, and Indian tribes through whose jurisdiction the Secretary plans to transport substantial amounts of spent nuclear fuel or high-level radioactive waste.

''(e) COMPLIANCE WITH TRANSPORTATION REGULATIONS.—Any person that transports spent nuclear fuel or high-level radioactive waste under the Nuclear Waste Policy Act of 1997, pursuant to a contract with the Secretary, shall comply with all requirements governing such transportation issued by the Federal, State and local governments, and Indian tribes, in the same way and to the same extent that any person engaging in that transportation that is in or affects interstate commerce must comply with such requirements, as required by section 5126 of title 49, United States Code.

''(f) EMPLOYEE PROTECTION.—Any person engaged in the interstate commerce of spent nuclear fuel or high-level radioactive waste under contract to the Secretary pursuant to this Act shall be subject to and comply fully with the employee protection provisions of section 20109 of title 49, United States Code (in the case of employees of railroad carriers) and section 31105 of title 49, United States Code (in the case of employees operating commercial motor vehicles), or the Commission (in the case of all other employees).

''(g) TRAINING STANDARD.—(1) No later than 12 months after the date of enactment of the Nuclear Waste Policy Act of 1997, the Secretary of Transportation, pursuant to authority under other provisions of law, in consultation with the Secretary of Labor and the Commission, shall promulgate a regulation establishing training standards applicable to workers directly involved in the removal and transportation of spent nuclear fuel and high-level radioactive waste. The regulation shall specify minimum training standards applicable to workers, including managerial personnel. The regulation shall require that the employer possess evidence of satisfaction of the applicable training standard before any individual may be employed in the removal and transportation of spent nuclear fuel and high-level radioactive waste.

''(2) If the Secretary of Transportation determines, in promulgating the regulation required by subparagraph (1), that regulations promulgated by the Commission establish adequate training standards for workers, then the Secretary of Transportation can refrain from promulgating additional regulations with respect to worker training in such activities. The Secretary of Transportation and the Commission shall work through their Memorandum of Understanding to ensure coordination of worker training standards and to avoid duplicative regulation.

''(3) The training standards required to be promulgated under subparagraph (1) shall, among other things deemed necessary and appropriate by the Secretary of Transportation, include the following provisions—

''(A) a specified minimum number of hours of initial off site instruction and actual field experience under the direct supervision of a trained, experienced supervisor;

''(B) a requirement that onsite managerial personnel receive the same training as workers, and a minimum number of additional hours of specialized training pertinent to their managerial responsibilities; and

''(C) a training program applicable to persons responsible for responding to and cleaning up emergency situations occurring during the removal and transportation of spent

nuclear fuel and high-level radioactive waste.

''(4) There is authorized to be appropriated to the Secretary of Transportation, from general revenues, such sums as may be necessary to perform his duties under this subsection.

**''SEC. 204. VIABILITY ASSESSMENT AND PRESIDENTIAL DETERMINATION.**

''(a) VIABILITY ASSESSMENT.—No later than December 1, 1998, the Secretary shall provide to the President and to the Congress a viability assessment of the Yucca Mountain site. The viability assessment shall include—

''(1) the preliminary design concept for the critical elements of the repository and waste package;

''(2) a total system performance assessment, based upon the preliminary design concept in paragraph (1) of this subsection and the scientific data and analysis available on June 30, 1998, describing the probable behavior of the repository relative to the overall system performance standard under section 206(f) of this Act or, if the standard under section 206(f) has not been promulgated, relative to an estimate by the Secretary of an overall system performance standard that is consistent with section 206(f);

''(3) a plan and cost estimate for the remaining work required to complete the license application under section 206(c) of this Act, and

''(4) an estimate of the costs to construct and operate the repository in accordance with the preliminary design concept in paragraph (1) of this subsection.

''(b) PRESIDENTIAL DETERMINATION.—No later than March 1, 1999, the President, in his sole and unreviewable discretion, may make a determination disqualifying the Yucca Mountain site as a repository, based on the President's views that the preponderance of information available at such time indicates that the Yucca Mountain site is not suitable for development of a repository of useful size. If the President makes a determination under this subsection—

''(1) the Secretary shall cease all activities (except necessary termination activities) at the Yucca Mountain site and section 206 of this Act shall cease to be in effect; and

''(2) no later than 6 months after such determination, the Secretary shall report to Congress on the need for additional legislation relating to the permanent disposal of nuclear waste.

''(c) PRELIMINARY SECRETARIAL DESIGNATION OF INTERIM STORAGE FACILITY SITES.—

''(1) If the President does not make a determination under subsection (b) of this section, no later than March 31, 1999, the Secretary shall make a preliminary designation of a specific site within Area 25 of the Nevada Test Site for planning and construction of an interim storage facility under section 205.

''(2) Within 18 months of a determination by the President that the Yucca Mountain site is unsuitable for development as a repository under subsection (b), the President shall designate a site for the construction of an interim storage facility. The President shall not designate the Hanford Nuclear Reservation in the State of Washington, and the Savannah River Site and Barnwell County in the State of South Carolina, or the Oak Ridge Reservation in the State of Tennessee, as a site for construction of an interim storage facility. If the President does not designate a site for the construction of an interim storage facility, or the construction of an interim storage facility at the designated site is not approved by law within 24 months of the President's determination that the Yucca Mountain site is not suitable for development as a repository, the interim storage facility site as defined in section 2(19) of this Act is designated as the interim storage facility site for purposes of section 205. The interim storage facility site shall be deemed to be approved by law for purposes of this paragraph.

**''SEC. 205. INTERIM STORAGE FACILITY.**

''(a) NON-SITE-SPECIFIC ACTIVITIES.—As soon as practicable after the date of enactment of the Nuclear Waste Policy Act of 1997, the Secretary shall submit to the Commission a topical safety analysis report containing a generic design for an interim storage facility. If the Secretary has submitted such a report prior to such date of enactment, the report shall be deemed to have satisfied the requirement in the preceding sentence. No later than December 31, 1998, the Commission shall issue a safety evaluation report approving or disapproving the generic design submitted by the Secretary.

''(b) SITE-SPECIFIC AUTHORIZATION.—The Secretary shall design, construct, and operate a facility for the interim storage of spent nuclear fuel and high-level radioactive waste at the interim storage facility site designated under section 204 and licensed by the Commission under this section. The Commission shall license the interim storage facility in accordance with the Commission's regulations governing the licensing of independent storage of spent nuclear fuel and high-level radioactive waste (10 CFR part 72). Such regulations shall be amended by the Commission as necessary to implement the provisions of this Act. The Commission may amend part 72 of title 10, Code of Federal Regulations with regard to facilities not covered by this Act as deemed appropriate by the Commission.

''(c) LIMITATIONS AND CONDITIONS.—

''(1) The Secretary shall not commence construction of an interim storage facility (which shall mean taking actions within the meaning of the term 'commencement of construction' contained in the Commission's regulations in section 72.3 of title 10, Code of Federal Regulations) before the Commission, or an appropriate officer or Board of the Commission, makes the finding under section 72.40(b) of title 10, Code of Federal Regulations.

''(2) After the Secretary makes the preliminary designation of an interim storage site under section 204, the Secretary may commence site data acquisition activities and design activities necessary to complete license application and environmental report under subsection (d) of this section.

''(3) Notwithstanding any other applicable licensing requirement, the Secretary may utilize facilities owned by the Federal Government on the date of enactment of the Nuclear Waste Policy Act of 1997 and located within the boundaries of the interim storage site, in connection with addressing any imminent and substantial endangerment to public health and safety at the interim storage facility site, prior to receiving a license from the Commission for the interim storage facility, for purposes of fulfilling requirements for retrievability during the first five years of operation of the interim storage facility.

''(d) LICENSE APPLICATION.—No later than 30 days after the date on which the Secretary makes a preliminary designation of an interim storage facility site under section 204, the Secretary shall submit a license application and an environmental report in accordance with applicable regulations (subpart B of part 72 of title 10, Code of Federal Regulations, and subpart A of part 51 of title 10, Code of Federal Regulations, respectively). The license application—

''(1) shall be for a term of 40 years; and

''(2) shall be for a quantity of spent nuclear fuel or high-level radioactive waste equal to the quantity that would be emplaced under section 507 prior to the date that the Secretary estimates, in the license application, to be the date on which the Secretary will receive and store spent nuclear fuel and high-level radioactive waste at the permanent repository.

''(e) DESIGN.—

''(1) The design for the interim storage facility shall provide for the use of storage technologies which are licensed, approved, or certified by the Commission, to ensure compatibility between the interim storage facility and contract holders' spent nuclear fuel and facilities, and to facilitate the Secretary's ability to meet the Secretary's obligations under this Act.

''(2) The Secretary shall consent to an amendment to the contracts to provide for reimbursement to contract holders for transportable storage systems purchased by contract holders if the Secretary determines that it is cost effective to use such transportable storage systems as part of the integrated management system: *Provided,* That the Secretary shall not be required to expend any funds to modify contract holders' storage or transport systems or to seek additional regulatory approvals in order to use such systems.

''(f) LICENSE AMENDMENTS.—

''(1) The Secretary may seek such amendments to the license for the interim storage facility as the Secretary may deem appropriate, including amendments to use new storage technologies licensed by the Commission or to respond to changes in Commission regulations.

''(2) After receiving a license from the Commission to receive and store spent nuclear fuel and high-level radioactive waste in the permanent repository, the Secretary shall seek such amendments to the license for the interim storage facility as will permit the optimal use of such facility as an integral part of a single system with the repository.

''(g) COMMISSION ACTIONS.—

''(1) The issuance of a license to construct and operate an interim storage facility shall be considered a major Federal action significantly affecting the quality of the human environment for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). Prior to issuing a license under this section, the Commission shall prepare a final environmental impact statement in accordance with the National Environmental Policy Act of 1969, the Commission's regulations, and section 207 of this Act. The Commission shall ensure that this environmental impact statement is consistent with the scope of the licensing action and shall analyze the impacts of transportation of spent nuclear fuel and high-level radioactive waste to the interim storage facility in a generic manner.

''(2) The Commission shall issue a final decision granting or denying a license for an interim storage facility not later than 32 months after the date of submittal of the application for such license.

''(3) No later than 32 months following the date of enactment of the Nuclear Waste Policy Act of 1997, the Commission shall make any amendments necessary to the definition of 'spent nuclear fuel' in section 72.4 of title 10, Code of Federal Regulations, to allow an interim storage facility to accept (subject to such conditions as the Commission may require in a subsequent license)—

''(A) spent nuclear fuel from research reactors;

''(B) spent nuclear fuel from naval reactors;

''(C) high-level radioactive waste of domestic origin from civilian nuclear reactors that

have permanently ceased operation before such date of enactment; and

''(D) spent nuclear fuel and high-level radioactive waste from atomic energy defense activities.

Following any such amendments, the Secretary shall seek authority, as necessary, to store such fuel and waste at the interim storage facility. None of the activities carried out pursuant to this paragraph shall delay, or otherwise affect, the development, licensing, construction, or operation of the interim storage facility.

**''SEC. 206. PERMANENT REPOSITORY.**

''(a) REPOSITORY CHARACTERIZATION.—

''(1) CHARACTERIZATION OF THE YUCCA MOUNTAIN SITE.—The Secretary shall carry out site characterization activities at the Yucca Mountain site in accordance with the Secretary's program approach to site characterization. Such activities shall be limited to only those activities which the Secretary considers necessary to provide the data required for evaluation of the suitability of such site for an application to be submitted to the Commission for a construction authorization for a repository at such site, and for compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

''(2) GUIDELINES.—The Secretary shall amend the guidelines in part 960 of title 10, Code of Federal Regulations, to base any conclusions regarding whether a repository site is suitable on, to the extent practicable, an assessment of total system performance of the repository.

''(b) ENVIRONMENTAL IMPACT STATEMENT.—

''(1) PREPARATION OF ENVIRONMENTAL IMPACT STATEMENT.—Construction and operation of the repository shall be considered a major Federal action significantly affecting the quality of the human environment for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The Secretary shall prepare an environmental impact statement on the construction and operation of the repository and shall submit such statement to the Commission with the license application. The Secretary shall supplement such environmental impact statement as appropriate.

''(2) SCHEDULE.—

''(A) No later than September 30, 2000, the Secretary shall publish the final environmental impact statement under paragraph (1) of this subsection.

''(B) No later than October 31, 2000, the Secretary shall publish a record of decision on applying for a license to construct and operate a repository at the Yucca Mountain site.

''(c) LICENSE APPLICATION.—

''(1) SCHEDULE.—No later than October 31, 2001, the Secretary shall apply to the Commission for authorization to construct a repository at the Yucca Mountain site.

''(2) MAXIMIZING CAPACITY.—In developing an application for authorization to construct the repository, the Secretary shall seek to maximize the capacity of the repository, in the most cost-effective manner, consistent with the need for disposal capacity.

''(3) DECISION NOT TO APPLY FOR A LICENSE FOR THE YUCCA MOUNTAIN SITE.—If, at any time prior to October 31, 2001, the Secretary determines that the Yucca Mountain site is not suitable or cannot satisfy the Commission's regulations applicable to the licensing of a geological repository, the Secretary shall—

''(A) notify the Congress and the State of Nevada of the Secretary's determinations and the reasons therefor; and

''(B) promptly take the actions described in paragraphs (1) and (2) of section 204(b).

''(d) REPOSITORY LICENSING.—The Commission shall license the repository according to the following procedures:

''(1) CONSTRUCTION AUTHORIZATION.—The Commission shall grant the Secretary a construction authorization for the repository, subject to such requirements or limitations as the Commission may incorporate pursuant to its regulations, upon determining that there is reasonable assurance that spent nuclear fuel and high-level radioactive waste can be disposed of in the repository—

''(A) in conformity with the Secretary's application, the provisions of this Act, and the regulations of the Commission;

''(B) without unreasonable risk to the health and safety of the public; and

''(C) consistent with the common defense and security.

''(2) LICENSE.—Following the filing by the Secretary of any additional information needed by the Commission to issue a license to receive and possess source, special nuclear, or byproduct material at a geologic repository operations area the Commission shall issue a license to dispose of spent nuclear fuel and high-level radioactive waste in the repository, subject to such requirements or limitations as the Commission may incorporate pursuant to its regulations, if the Commission determines that the repository has been constructed and will operate—

''(A) in conformity with the Secretary's application, the provisions of this Act, and the regulations of the Commission;

''(B) without unreasonable risk to the health and safety of the public; and

''(C) consistent with the common defense and security.

''(3) CLOSURE.—After emplacing spent nuclear fuel and high-level radioactive waste in the repository and collecting sufficient confirmatory data on repository performance to reasonably confirm the basis for repository closure consistent with the Commission's regulations applicable to the licensing of a repository, as modified in accordance with this Act, the Secretary shall apply to the Commission to amend the license to permit permanent closure of the repository. The Commission shall grant such license amendment, subject to such requirements or limitations as the Commission may incorporate pursuant to its regulations, upon finding that there is reasonable assurance that the repository can be permanently closed—

''(A) in conformity with the Secretary's application, the provisions of this Act, and the regulations of the Commission;

''(B) without unreasonable risk to the health and safety of the public; and

''(C) consistent with the common defense and security.

''(4) POST-CLOSURE.—The Secretary shall take those actions necessary and appropriate at the Yucca Mountain site to prevent any activity at the site subsequent to repository closure that poses an unreasonable risk of—

''(A) breaching the repository's engineered or geologic barriers; or

''(B) increasing the risk of the repository beyond the standard established in subsection (f)(1).

''(5) APPLICATION OF HEALTH AND SAFETY STANDARDS.—The licensing determination of the Commission with respect to risk to the health and safety of the public under paragraphs (1), (2), or (3) of this subsection shall be based solely on a finding whether the repository can be operated in conformance with the overall performance standard in subsection (f)(1) of this section, applied in accordance with the provisions of subsection (f)(2) of this section and the standards established by the Administrator under section 801 of the Energy Policy Act of 1992 (42 U.S.C. 10141 note).

''(e) MODIFICATION OF THE COMMISSION'S REPOSITORY LICENSING REGULATIONS.—The Commission shall amend its regulations governing the disposal of spent nuclear fuel and high-level radioactive waste (10 CFR part 60), as necessary, to be consistent with the provisions of this Act. The Commission's regulations shall provide for the modification of the repository licensing procedure in subsection (d) of this section, as appropriate, in the event that the Secretary seeks a license to permit the emplacement in the repository, on a retrievable basis, of spent nuclear fuel or high-level radioactive waste as is necessary to provide the Secretary with sufficient confirmatory data on repository performance to reasonably confirm the basis for repository closure consistent with applicable regulations.

''(f) REPOSITORY LICENSING STANDARDS AND ADDITIONAL PROCEDURES.—In complying with the requirements of section 801 of the Energy Policy Act of 1992 (42 U.S.C. 10141 note), the Administrator shall achieve consistency with the findings and recommendations of the National Academy of Sciences, and the Commission shall amend its regulations with respect to licensing standards for the repository, as follows:

''(1) ESTABLISHMENT OF OVERALL SYSTEM PERFORMANCE STANDARD.—

''(A) RISK STANDARD.—The standard for protection of the public from releases of radioactive material or radioactivity from the repository shall limit the lifetime risk, to the average member of the critical group, of premature death from cancer due to such releases to approximately, but not greater than, 1 in 1000. The comparison to this standard shall use the upper bound of the 95-percent confidence interval for the expected value of lifetime risk to the average member of the critical group.

''(B) FORM OF STANDARD.—The standard promulgated by the Administrator under section 801 of the Energy Policy Act of 1992 (42 U.S.C. 10141 note) shall be an overall system performance standard. The Administrator shall not promulgate a standard for the repository in the form of release limits or contaminant levels for individual radionuclides discharged from the repository.

''(C) ASSUMPTIONS USED IN FORMULATING AND APPLYING THE STANDARD.—In promulgating the standard under section 801 of the Energy Policy Act of 1992 (42 U.S.C. 10141 note), the Administrator shall consult with the Secretary of Energy and the Commission. The Commission, after consultation with the Secretary, shall specify, by rule, values for all of the assumptions considered necessary by the Commission to apply the standard in a licensing proceeding for the repository before the Commission, including the reference biosphere and size and characteristics of the critical group.

''(D) DEFINITION.—As used in this subsection, the term 'critical group' means a small group of people that is—

''(i) representative of individuals expected to be at highest risk of premature death from cancer as a result of discharges of radionuclides from the permanent repository;

''(ii) relatively homogeneous with respect to expected radiation dose, which shall mean that there shall be no more than a factor of ten in variation in individual dose among members of the group; and

''(iii) selected using reasonable assumptions—concerning lifestyle, occupation, diet and eating and drinking habits, technological sophistication, or other relevant social and behavioral factors—that are based on reasonably available information, when the group is defined, on current inhabitants and conditions in the area of 50-mile radius surrounding Yucca Mountain contained

within a line drawn 50 miles beyond each of the boundaries of the Yucca Moutain site.

''(2) APPLICATION OF OVERALL SYSTEM PERFORMANCE STANDARD.—The Commission shall issue the construction authorization, license, or license amendment, as applicable, if it finds reasonable assurance that for the first 10,000 years following the closure of the repository, the overall system performance standard will be met based on a probabilistic evaluation, as appropriate, of compliance with the overall system performance standard in paragraph (1).

''(3) FACTORS.—For purposes of establishing the overall system performance standard in paragraph (1) and making the finding in paragraph (2)—

''(A) the Administrator and the Commission shall not consider climate regimes that are substantially different from those that have occurred during the previous 100,000 years at the Yucca Mountain site;

''(B) the Administrator and the Commission shall not consider catastrophic events where the health consequences of individual events themselves to the critical group can be reasonably assumed to exceed the health consequences due to impact of the events on repository performance; and

''(C) the Administrator and the Commission shall not base the standard in paragraph (1) or the finding in paragraph (2) on scenarios involving human intrusion into the repository following repository closure.

''(4) CONGRESSIONAL REVIEW.—

''(A) Any standard promulgated by the Administrator under section 801 of the Energy Policy Act of 1992 (42 U.S.C. 10141 note) shall be deemed a major rule within the meaning of section 804(2) of title 5, United States Code, and shall be subject to the requirements and procedures pertaining to a major rule in chapter 8 of such title.

''(B) The effective date of the construction authorization for the repository shall be 90 days after the issuance of such authorization by the Commission, unless Congress is standing in adjournment for a period of more than one week on the date of issuance, in which case the effective date shall be 90 days after the date on which Congress is expected to reconvene after such adjournment.

''(5) REPORT TO CONGRESS.—At the time that the Commission issues a construction authorization for the repository, the Commission shall submit a report to Congress—

''(A) analyzing the overall system performance of the repository through the use of probabilistic evaluations that use best estimate assumptions, data, and methods for the period commencing after the first 10,000 years after repository closure and including the time after repository closure of maximum risk to the critical group of premature death from cancer due to repository releases;

''(B) analyzing the consequences of a single instance of human intrusion into the repository, during the first 1,000 years after repository closure, on the ability of the repository to perform its intended function.

''(g) ADDITIONAL ACTIONS BY THE COMMISSION.—The Commission shall take final action on the Secretary's application for construction authorization for the repository no later than 40 months after submission of the application.

**"SEC. 207. COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT.**

''(a) PRELIMINARY ACTIVITIES.—Each activity of the Secretary under sections 203, 204, 205(a), 205(c), 205(d), and 206(a) shall be considered a preliminary decision making activity. No such activity shall be considered final agency action for purposes of judicial review. No activity of the Secretary or the President under sections 203, 204, 205, or 206(a) shall require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) or any environmental review under subparagraph (E) or (F) of section 102(2) of such Act (42 U.S.C. 4332(2)(E) or (F)).

''(b) STANDARDS AND CRITERIA.—The promulgation of standards or criteria in accordance with the provisions of this title, or under section 801 of the Energy Policy Act of 1992 (42 U.S.C. 10141 note), shall not require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) or any environmental review under subparagraph (E) or (F) of section 102(2) of such Act (42 U.S.C. 4332(2)(E) or (F)).

''(c) REQUIREMENTS RELATING TO ENVIRONMENTAL IMPACT STATEMENTS.—

''(1) With respect to the requirements imposed by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)—

''(A) in any final environmental impact statement under section 205 or 206, the Secretary or the Commission, as applicable, shall not be required to consider the need for a repository or an interim storage facility; the time of initial availability of a repository or interim storage facility; the alternatives to geological disposal or centralized interim storage; or alternative sites to the Yucca Mountain site or the interim storage facility site designated under section 204(c)(1); and

''(B) compliance with the procedures and requirements of this title shall be deemed adequate consideration of the need for centralized interim storage or a repository; the time of initial availability of centralized interim storage or the repository or centralized interim storage; and all alternatives to centralized interim storage and permanent isolation of high-level radioactive waste and spent nuclear fuel in an interim storage facility or a repository, respectively.

''(2) The final environmental impact statement for the repository prepared by the Secretary and submitted with the license application for a repository under section 206(c) shall, to the extent practicable, be adopted by the Commission in connection with the issuance by the Commission of a construction authorization and license for such repository. To the extent such statement is adopted by the Commission, such adoption shall be deemed to satisfy the responsibilities of the Commission under the National Environmental Policy Act of 1969 and no further consideration shall be required, except that nothing in this subsection shall affect any independent responsibilities of the Commission to protect the public health and safety under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

''(c) CONSTRUCTION WITH OTHER LAWS.—Nothing in this Act shall be construed to amend or otherwise detract from the licensing requirements of the Nuclear Regulatory Commission established in title II of the Energy Reorganization Act of 1974 (42 U.S.C. 5841 et seq.).

''(d) JUDICIAL REVIEW.—Judicial review under section 502 of this Act of any environmental impact statement prepared or adopted by the Commission shall be consolidated with the judicial review of the licensing decision to which it relates.

**SEC. 208. LAND WITHDRAWAL.**

''(a) WITHDRAWAL AND RESERVATION.—

''(1) WITHDRAWAL.—Subject to valid existing rights, the interim storage facility site and the Yucca Mountain site, as described in subsection (b), are withdrawn from all forms of entry, appropriation, and disposal under the public land laws, including the mineral leasing laws, the geothermal leasing laws, the material sale laws, and the mining laws.

''(2) JURISDICTION.—Jurisdiction of any land within the interim storage facility site and the Yucca Mountain site managed by the Secretary of the Interior or any other Federal officer is transferred to the Secretary.

''(3) RESERVATION.—The interim storage facility site and the Yucca Mountain site are reserved for the use of the Secretary for the construction and operation, respectively, of the interim storage facility and the repository and activities associated with the purposes of this title.

''(b) LAND DESCRIPTION.—

''(1) BOUNDARIES.—The boundaries depicted on the map entitled 'Interim Storage Facility Site Withdrawal Map', dated March 13, 1996, and on file with the Secretary, are established as the boundaries of the Interim Storage Facility site.

''(2) BOUNDARIES.—The boundaries depicted on the map entitled 'Yucca Mountain Site Withdrawal Map', dated July 9, 1996, and on file with the Secretary, are established as the boundaries of the Yucca Mountain site.

''(3) NOTICE AND MAPS.—Concurrent with the Secretary's designation of an interim storage facility site under section 204(c)(1), the Secretary shall—

''(A) publish in the Federal Register a notice containing a legal description of the interim storage facility site; and

''(B) file copies of the maps described in paragraph (1), and the legal description of the interim storage facility site with the Congress, the Secretary of the Interior, the Governor of Nevada, and the Archivist of the United States.

''(4) NOTICE AND MAPS.—Concurrent with the Secretary's application to the Commission for authority to construct the repository, the Secretary shall—

''(A) publish in the Federal Register a notice containing a legal description of the Yucca Mountain site; and

''(B) file copies of the maps described in paragraph (2), and the legal description of the Yucca Mountain site with the Congress, the Secretary of the Interior, the Governor of Nevada, and the Archivist of the United States.

''(5) CONSTRUCTION.—The maps and legal descriptions of the interim storage facility site and the Yucca Mountain site referred to in this subsection shall have the same force and effect as if they were included in this Act. The Secretary may correct clerical and typographical errors in the maps and legal descriptions and make minor adjustments in the boundaries of the sites.

**"TITLE III—LOCAL RELATIONS**

**"SEC. 301. FINANCIAL ASSISTANCE.**

''(a) GRANTS.—The Secretary is authorized to make grants to any affected Indian tribe or affected unit of local government for purposes of enabling the affected Indian tribe or affected unit of local government—

''(1) to review activities taken with respect to the Yucca Mountain site for purposes of determining any potential economic, social, public health and safety, and environmental impacts of the integrated management system on the affected Indian tribe or the affected unit of local government and its residents;

''(2) to develop a request for impact assistance under subsection (c);

''(3) to engage in any monitoring, testing, or evaluation activities with regard to such site;

''(4) to provide information to residents regarding any activities of the Secretary, or the Commission with respect to such site; and

''(5) to request information from, and make comments and recommendations to, the Secretary regarding any activities taken with respect to such site.

''(b) SALARY AND TRAVEL EXPENSES.—Any salary or travel expense that would ordinarily be incurred by any affected Indian

tribe or affected unit of local government may not be considered eligible for funding under this section.

''(c) FINANCIAL AND TECHNICAL ASSISTANCE.—

''(1) ASSISTANCE REQUESTS.—The Secretary is authorized to offer to provide financial and technical assistance to any affected Indian tribe or affected unit of local government requesting such assistance. Such assistance shall be designed to mitigate the impact on the affected Indian tribe or affected unit of local government of the development of the integrated management system.

''(2) REPORT.—Any affected Indian tribe or affected unit of local government may request assistance under this section by preparing and submitting to the Secretary a report on the economic, social, public health and safety, and environmental impacts that are likely to result from activities of the integrated management system.

''(d) OTHER ASSISTANCE.—

''(1) TAXABLE AMOUNTS.—In addition to financial assistance provided under this subsection, the Secretary is authorized to grant to any affected Indian tribe or affected unit of local government an amount each fiscal year equal to the amount such affected Indian tribe or affected unit of local government, respectively, would receive if authorized to tax integrated management system activities, as such affected Indian tribe or affected unit of local government taxes the non-Federal real property and industrial activities occurring within such affected unit of local government.

''(2) TERMINATION.—Such grants shall continue until such time as all such activities, development, and operations are terminated at such site.

''(3) ASSISTANCE TO INDIAN TRIBES AND UNITS OF LOCAL GOVERNMENT.—

''(A) PERIOD.—Any affected Indian tribe or affected unit of local government may not receive any grant under paragraph (1) after the expiration of the 1-year period following the date on which the Secretary notifies the affected Indian tribe or affected unit of local government of the termination of the operation of the integrated management system.

''(B) ACTIVITIES.—Any affected Indian tribe or affected unit of local government may not receive any further assistance under this section if the integrated management system activities at such site are terminated by the Secretary or if such activities are permanently enjoined by any court.

**''SEC. 302. ON-SITE REPRESENTATIVE.**

''The Secretary shall offer to the unit of local government within whose jurisdiction a site for an interim storage facility or repository is located under this Act an opportunity to designate a representative to conduct on-site oversight activities at such site. The Secretary is authorized to pay the reasonable expenses of such representative.

**''SEC. 303. ACCEPTANCE OF BENEFITS.**

''(a) CONSENT.—The acceptance or use of any of the benefits provided under this title by any affected Indian tribe or affected unit of local government shall not be deemed to be an expression of consent, express, or implied, either under the Constitution of the State or any law thereof, to the siting of an interim storage facility or repository in the State of Nevada, any provision of such Constitution or laws to the contrary notwithstanding.

''(b) ARGUMENTS.—Neither the United States nor any other entity may assert any argument based on legal or equitable estoppel, or acquiescence, or waiver, or consensual involvement, in response to any decision by the State to oppose the siting in Nevada of an interim storage facility or repository premised upon or related to the acceptance or use of benefits under this title.

''(c) LIABILITY.—No liability of any nature shall accrue to be asserted against any official of any governmental unit of Nevada premised solely upon the acceptance or use of benefits under this title.

**''SEC. 304. RESTRICTIONS ON USE OF FUNDS.**

''None of the funding provided under this title may be used—

''(1) directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for any lobbying activity as provided in section 1913 of title 18, United States Code;

''(2) for litigation purposes; and

''(3) to support multistate efforts or other coalition-building activities inconsistent with the purposes of this Act.

**''SEC. 305. LAND CONVEYANCES.**

''(a) CONVEYANCES OF PUBLIC LANDS.—One hundred and twenty days after the effective date of the construction authorization issued by the Commission for the repository under section 206(g), all right, title and interest of the United States in the property described in subsection (b), and improvements thereon, together with all necessary easements for utilities and ingress and egress to such property, including, but not limited to, the right to improve those easements, are conveyed by operation of law to the County of Nye, Nevada, unless the county notifies the Secretary of the Interior or the head of such other appropriate agency in writing within 60 days of such date that it elects not to take title to all or any part of the property, except that any lands conveyed to the County of Nye under this subsection that are subject to a Federal grazing permit or lease or a similar federally granted permit or lease shall be conveyed between 60 and 120 days of the earliest time the Federal agency administering or granting the permit or lease would be able to legally terminate such right under the statutes and regulations existing at the date of enactment of this Act, unless Nye County and the affected holder of the permit or lease negotiate an agreement that allows for an earlier conveyance.

''(b) SPECIAL CONVEYANCES.—Notwithstanding any other law, the following public lands depicted on the maps and legal descriptions dated October 11, 1995, and on file with the Secretary shall be conveyed under subsection (a) to the County of Nye, Nevada:

Map 1: Proposed Pahrump Industrial Park Site

Map 2: Proposed Lathrop Wells (Gate 510) Industrial Park Site

Map 3: Pahrump Landfill Sites

Map 4: Amargosa Valley Regional Landfill Site

Map 5: Amargosa Valley Municipal Landfill Site

Map 6: Beatty Landfill/Transfer Station Site

Map 7: Round Mountain Landfill Site

Map 8: Tonopah Landfill Site

Map 9: Gabbs Landfill Site.

''(c) CONSTRUCTION.—The maps and legal descriptions of special conveyances referred to in subsection (b) shall have the same force and effect as if they were included in this Act. The Secretary may correct clerical and typographical errors in the maps and legal descriptions and make minor adjustments in the boundaries of the sites.

''(d) EVIDENCE OF TITLE TRANSFER.—Upon the request of the County of Nye, Nevada, the Secretary of the Interior shall provide evidence of title transfer.

## ''TITLE IV—FUNDING AND ORGANIZATION

**''SEC. 401. PROGRAM FUNDING.**

''(a) CONTRACTS.—

''(1) AUTHORITY OF THE SECRETARY.—In the performance of the Secretary's functions under this Act, the Secretary is authorized to enter into contracts with any person who generates or holds title to spent nuclear fuel or high-level radioactive waste of domestic origin for the acceptance of title and possession, transportation, interim storage, and disposal of such waste or spent fuel. Such contracts shall provide for payment of fees to the Secretary in the amounts set under paragraphs (2), (3), and (4), sufficient to offset expenditures described in subsection (c)(2). Subsequent to the enactment of the Nuclear Waste Policy Act of 1997, the contracts executed under section 302(a) of the Nuclear Waste Policy Act of 1982 shall continue in effect under this Act: *Provided*, That the Secretary shall consent to an amendment to such contracts as necessary to implement the provisions of this Act.

''(2) NUCLEAR WASTE OFFSETTING COLLECTION.—

''(A) For electricity generated by civilian nuclear power reactors and sold during an offsetting collection period, the Secretary shall collect an aggregate amount of fees under this paragraph equal to the annual level of appropriations for expenditures on those activities consistent with subsection (d) for each fiscal year in the offsetting collection period, minus the percentage of such appropriation required to be funded by the Federal Government pursuant to section 403.

''(B) The Secretary shall determine the level of the annual fee for each civilian nuclear power reactor based on the amount of electricity generated and sold.

''(C) For purposes of this paragraph, the term 'offsetting collection period' means—

''(i) the period beginning on October 1, 1998 and ending on September 30, 2001; and

''(ii) the period on and after October 1, 2006.

''(3) NUCLEAR WASTE MANDATORY FEE.—

''(A) Except as provided in subparagraph (C) of this paragraph, for electricity generated by civilian nuclear power reactors and sold on or after January 7, 1983, the fee paid to the Secretary under this paragraph shall be equal to—

''(i) 1.0 mill per kilowatt-hour generated and sold, minus

''(ii) the amount per kilowatt-hour generated and sold paid under paragraph (2):

*Provided*, That if the amount under clause (ii) is greater than the amount under clause (i) the fee under this paragraph shall be equal to zero.

''(B) No later than 30 days after the beginning of each fiscal year, the Secretary shall determine whether insufficient or excess revenues are being collected under this subsection, in order to recover the costs incurred by the Federal Government that are specified in subsection (c)(2). In making this determination the Secretary shall—

''(i) rely on the 'Analysis of the Total System Life Cycle Cost of the Civilian Radioactive Waste Management Program', dated September 1995, or on a total system life-cycle cost analysis published by the Secretary (after notice and opportunity for public comment) after the date of enactment of the Nuclear Waste Policy Act of 1997, in making any estimate of the costs to be incurred by the Government under subsection (c)(2);

''(ii) rely on projections from the Energy Information Administration, consistent with the projections contained in the reference case in the most recent 'Annual Energy Outlook' published by such Administration, in making any estimate of future nuclear power generation; and

''(iii) take into account projected balances in, and expenditures from, the Nuclear Waste Fund.

''(C) If the Secretary determines under subparagraph (B) that either insufficient or excess revenues are being collected, the Secretary shall, at the time of the determination, transmit to Congress a proposal to adjust the amount in subparagraph (A)(i) to ensure full cost recovery. The amount in subparagraph (A)(i) shall be adjusted, by operation of law, immediately upon enactment of a joint resolution of approval under paragraph (5) of this subsection.

''(D) The Secretary shall, by rule, establish procedures necessary to implement this paragraph.

''(4) ONE-TIME FEE.—For spent nuclear fuel or solidified high-level radioactive waste derived from spent nuclear fuel, which fuel was used to generate electricity in a civilian nuclear power reactor prior to January 7, 1983, the fee shall be in an amount equivalent to an average charge of 1.0 mill per kilowatt-hour for electricity generated by such spent nuclear fuel, or such solidified high-level waste derived therefrom. Payment of such one-time fee prior to the date of enactment of the Nuclear Waste Policy Act of 1997 shall satisfy the obligation imposed under this paragraph. Any one-time fee paid and collected subsequent to the date of enactment of the Nuclear Waste Policy Act of 1997 pursuant to the contracts, including any interest due pursuant to the contracts, shall be paid to the Nuclear Waste Fund no later than September 30, 2001. The Commission shall suspend the license of any licensee who fails or refuses to pay the full amount of the fees assessed under this subsection, on or before the date on which such fees are due, and the license shall remain suspended until the full amount of the fees assessed under this subsection is paid. The person paying the fee under this paragraph to the Secretary shall have no further financial obligation to the Federal Government for the long-term storage and permanent disposal of spent fuel or high-level radioactive waste derived from spent nuclear fuel used to generate electricity in a civilian power reactor prior to January 7, 1983.

''(5) EXPENDITURES IF SHORTFALL.—If, during any fiscal year on or after October 1, 1997, the aggregate amount of fees assessed under this subsection is less than the annual level of appropriations for expenditures on those activities specified in subsection (d) for that fiscal year, minus the percentage of such appropriations required to be funded by the Federal Government pursuant to section 403, the Secretary may make expenditures from the Nuclear Waste Fund up to the level equal to the difference between the amount appropriated and the amount of fees assessed under this subsection.

''(6) EXPEDITED PROCEDURES FOR APPROVAL OF CHANGES TO THE NUCLEAR WASTE MANDATORY FEE.—

''(A) At any time after the Secretary transmits a proposal for a fee adjustment under paragraph (3)(C) of this subsection, a joint resolution may be introduced in either House of Congress, the matter after the resolving clause of which is as follows: 'That Congress approves the adjustment to the basis for the nuclear waste mandatory fee, submitted by the Secretary on _____'. (The blank space being appropriately filled in with a date.)

''(B) A joint resolution described in subparagraph (A) shall be referred to the committees in each House of Congress with jurisdiction.

''(C) In the Senate, if the committee to which is referred a joint resolution described in subparagraph (A) has not reported such joint resolution (or an identical joint resolution) at the end of 20 calendar days after the date on which it is introduced, such committee may be discharged from further consideration of such joint resolution upon a petition supported in writing by 30 Members of the Senate, and such joint resolution shall be placed on the calendar.

''(D) In the Senate, the procedure under section 802(d) of title 5, United States Code, shall apply to a joint resolution described under subparagraph (A).

''(7) POINTS OF ORDER.—Notwithstanding any other provision of this Act, no points of order, which require 60 votes in order to adopt a motion to waive such point of order, shall be considered to be waived during the consideration of a joint resolution under section 401 of this Act.

''(8) LEVEL OF ANNUAL FEE.—Notwithstanding any other provision of this Act, except as provided in paragraph (3)(C), the level of annual fee for each civilian nuclear power reactor shall not exceed 1.0 mill per kilowatt-hour of electricity generated and sold.

''(b) ADVANCE CONTRACTING REQUIREMENT.—

''(1) IN GENERAL.—

''(A) LICENSE ISSUANCE AND RENEWAL.—The Commission shall not issue or renew a license to any person to use a utilization or production facility under the authority of section 103 or 104 of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134) unless—

''(i) such person has entered into a contract under subsection (a) with the Secretary; or

''(ii) the Secretary affirms in writing that such person is actively and in good faith negotiating with the Secretary for a contract under this section.

''(B) PRECONDITION.—The Commission, as it deems necessary or appropriate, may require as a precondition to the issuance or renewal of a license under section 103 or 104 of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134) that the applicant for such license shall have entered into an agreement with the Secretary for the disposal of spent nuclear fuel and high-level radioactive waste that may result from the use of such license.

''(2) DISPOSAL IN REPOSITORY.—Except as provided in paragraph (1), no spent nuclear fuel or high-level radioactive waste generated or owned by any person (other than a department of the United States referred to in section 101 or 102 of title 5, United States Code) may be disposed of by the Secretary in the repository unless the generator or owner of such spent fuel or waste has entered into a contract under subsection (a) with the Secretary by not later than the date on which such generator or owner commences generation of, or takes title to, such spent fuel or waste.

''(3) ASSIGNMENT.—The rights and duties of contract holders are assignable.

''(c) NUCLEAR WASTE FUND.—

''(1) IN GENERAL.—The Nuclear Waste Fund established in the Treasury of the United States under section 302(c) of the Nuclear Waste Policy Act of 1982 shall continue in effect under this Act and shall consist of—

''(A) the existing balance in the Nuclear Waste Fund on the date of enactment of the Nuclear Waste Policy Act of 1997; and

''(B) all receipts, proceeds, and recoveries realized under subsections (a)(3), (a)(4), and (c)(3) subsequent to the date of enactment of the Nuclear Waste Policy Act of 1997, which shall be deposited in the Nuclear Waste Fund immediately upon their realization.

''(2) PURPOSES OF THE NUCLEAR WASTE FUND AND THE NUCLEAR WASTE OFFSETTING COLLECTION.—Subject to subsections (d) and (e) of this section, the Secretary may make expenditures from the Nuclear Waste Fund or the Nuclear Waste Offsetting Collection in section 401(a)(2) only for—

''(A) identification, development, design, licensing, construction, acquisition, operation, modification, replacement, decommissioning, and post-decommissioning maintenance and monitoring of the integrated management system or parts thereof;

''(B) the administrative cost of the integrated management system, including the Office of Civilian Radioactive Waste Management under section 402, the Nuclear Waste Technical Review Board under section 602, and those offices under the Commission involved in regulation of the integrated management system or parts thereof; and

''(C) the provision of assistance and benefits to States, units of general local government, nonprofit organizations, joint labor-management organizations, and Indian tribes under title II of this Act.

''(3) ADMINISTRATION OF NUCLEAR WASTE FUND.—

''(A) IN GENERAL.—The Secretary of the Treasury shall hold the Nuclear Waste Fund and, after consultation with the Secretary, annually report to the Congress on the financial condition and operations of the Nuclear Waste Fund during the preceding fiscal year.

''(B) AMOUNTS IN EXCESS OF CURRENT NEEDS.—If the Secretary determines that the Nuclear Waste Fund contains at any time amounts in excess of current needs, the Secretary may request the Secretary of the Treasury to invest such amounts, or any portion of such amounts as the Secretary determines to be appropriate, in obligations of the United States—

''(i) having maturities determined by the Secretary of the Treasury to be appropriate to the needs of the Nuclear Waste Fund;

''(ii) bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturities of such investments, except that the interest rate on such investments shall not exceed the average interest rate applicable to existing borrowings; and

''(iii) interest earned on these obligations shall be credited to the Nuclear Waste Fund.

''(C) EXEMPTION.—Receipts, proceeds, and recoveries realized by the Secretary under this section, and expenditures of amounts from the Nuclear Waste Fund, shall be exempt from annual apportionment under the provisions of subchapter II of chapter 15 of title 31, United States Code.

''(d) BUDGET.—The Secretary shall submit the budget for implementation of the Secretary's responsibilities under this Act to the Office of Management and Budget annually along with the budget of the Department of Energy submitted at such time in accordance with chapter 11 of title 31, United States Code. The budget shall consist of the estimates made by the Secretary of expenditures under this Act and other relevant financial matters for the succeeding 3 fiscal years, and shall be included in the budget of the United States Government.

''(e) APPROPRIATIONS.—The Secretary may make expenditures from the Nuclear Waste Fund and the Nuclear Waste Offsetting Collection, subject to appropriations, which shall remain available until expended.

**''SEC. 402. OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT.**

''(a) ESTABLISHMENT.—There hereby is established within the Department of Energy an Office of Civilian Radioactive Waste Management. The Office shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

''(b) FUNCTIONS OF DIRECTOR.—The Director of the Office shall be responsible for carrying

out the functions of the Secretary under this Act, subject to the general supervision of the Secretary. The Director of the Office shall be directly responsible to the Secretary.

**"SEC. 403. FEDERAL CONTRIBUTION.**

''(a) ALLOCATION.—No later than one year from the date of enactment of the Nuclear Waste Policy Act of 1997, acting pursuant to section 553 of title 5, United States Code, the Secretary shall issue a final rule establishing the appropriate portion of the costs of managing spent nuclear fuel and high-level radioactive waste under this Act allocable to the interim storage or permanent disposal of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research reactors. The share of costs allocable to the management of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research reactors shall include—

''(1) an appropriate portion of the costs associated with research and development activities with respect to development of an interim storage facility and repository; and

''(2) as appropriate, interest on the principal amounts due calculated by reference to the appropriate Treasury bill rate as if the payments were made at a point in time consistent with the payment dates for spent nuclear fuel and high-level radioactive waste under the contracts.

''(b) APPROPRIATION REQUEST.—In addition to any request for an appropriation from the Nuclear Waste Fund, the Secretary shall request annual appropriations from general revenues in amounts sufficient to pay the costs of the management of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research reactors, as established under subsection (a).

''(c) REPORT.—In conjunction with the annual report submitted to Congress under section 702, the Secretary shall advise the Congress annually of the amount of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research reactors, requiring management in the integrated management system.

''(d) AUTHORIZATION.—There is authorized to be appropriated to the Secretary, from general revenues, for carrying out the purposes of this Act, such sums as may be necessary to pay the costs of the management of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research reactors, as established under subsection (a).

## "TITLE V—GENERAL AND MISCELLANEOUS PROVISIONS

**"SEC. 501. COMPLIANCE WITH OTHER LAWS.**

''(a) CONFLICTING REQUIREMENTS.—Except as provided in subsection (b) of this section, a requirement of a State, political subdivision of a State, or Indian tribe is preempted if—

''(1) complying with a requirement of the State, political subdivision, or tribe and a requirement of this Act or a regulation prescribed under this Act is not possible; or

''(2) the requirement of the State, political subdivision, or tribe, as applied or enforced, is an obstacle to accomplishing and carrying out this Act or a regulation prescribed under this Act.

''(b) SUBJECTS EXPRESSLY PREEMPTED.—Except as otherwise provided in this Act, a law, regulation, order, or other requirement of a State, political subdivision of a State, or Indian tribe about any of the following subjects, that is not substantively the same as a provision of this Act or a regulation prescribed under this Act, is preempted:

''(1) The designation, description, and classification of spent fuel or high-level radioactive waste.

''(2) The packing, repacking, handling, labeling, marking, and placarding of spent nuclear fuel or high-level radioactive waste.

''(3) The siting, design, or licensing of—

''(A) an interim storage facility;

''(B) a repository;

''(C) the capability to conduct intermodal transfer of spent nuclear fuel under section 201.

''(4) The withdrawal or transfer of the interim storage facility site, the intermodal transfer site, or the repository site to the Secretary of Energy.

''(5) The design, manufacturing, fabrication, marking, maintenance, reconditioning, repairing, or testing of packaging or a container represented, marked, certified, or sold as qualified for use in transporting or storing spent nuclear fuel or high-level radioactive waste.

**"SEC. 502. JUDICIAL REVIEW OF AGENCY ACTIONS.**

''(a) JURISDICTION OF THE UNITED STATES COURTS OF APPEALS.—

''(1) ORIGINAL AND EXCLUSIVE JURISDICTION.—Except for review in the Supreme Court of the United States, and except as otherwise provided in this Act, the United States courts of appeals shall have original and exclusive jurisdiction over any civil action—

''(A) for review of any final decision or action of the Secretary, the President, or the Commission under this Act;

''(B) alleging the failure of the Secretary, the President, or the Commission to make any decision, or take any action, required under this Act;

''(C) challenging the constitutionality of any decision made, or action taken, under any provision of this Act; or

''(D) for review of any environmental impact statement prepared or environmental assessment pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to any action under this Act or alleging a failure to prepare such statement with respect to any such action.

''(2) VENUE.—The venue of any proceeding under this section shall be in the judicial circuit in which the petitioner involved resides or has its principal office, or in the United States Court of Appeals for the District of Columbia Circuit.

''(b) DEADLINE FOR COMMENCING ACTION.—A civil action for judicial review described under subsection (a)(1) may be brought no later than 180 days after the date of the decision or action or failure to act involved, as the case may be, except that if a party shows that he did not know of the decision or action complained of (or of the failure to act), and that a reasonable person acting under the circumstances would not have known, such party may bring a civil action no later than 180 days after the date such party acquired actual or constructive knowledge or such decision, action, or failure to act.

''(c) APPLICATION OF OTHER LAW.—The provisions of this section relating to any matter shall apply in lieu of the provisions of any other Act relating to the same matter.

**"SEC. 503. LICENSING OF FACILITY EXPANSIONS AND TRANSSHIPMENTS.**

''(a) ORAL ARGUMENT.—In any Commission hearing under section 189 of the Atomic Energy Act of 1954 (42 U.S.C. 2239) on an application for a license, or for an amendment to an existing license, filed after January 7, 1983, to expand the spent nuclear fuel storage capacity at the site of a civilian nuclear power reactor, through the use of high-density fuel storage racks, fuel rod compaction, the transshipment of spent nuclear fuel to another civilian nuclear power reactor within the same utility system, the construction of additional spent nuclear fuel pool capacity or dry storage capacity, or by other means, the Commission shall, at the request of any party, provide an opportunity for oral argument with respect to any matter which the Commission determines to be in controversy among the parties. The oral argument shall be preceded by such discovery procedures as the rules of the Commission shall provide. The Commission shall require each party, including the Commission staff, to submit in written form, at the time of the oral argument, a summary of the facts, data, and arguments upon which such party proposes to rely that are known at such time to such party. Only facts and data in the form of sworn testimony or written submission may be relied upon by the parties during oral argument. Of the materials that may be submitted by the parties during oral argument, the Commission shall only consider those facts and data that are submitted in the form of sworn testimony or written submission.

''(b) ADJUDICATORY HEARING.—

''(1) DESIGNATION.—At the conclusion of any oral argument under subsection (a), the Commission shall designate any disputed question of fact, together with any remaining questions of law, for resolution in an adjudicatory hearing only if it determines that—

''(A) there is a genuine and substantial dispute of fact which can only be resolved with sufficient accuracy by the introduction of evidence in an adjudicatory hearing; and

''(B) the decision of the Commission is likely to depend in whole or in part on the resolution of such dispute.

''(2) DETERMINATION.—In making a determination under this subsection, the Commission—

''(A) shall designate in writing the specific facts that are in genuine and substantial dispute, the reason why the decision of the agency is likely to depend on the resolution of such facts, and the reason why an adjudicatory hearing is likely to resolve the dispute; and

''(B) shall not consider—

''(i) any issue relating to the design, construction, or operation of any civilian nuclear power reactor already licensed to operate at such site, or any civilian nuclear power reactor to which a construction permit has been granted at such site, unless the Commission determines that any such issue substantially affects the design, construction, or operation of the facility or activity for which such license application, authorization, or amendment is being considered; or

''(ii) any siting or design issue fully considered and decided by the Commission in connection with the issuance of a construction permit or operating license for a civilian nuclear power reactor at such site, unless—

''(I) such issue results from any revision of siting or design criteria by the Commission following such decision; and

''(II) the Commission determines that such issue substantially affects the design, construction, or operation of the facility or activity for which such license application, authorization, or amendment is being considered.

''(3) APPLICATION.—The provisions of paragraph (2)(B) shall apply only with respect to licenses, authorizations, or amendments to licenses or authorizations, applied for under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) before December 31, 2005.

''(4) CONSTRUCTION.—The provisions of this section shall not apply to the first application for a license or license amendment received by the Commission to expand onsite

spent fuel storage capacity by the use of a new technology not previously approved for use at any nuclear power plant by the Commission.

''(c) JUDICIAL REVIEW.—No court shall hold unlawful or set aside a decision of the Commission in any proceeding described in subsection (a) because of a failure by the Commission to use a particular procedure pursuant to this section unless—

''(1) an objection to the procedure used was presented to the Commission in a timely fashion or there are extraordinary circumstances that excuse the failure to present a timely objection; and

''(2) the court finds that such failure has precluded a fair consideration and informed resolution of a significant issue of the proceeding taken as a whole.

**''SEC. 504. SITING A SECOND REPOSITORY.**

''(a) CONGRESSIONAL ACTION REQUIRED.—The Secretary may not conduct site-specific activities with respect to a second repository unless Congress has specifically authorized and appropriated funds for such activities.

''(b) REPORT.—The Secretary shall report to the President and to Congress on or after January 1, 2007, but not later than January 1, 2010, on the need for a second repository.

**''SEC. 505. FINANCIAL ARRANGEMENTS FOR LOW-LEVEL RADIOACTIVE WASTE SITE CLOSURE.**

''(a) FINANCIAL ARRANGEMENTS.—

''(1) STANDARDS AND INSTRUCTIONS.—The Commission shall establish by rule, regulation, or order, after public notice, and in accordance with section 181 of the Atomic Energy Act of 1954 (42 U.S.C. 2231), such standards and instructions as the Commission may deem necessary or desirable to ensure in the case of each license for the disposal of low-level radioactive waste that an adequate bond, surety, or other financial arrangement (as determined by the Commission) will be provided by a licensee to permit completion of all requirements established by the Commission for the decontamination, decommissioning, site closure, and reclamation of sites, structures, and equipment used in conjunction with such low-level radioactive waste. Such financial arrangements shall be provided and approved by the Commission, or, in the case of sites within the boundaries of any agreement State under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021), by the appropriate State or State entity, prior to issuance of licenses for low-level radioactive waste disposal or, in the case of licenses in effect on January 7, 1983, prior to termination of such licenses.

''(2) BONDING, SURETY, OR OTHER FINANCIAL ARRANGEMENTS.—If the Commission determines that any long-term maintenance or monitoring, or both, will be necessary at a site described in paragraph (1), the Commission shall ensure before termination of the license involved that the licensee has made available such bonding, surety, or other financial arrangements as may be necessary to ensure that any necessary long-term maintenance or monitoring needed for such site will be carried out by the person having title and custody for such site following license termination.

''(b) TITLE AND CUSTODY.—

''(1) AUTHORITY OF SECRETARY.—The Secretary shall have authority to assume title and custody of low-level radioactive waste and the land on which such waste is disposed of, upon request of the owner of such waste and land and following termination of the license issued by the Commission for such disposal, if the Commission determines that—

''(A) the requirements of the Commission for site closure, decommissioning, and decontamination have been met by the licensee involved and that such licensee is in compliance with the provisions of subsection (a);

''(B) such title and custody will be transferred to the Secretary without cost to the Federal Government; and

''(C) Federal ownership and management of such site is necessary or desirable in order to protect the public health and safety, and the environment.

''(2) PROTECTION.—If the Secretary assumes title and custody of any such waste and land under this subsection, the Secretary shall maintain such waste and land in a manner that will protect the public health and safety, and the environment.

''(c) SPECIAL SITES.—If the low-level radioactive waste involved is the result of a licensed activity to recover zirconium, hafnium, and rare earths from source material, the Secretary, upon request of the owner of the site involved, shall assume title and custody of such waste and the land on which it is disposed when such site has been decontaminated and stabilized in accordance with the requirements established by the Commission and when such owner has made adequate financial arrangements approved by the Commission for the long-term maintenance and monitoring of such site.

**''SEC. 506. NUCLEAR REGULATORY COMMISSION TRAINING AUTHORIZATION.**

''The Commission is authorized and directed to promulgate regulations, or other appropriate regulatory guidance, for the training and qualifications of civilian nuclear power plant operators, supervisors, technicians, and other appropriate operating personnel. Such regulations or guidance shall establish simulator training requirements for applicants for civilian nuclear power plant operator licenses and for operator requalification programs; requirements governing Commission administration of requalification examinations; requirements for operating tests at civilian nuclear power plant simulators, and instructional requirements for civilian nuclear power plant licensee personnel training programs.

**''SEC. 507. EMPLACEMENT SCHEDULE.**

''(a) The emplacement schedule shall be implemented in accordance with the following:

''(1) Emplacement priority ranking shall be determined by the Department's annual 'Acceptance Priority Ranking' report.

''(2) Subject to the conditions contained in the license for the interim storage facility, the Secretary's spent fuel and high-level radioactive waste emplacement rate shall be no less than the following: 1,200 MTU in fiscal year 2003 and 1,200 MTU in fiscal year 2004; 2,000 MTU in fiscal year 2005 and 2000 MTU in fiscal year 2006; 2,700 MTU in fiscal year 2007; and 3,000 MTU annually thereafter.

''(3) Subject to the conditions contained in the license for the interim storage facility, of the amounts provided for in paragraph (2) for each year, not less than one-sixth shall be—

''(A) spent nuclear fuel or high-level radioactive waste of domestic origin from civilian nuclear power reactors that have permanently ceased operation on or before the date of enactment of the Nuclear Waste Policy Act of 1997.

''(B) spent nuclear fuel from foreign research reactors, as necessary to promote nonproliferation activities; and

''(C) spent nuclear fuel, including spent nuclear fuel from naval reactors, and high-level radioactive waste from research or atomic energy defense activities: *Provided, however,* That the Secretary shall accept not less than five percent of the total quantity of fuel and high-level radioactive waste accepted in any year from the categories of radioactive materials described in subparagraphs (B) and (C).

''(b) If the Secretary is unable to begin emplacement by June 30, 2003 at the rates specified in subsection (a), or if the cumulative amount emplaced in any year thereafter is less than that which would have been accepted under the emplacement rate specified in subsection (a), the Secretary shall, as a mitigation measure, adjust the emplacement schedule upward such that within 5 years of the start of emplacement by the Secretary—

''(1) the total quantity accepted by the Secretary is consistent with the total quantity that the Secretary would have accepted if the Secretary had began emplacement in fiscal year 2003, and

''(2) thereafter the emplacement rate is equivalent to the rate that would be in place pursuant to subsection (a) above if the Secretary had commenced emplacement in fiscal year 2003.

**''SEC. 508. TRANSFER OF TITLE.**

''(a) Acceptance by the Secretary of any spent nuclear fuel or high-level radioactive waste shall constitute a transfer of title to the Secretary.

''(b) No later than 6 months following the date of enactment of the Nuclear Waste Policy Act of 1997, the Secretary is authorized to accept all spent nuclear fuel withdrawn from Dairyland Power Cooperative's La Crosse Reactor and, upon acceptance, shall provide Dairyland Power Cooperative with evidence of the title transfer. Immediately upon the Secretary's acceptance of such spent nuclear fuel, the Secretary shall assume all responsibility and liability for the interim storage and permanent disposal thereof and is authorized to compensate Dairyland Power Cooperative for any costs related to operating and maintaining facilities necessary for such storage from the date of acceptance until the Secretary removes the spent nuclear fuel from the La Crosse Reactor site.

**''SEC. 509. DECOMMISSIONING PILOT PROGRAM.**

''(a) AUTHORIZATION.—The Secretary is authorized to establish a Decommissioning Pilot Program to decommission and decontaminate the sodium-cooled fast breeder experimental test-site reactor located in northwest Arkansas.

''(b) FUNDING.—No funds from the Nuclear Waste Fund may be used for the Decommissioning Pilot Program.

**''SEC. 510. WATER RIGHTS.**

''(a) NO FEDERAL RESERVATION.—Nothing in this Act or any other Act of Congress shall constitute or be construed to constitute either an express or implied Federal reservation of water or water rights for any purpose arising under this Act.

''(b) ACQUISITION AND EXERCISE OF WATER RIGHTS UNDER NEVADA LAW.—The United States may acquire and exercise such water rights as it deems necessary to carry out its responsibilities under this Act pursuant to the substantive and procedural requirements of the State of Nevada. Nothing in this Act shall be construed to authorize the use of eminent domain by the United States to acquire water rights for such lands.

''(c) EXERCISE OF WATER RIGHTS GENERALLY UNDER NEVADA LAWS.—Nothing in this Act shall be construed to limit the exercise of water rights as provided under Nevada State laws.

**''SEC. 511. DRY STORAGE TECHNOLOGY.**

''The Commission is authorized to establish, by rule, procedures for the licensing of any technology for the dry storage of spent nuclear fuel by rule and without, to the maximum extent possible, the need for site-specific approvals by the Commission. Nothing in this Act shall affect any such procedures, or any licenses or approvals issued pursuant to such procedures in effect on the date of enactment of the Nuclear Waste Policy Act of 1997.

## "TITLE VI—NUCLEAR WASTE TECHNICAL REVIEW BOARD

**"SEC. 601. DEFINITIONS.**

''For purposes of this title—

''(1) CHAIRMAN.—The term 'Chairman' means the Chairman of the Nuclear Waste Technical Review Board.

''(2) BOARD.—The term 'Board' means the Nuclear Waste Technical Review Board continued under section 602.

**"SEC. 602. NUCLEAR WASTE TECHNICAL REVIEW BOARD.**

''(a) CONTINUATION OF THE NUCLEAR WASTE TECHNICAL REVIEW BOARD.—The Nuclear Waste Technical Review Board, established under section 502(a) of the Nuclear Waste Policy Act of 1982 as constituted prior to the date of enactment of the Nuclear Waste Policy Act of 1997, shall continue in effect subsequent to the date of enactment of the Nuclear Waste Policy Act of 1997.

''(b) MEMBERS.—

''(1) NUMBER.—The Board shall consist of 11 members who shall be appointed by the President not later than 90 days after December 22, 1987, from among persons nominated by the National Academy of Sciences in accordance with paragraph (3).

''(2) CHAIR.—The President shall designate a member of the Board to serve as Chairman.

''(3) NATIONAL ACADEMY OF SCIENCES.—

''(A) NOMINATIONS.—The National Academy of Sciences shall, not later than 90 days after December 22, 1987, nominate not less than 22 persons for appointment to the Board from among persons who meet the qualifications described in subparagraph (C).

''(B) VACANCIES.—The National Academy of Sciences shall nominate not less than 2 persons to fill any vacancy on the Board from among persons who meet the qualifications described in subparagraph (C).

''(C) NOMINEES.—

''(i) Each person nominated for appointment to the Board shall be—

''(I) eminent in a field of science or engineering, including environmental sciences; and

''(II) selected solely on the basis of established records of distinguished service.

''(ii) The membership of the Board shall be representatives of the broad range of scientific and engineering disciplines related to activities under this title.

''(iii) No person shall be nominated for appointment to the Board who is an employee of—

''(I) the Department of Energy;

''(II) a national laboratory under contract with the Department of Energy; or

''(III) an entity performing spent nuclear fuel or high-level radioactive waste activities under contract with the Department of Energy.

''(4) VACANCIES.—Any vacancy on the Board shall be filled by the nomination and appointment process described in paragraphs (1) and (3).

''(5) TERMS.—Members of the Board shall be appointed for terms of 4 years, each such term to commence 120 days after December 22, 1987, except that of the 11 members first appointed to the Board, 5 shall serve for 2 years and 6 shall serve for 4 years, to be designated by the President at the time of appointment, except that a member of the Board whose term has expired may continue to serve as a member of the Board until such member's successor has taken office.

**"SEC. 603. FUNCTIONS.**

''The Board shall evaluate the technical and scientific validity of activities undertaken by the Secretary after December 22, 1987, including—

''(1) site characterization activities; and

''(2) activities relating to the packaging or transportation of high-level radioactive waste or spent nuclear fuel.

**"SEC. 604. INVESTIGATORY POWERS.**

''(a) HEARINGS.—Upon request of the Chairman or a majority of the members of the Board, the Board may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Board considers appropriate. Any member of the Board may administer oaths or affirmations to witnesses appearing before the Board.

''(b) PRODUCTION OF DOCUMENTS.—

''(1) RESPONSE TO INQUIRIES.—Upon the request of the Chairman or a majority of the members of the Board, and subject to existing law, the Secretary (or any contractor of the Secretary) shall provide the Board with such records, files, papers, data, or information as may be necessary to respond to any inquiry of the Board under this title.

''(2) AVAILABILITY OF DRAFTS.—Subject to existing law, information obtainable under paragraph (1) shall not be limited to final work products of the Secretary, but shall include drafts of such products and documentation of work in progress.

**"SEC. 605. COMPENSATION OF MEMBERS.**

''(a) IN GENERAL.—Each member of the Board shall be paid at the rate of pay payable for level III of the Executive Schedule for each day (including travel time) such member is engaged in the work of the Board.

''(b) TRAVEL EXPENSES.—Each member of the Board may receive travel expenses, including per diem in lieu of subsistence, in the same manner as is permitted under sections 5702 and 5703 of title 5, United States Code.

**"SEC. 606. STAFF.**

''(a) CLERICAL STAFF.—

''(1) AUTHORITY OF CHAIRMAN.—Subject to paragraph (2), the Chairman may appoint and fix the compensation of such clerical staff as may be necessary to discharge the responsibilities of the Board.

''(2) PROVISIONS OF TITLE 5.—Clerical staff shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 3 of such title relating to classification and General Schedule pay rates.

''(b) PROFESSIONAL STAFF.—

''(1) AUTHORITY OF CHAIRMAN.—Subject to paragraphs (2) and (3), the Chairman may appoint and fix the compensation of such professional staff as may be necessary to discharge the responsibilities of the Board.

''(2) NUMBER.—Not more than 10 professional staff members may be appointed under this subsection.

''(3) TITLE 5.—Professional staff members may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS–18 of the General Schedule.

**"SEC. 607. SUPPORT SERVICES.**

''(a) GENERAL SERVICES.—To the extent permitted by law and requested by the Chairman, the Administrator of General Services shall provide the Board with necessary administrative services, facilities, and support on a reimbursable basis.

''(b) ACCOUNTING, RESEARCH, AND TECHNOLOGY ASSESSMENT SERVICES.—The Comptroller General and the Librarian of Congress shall, to the extent permitted by law and subject to the availability of funds, provide the Board with such facilities, support, funds and services, including staff, as may be necessary for the effective performance of the functions of the Board.

''(c) ADDITIONAL SUPPORT.—Upon the request of the Chairman, the Board may secure directly from the head of any department or agency of the United States information necessary to enable it to carry out this title.

''(d) MAILS.—The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

''(e) EXPERTS AND CONSULTANTS.—Subject to such rules as may be prescribed by the Board, the Chairman may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS–18 of the General Schedule.

**"SEC. 608. REPORT.**

''The Board shall report not less than 2 times per year to Congress and the Secretary its findings, conclusions, and recommendations.

**"SEC. 609. AUTHORIZATION OF APPROPRIATIONS.**

''Nothwithstanding section 401(d), and subject to section 401(e), there are authorized to be appropriated for expenditures from amounts in the Nuclear Waste Fund under section 401(c) such sums as may be necessary to carry out the provisions of this title.

**"SEC. 610. TERMINATION OF THE BOARD.**

''The Board shall cease to exist not later than one year after the date on which the Secretary begins disposal of spent nuclear fuel or high-level radioactive waste in the repository.

## "TITLE VII—MANAGEMENT REFORM

**"SEC. 701. MANAGEMENT REFORM INITIATIVES.**

''(a) IN GENERAL.—The Secretary is directed to take actions as necessary to improve the management of the civilian radioactive waste management program to ensure that the program is operated, to the maximum extent practicable, in like manner as a private business.

''(b) AUDITS.—

''(1) STANDARD.—The Office of Civilian Radioactive Waste Management, its contractors, and subcontractors at all tiers, shall conduct, or have conducted, audits and examinations of their operations in accordance with the usual and customary practices of private corporations engaged in large nuclear construction projects consistent with its role in the program.

''(2) TIME.—The management practices and performances of the Office of Civilian Radioactive Waste Management shall be audited every 5 years by an independent management consulting firm with significant experience in similar audits of private corporations engaged in large nuclear construction projects. The first such audit shall be conducted 5 years after the enactment of the Nuclear Waste Policy Act of 1997.

''(3) TIME.—No audit contemplated by this subsection shall take longer than 30 days to conduct. An audit report shall be issued in final form no longer than 60 days after the audit is commenced.

''(4) PUBLIC DOCUMENTS.—All audit reports shall be public documents and available to any individual upon request.

''(c) VALUE ENGINEERING.—The Secretary shall create a value engineering function within the Office of Civilian Radioactive Waste Management that reports directly to the Director, which shall carry out value engineering functions in accordance with the usual and customary practices of private corporations engaged in large nuclear construction projects.

''(d) SITE CHARACTERIZATION.—The Secretary shall employ, on an on-going basis, integrated performance modeling to identify appropriate parameters for the remaining

site characterization effort and to eliminate studies of parameters that are shown not to affect long-term repository performance.

**"SEC. 702. REPORTING.**

''(a) INITIAL REPORT.—Within 180 days of enactment of this section, the Secretary shall report to Congress on its planned actions for implementing the provisions of this Act, including the development of the Integrated Waste Management System. Such report shall include—

''(1) an analysis of the Secretary's progress in meeting its statutory and contractual obligation to accept title to, possession of, and delivery of spent nuclear fuel and high-level radioactive waste in accordance with the emplacement schedule under section 507;

''(2) a detailed schedule and timeline showing each action that the Secretary intends to take to meet the Secretary's obligations under this Act and the contracts;

''(3) a detailed description of the Secretary's contingency plans in the event that the Secretary is unable to meet the planned schedule and timeline; and

''(4) an analysis by the Secretary of its funding needs for the five fiscal years beginning after the fiscal year in which the date of enactment of the Nuclear Waste Policy Act of 1997 occurs.

''(b) ANNUAL REPORTS.—On each anniversary of the submittal of the report required by subsection (a), the Secretary shall make annual reports to the Congress for the purpose of updating the information contained in such report. The annual reports shall be brief and shall notify the Congress of—

''(1) any modifications to the Secretary's schedule and timeline for meeting its obligations under this Act;

''(2) the reasons for such modifications, and the status of the implementation of any of the Secretary's contingency plans; and

''(3) the Secretary's analysis of its funding needs for the ensuing 5 fiscal years.

**"TITLE VIII—MISCELLANEOUS**

**"SEC. 801. SENSE OF THE SENATE.**

''It is the sense of the Senate that the Secretary and the petitioners in Northern States Power (Minnesota), v. Department of Energy, pending before the United States Court of Appeals for the District of Columbia Circuit (No. 97–1064), should enter into a settlement agreement to resolve the issues pending before the court in that case prior to the date of enactment of the Nuclear Waste Policy Act of 1997.

**"SEC. 802. EFFECTIVE DATE.**

''Except as otherwise provided in this Act, this Act shall become effective one day after enactment.''.

**SEC. 2. SENSE OF THE SENATE REGARDING ASSISTANCE FOR ELDERLY AND DISABLED LEGAL IMMIGRANTS.**

It is the sense of the Senate that elderly and disabled legal immigrants who are unable to work should receive assistance essential to their well-being, and that the President, Congress, the States, and faith-based and other organizations should continue to work together toward that end.

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

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

The motion to lay on the table was agreed to.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I take this opportunity to thank those who have worked so hard on this piece of legislation, Karen and Gary and several others, as well as my colleagues on the other side, professional staff, and the two Senators from Nevada. It has been a good debate, and I think we send a message to the administration relative to the reality of whether we are going to leave the waste on 80 sites in 41 States or do something about it. So we will look forward to the House action.

Again, I thank all my colleagues who participated.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I extend my appreciation to the manager of the bill, the Senator from Alaska, who has been a gentleman during these deliberations these past 9 days. It is a hotly contested issue. We hope there is the ability to use reason in this issue, to go ahead and site the permanent repository wherever it should be and use good science to judge. But I do extend my appreciation to Senator MURKOWSKI and his staff for the courtesies they have extended to the Senators from Nevada and look forward to working with him in the future on matters of importance.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I extend my thanks to the chairman of the Energy and Natural Resources Committee for the tremendous work he has done, very successful work on S. 104. We have picked up votes. Today we had the votes in the Senate to override a Presidential veto, and we saw that action going on right here in the well.

I appreciate the work my colleagues from Nevada have done. They have certainly maintained my respect for them and I hope likewise. But clearly this Nation needs a permanent repository, and S. 104 moves us in that direction. We will now move to the House. I think the value is that the administration now needs to clearly recognize that the Congress of the United States in a strong bipartisan way wants to resolve this issue and tell the American people it will honor its commitments and its contracts to resolve this major environmental issue.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. BRYAN. I thank the Chair.

Mr. President, I say to the chairman, the floor manager, we have had a spirited and prolonged debate. That is in the best tradition of the Senate. I thank him for his personal courtesies in terms of procedure in the Chamber so that we were given an opportunity to fully express and develop our views.

Let me say to my colleagues who voted against this bill, I know that for a number of them it was particularly difficult. That vote was in the interest of good science. I appreciate their courage. I appreciate their support. Senator ROCKEFELLER could not be here this morning because he has another matter. We appreciate his support, and he reaffirmed his support to us in a message earlier today. Several of my colleagues indicated they would be with us to support us on the veto override if it reaches that point. So I think what we have done is to allow science and logic to proceed in the development of what is a responsible nuclear waste policy rather than to respond to the emotions of the occasion. I appreciate very much my colleagues who stayed with us on this important issue and the floor leader and the chairman for his courtesies in permitting us to proceed in an orderly fashion.

I yield the floor.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. I do not want to prolong this any further, but I must also join in congratulating the chairman of the Energy and Natural Resources Committee, the Senator from Alaska. He has done a great job. He spent a lot of time on this bill, both this year and last year. He has been patient. He has done a magnificent job.

I also commend the Senator from Idaho [Mr. CRAIG] for his work, and also again express my appreciation to the Senators from Nevada. I know it is a very difficult issue for them. They have been vigorous in their position on behalf of the people in their State to oppose this legislation but have also been gentlemen about it, and I extend my appreciation to them.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, I also rise to commend my colleagues on both sides of the aisle who have participated in the debate that has just now been completed. This is really the way it ought to be. This was a very difficult, emotional, contentious issue, an issue that involved Republicans and Democrats on both sides of the aisle on either side of the issue. It is appropriate that at times like this we commend both sides, both leaders for their civility and for the way in which this issue was presented to this body. It was a good debate, a debate in my view that brought out the very complex nature of this legislation.

So on behalf of all of my colleagues on this side of the aisle, I commend Senator MURKOWSKI and the senior Senator from Idaho [Mr. CRAIG], and especially our colleagues from Nevada, Mr. REID and Mr. BRYAN. They all represented themselves well. They did the debate proud. I think it portends well for future debates on just as complex and controversial issues. I commend our Senators and appreciate very much the manner with which they conducted themselves in the last week.

I yield the floor.

## REGARDING FLOOR PRIVILEGES FOR DISABLED PERSONS REQUIRING SUPPORTING SERVICES

Mr. LOTT. Mr. President, I have been working this morning with all Senators, including the distinguished Democratic leader, to resolve a matter that emerged yesterday with regard to permitting access to the Senate floor of guide dogs and other equipment needed by disabled individuals. The resolution I am about to offer will allow the Sergeant at Arms to work immediately with staffers who have the need for guide dogs to be able to access the floor on a case-by-case basis. The resolution also calls for the Committee on Rules and Administration to consider a formal change in the Senate rules to address the situation. A permanent resolution is expected to be brought out of the committee before the full Senate so that we can have a formal rule on how matters of this nature will be handled.

Again, I thank all Senators involved for their thoughtfulness in addressing the matter immediately. I think it is the right thing to do, and I am pleased that with today's action, assuming we can get this agreed to, the Senate will address an inequity that has been brought before us and we will remove roadblocks in the way of individuals helping us to serve the American people in the Senate.

The chairman of the Rules Committee has been involved in this discussion, the ranking member. I believe we have touched bases on both sides, and I believe this is an appropriate resolution to an immediate problem but also one that can be addressed by the appropriate committee so that the rules will be a little clearer as to how this type of situation will be addressed in the future.

Before I ask unanimous consent, I wonder; I see the Democratic leader, if he wanted to comment. Would the Senator like me to yield for comment before we get unanimous consent?

Mr. DASCHLE. Mr. President, I commend the majority leader for his expeditious handling of this matter. This has only recently been presented as a problem to the body, and I think the manner in which the majority leader is handling it represents sensitivity to the issue and a recognition for the need for some practical application of our current rules. And so I am very supportive of the effort that he and his colleagues are making in this regard, and I hope that we can see this matter resolved successfully today.

Mr. LOTT. Mr. President, I ask unanimous consent then that an individual with a disability who has or is granted the privilege of the Senate floor may bring those supporting services, including service dogs, wheelchairs, and interpreters, on the Senate floor, which the Senate Sergeant at Arms determines are necessary and appropriate to assist the disabled individual in discharging the official duties of his or her position until the Committee on Rules and Administration has the opportunity to properly consider the matter.

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

Mr. LOTT. Mr. President, I now send a resolution the desk dealing with the same subject and ask that it be appropriately referred.

The PRESIDING OFFICER. The resolution will be received and appropriately referred.

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

## MORNING BUSINESS

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, it is my understanding there is to be a 1-hour morning business segment under the control of the minority leader; is that correct?

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 12:30 p.m. with Senators permitted to speak for 5 minutes each.

Mr. DORGAN. Mr. President, I ask unanimous consent we begin the 1 hour reserved for the minority leader.

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

Mr. DORGAN. Mr. President, I yield as much time as he may need to the Senator from Illinois, Mr. DURBIN.

The PRESIDING OFFICER. The Senator is recognized.

Mr. DURBIN. I thank the Senator.

## BUDGET RESOLUTION DEADLINE

Mr. DURBIN. April 15, we all know that date; 40 percent of the American taxpayers file their returns within the last 48 hours as the closing day comes for filing personal income tax returns. This year, for about the third year in succession, I did my own tax return. I do not know how many of my colleagues in the Senate and House do that. But I think it is a good educational experience. Perhaps we should pass a law that every Member of Congress should complete their own income tax returns. It might urge us on to reform the system and make it simpler so that families across America will have a little easier time of it in paying their taxes and meeting their responsibility to this Nation.

When it comes to responsibility, there is also a responsibility in this Senate Chamber. April 15 is another deadline. April 15 is a deadline for passing a budget resolution. By this time we are required by law to have passed a budget resolution and started the appropriations process.

I have been on Capitol Hill, I guess this is my 15th year, and I do not think I have ever seen happen what has happened this year because now April 15 will come and go without even so much as a real debate on a budget resolution. The President sent his version to Capitol Hill. I disagreed with some parts of it. But everyone had to concede that his approach to balancing the budget would in fact balance the budget. He met his obligation. He started the process. Of course, when it comes to Congress, that is not under the President's control, nor should it be. That is the control of the Republican leadership in the House and the Senate. The ball is on their side of the net. It is their time to put together a budget resolution and to spell out for the American people in very specific terms how can we reach a balanced budget.

Just a few weeks ago we spent 2 weeks, maybe 3, perhaps 4 weeks, in the Chamber here debating an amendment to the Constitution of the United States, an amendment which said Congress has no choice; it must balance the budget. I voted against it.

I did not think we needed to put into our Constitution an obligation which we all know we must accept. So many people on the other side, my friends on the Republican side, and a few Democrats stood up and said, ''No, no, no, we need to have a constitutional imperative to force us to act.'' Little did I know that just a few weeks later they would prove themselves true. The Republican leadership has been unable or unwilling to come forward with their offering about balancing the budget.

The other night at the radio/TV correspondents' dinner the President had an interesting observation about how slow the pace is on Capitol Hill and, frankly, how boring it becomes as we go in, week in and week out, in the House and Senate, without addressing the real issues. The President said that the pace on Capitol Hill is so slow that C-SPAN, the television network which covers our hearings, has decided to play reruns from the previous Congress so people will keep up their interest on Capitol Hill.

It is an amusing observation. I do not believe it is necessarily true, but it does reflect on the fact that for some reason we cannot get started up here this year. For some reason, Republican leadership has been unable to come forward with their offering for a budget resolution. Why would that be? Why would a party that is so dedicated to a constitutional amendment to force a balanced budget have such a difficult time meeting its statutory obligation to produce that budget resolution on the floor?

The answer is fairly obvious: Because they have set up certain conditions for a balanced budget which they themselves cannot meet. They have suggested we should include tax cuts in any kind of balanced budget scenario. Coming out for tax cuts on April 15 may be the most popular thing a politician can do. But let's be very honest about it, as Senator Dole learned in the last campaign, just promising a tax cut is not enough. The American people have to understand it is attainable, it

is reasonable, it will not in fact blow up our efforts to balance the budget. I think that is the problem that the majority, the Republicans, face here—how to meet the obligation of satisfying all of their rhetoric about tax cuts and still meet their obligation to balance the budget. Unfortunately, it does not work.

They found 2 years ago when they were pushing a tax cut package even smaller than this one, they had reached such a crisis stage that we shut down the Government. We shut down the Government for the longest period of time in our Nation's history. That worries me, because I am afraid we may be on that same road again.

I have the Durbin plan for dealing with Government shutdowns. There are two parts to it. The first part is a piece of legislation which says, ''No dessert until you clean your plate.'' Remember when Mom and Dad used to say that? I think we ought to say that when it comes to the business of Congress. Here is what I am driving at. I do not believe that we should consider the appropriation to keep Congress running on Capitol Hill until every other appropriation bill is passed. So, if there is going to be a Government shutdown of any agency, it will necessarily also shut down Congress. I think that will focus our attention on the fact that we cannot abide by a Government shutdown or impose on innocent Federal employees that sort of scenario.

Second, the last time there was a shutdown under the leadership of the 104th Congress, three of us, I believe, in the House of Representatives said as long as the Government is shutting down, we are not going to take a paycheck, and we did not. If every other Member of the House and Senate would hew to the same standard, I will guarantee you will never see another Government shutdown.

But, now, where are we? Where are the Republicans headed? What is their plan for balancing the budget? Will they stick with this massive tax cut package they cannot pay for? Will they turn around and try to cut Medicare again, as deeply as they did last time? Will they make cuts in educational programs like college student loans? Will they cut environmental protection efforts, like toxic waste cleanup? I hope they are not on that course. But I do hope they are on the course of meeting their statutory obligation to produce a budget resolution, as they were required to under the law, today, April 15, tax day.

Mrs. BOXER. Will the Senator yield?

Mr. DURBIN. I am happy to yield to my colleague from California.

Mrs. BOXER. I will be brief. But I just wanted to thank the Senator from Illinois for, in his very direct way, putting this issue before the American people. The Senator and I served on the Budget Committee in the House of Representatives for many years. And I serve here on the Budget Committee. I have never seen a situation like this before. The Senator talked about the no budget no pay legislation. While he was fighting for that in the House, I was here in the Senate fighting for that as well; and some of us over here gave our pay to charity during that period.

I know that my colleagues on the other side of the aisle do not want to have another Government shutdown. As a matter of fact, some of them are going to introduce legislation to pass a permanent continuing resolution and avoid such a shutdown. Frankly, I am glad they are thinking along the lines of avoiding a shutdown. But that really begs the question of the day. That is the cowardly way out. If we cannot get our act together, we admit it now, we are introducing legislation to just keep the Government going at the old rate even though, by the way, things are changing and we need to react to what the people want. But they will continue it going to avoid the heat of a Government shutdown.

The fact is, where is the budget? Tonight, late at night, there will be a rush at mailboxes all across this country of people mailing in their tax returns. They have to get an extension if they do not meet the deadline. Where is this extension? I have yet to see a budget.

In my closing remarks to the Senator from Illinois, I say to him, does he remember anything quite like this? I know some deadlines have been missed in the past, but in my memory, that does go back a ways. At least we had a budget out there. We may not have dotted all the i's, crossed all the t's, and come to a conclusion by this time, but we always had that budget document out there.

Where we stand today is the President has a budget document out there. It balances by the year 2002, according to the Congressional Budget Office. The Republicans do not like that budget. Fair enough. That is why they are Republicans. They have different values. They do not want to see the increases in education. They do not want to see the increases for the environment. They want to give tax breaks to the very wealthy while the President is targeting those tax breaks to middle-class people who need help sending their kids to college, and so on. So that is fair game.

But now I want to see their budget. That is what they have to do. That is their responsibility. They keep saying they want a balanced budget amendment, as my friend said. That did not do anything to balance the budget. It was just a lot of rhetoric, and some of us said that at the time. Where is your plan? The fact is, without one Republican vote we have seen this deficit go down from $290 billion to what is it now projected to be, $91 billion? That is an extraordinary record of accomplishment.

So all we are saying here in our own way, it seems to me, and what the Senator is saying—and I would ask for his comment —is we have never seen a situation where the majority party was so afraid to offer a budget; we have never seen a situation where they did not have the courage to lay down their priorities. I wonder if my friend agrees, if this is really an unprecedented situation?

Mr. DURBIN. I thank my colleague from California. She and I served together on the House Budget Committee, and I agree with her. In 15 years, I have never seen anything like this. For some reason, the Budget Committee is on vacation when it is supposed to be on the job. The statute says get moving by April 15, give us a budget resolution. We have an appropriations process to get started in the House, to move forward on in the Senate, and it cannot get started until we figure out what our priorities in spending are going to be. That is a very difficult thing to do with the high-flying rhetoric. The Republicans ran for the House and Senate saying, ''Let us lead.'' And these steely-eyed, styptic-hearted conservatives said, ''We know how to balance a budget. Out of the way, bleeding-heart liberals. Give us a chance. We'll get rid of all this red ink. We'll get you on the straight and narrow.''

Where is the budget? I don't see it. What do we have to do? As the Senator suggested earlier this morning, do we have to send out dogs to sniff out this budget? Where is it? Where on the floor? Is it in one of the committee meeting rooms on Capitol Hill? In one of the think tanks? Does the Heritage Foundation have a budget they want to send up here for us to take up? What are we waiting for? The American people met their obligation today. Some of them are sitting down right now saying, ''Oh, my goodness, I have to finish this 1040 form. I have a legal responsibility to do it. My family is going to meet its legal responsibility.'' When is this Congress going to meet its legal responsibility to find and prepare a budget resolution which keeps up with the rhetoric which we have heard now time and again in this Chamber and across the Nation?

I thank the Senator for her leadership. I think the President has at least given us a starting document. Now, to my friends in the majority, on the Republican side, it is certainly your turn.

Mr. DORGAN. I wonder if the Senator will yield?

Mr. DURBIN. I will be happy to yield.

Mr. DORGAN. One of the reasons we do not have a budget brought to the Senate on time—and today is the date it is supposed to be here—is because, frankly, the proposal they would offer does not add up, and they know it. They are proposing very substantial tax cuts, the majority of which will go to the upper-income folks in this country, and you cannot balance the budget with the kind of tax cuts they propose, especially the kind of tax cuts that will go to upper-income folks.

This morning, on NPR, a Republican commentator said something. I would

like to read it to my friend from Illinois and my friend from California, because I think it is important. He is talking specifically about the capital gains tax cut, and the Citizens For Tax Justice provide a chart to show who gets what from the tax cuts offered by the majority party. The top 20 percent get nearly 80 percent of the tax cuts, the bottom 60 percent get about 8 percent of the tax cuts.

But here is what Kevin Phillips had to say this morning. He said:

It's time to put [this issue] on the table—the argument that because Congressmen and Senators want capital gains tax cuts as a payoff to their big contributors, that's a good reason to block it as a powerful beginning for reforming campaign finance.

This is a Republican, Kevin Phillips, who says this morning:

Think about it. The experts say that two-thirds of the benefit from the Senate Republican leadership's cap-gain cut proposal would go to the top 1% of Americans income-wise. That's exactly the same crowd that gives big [campaign] contributions. Anybody who believes that linkage is a coincidence probably believes in the tooth fairy, too.

It is not me speaking. This is Kevin Phillips, a Republic commentator. Let me continue.

Let me stipulate. The deficit-cutter case against the cap-gain cut is overwhelming, too, because it's such a huge boondoggle. Over the next ten years, the Senate's proposed reduction would cost the government some somewhere between 133 billion dollars and 237 billion dollars [in lost income]. The 133 billion dollar estimate comes from the conservative-run Joint Congressional Committee on Taxation and the 237 billion dollar estimate comes from the liberal-run Citizens For Tax Justice. The truth is probably somewhere in the middle, which would be about 185 billion dollars over ten years, which would have to be paid for—literally—with massive cuts in programs for ordinary Americans or with deficit spending.

Again, Kevin Phillips, a Republican commentator, says this morning on NPR:

Worse still, it's not a worthy outlay. It's just pork for fat-cat political donors. The rate reduction [from capital gains] obviously isn't needed to encourage more investment. The last six or eight years have seen enormous amounts of money invested under the present tax rate. And experts have scoffed at claims in which hired economists say the cuts are badly needed for capital formation. Even Herbert Stein, a former Republican Chairman of the President's Council of Economic Advisers, argues that only economic activity that could be counted on from a cap gains cut would be more activity by accountants and lawyers in converting other income into capital gains.

Again, Kevin Phillips continuing. He says:

Cutting the capital gains rate across the board, for every kind of quick-buck tax ploy, isn't policy, it's pandering. It isn't serious legislation, and Congress knows that; it's a payback to big contributors. Relief for small businessmen, like for homeowners, may justify giving every household a one or two hundred thousand dollar lifetime capital gains exemption. But tens of billions of dollars worth of cap gains cuts for the people who've just flooded the Republican and Democratic parties with hundreds of millions of dollars worth of record-level 1995–96 campaign contributions would be the political equivalent of bribery. Blocking that pork feast, by contrast, would send an important message: a message that reform of campaign finance is already underway.

Again, this is a Republican commentator. Incidentally, his last suggestion is one that I authored as a piece of legislation. I said, let us take, for every American—every American—let us give them an opportunity for a $250,000 capital gains income, if they have held the asset for 10 years, to be taken with zero tax liability; a quarter of a million dollars during one's lifetime, zero tax liability if you hold the asset 10 years. But let's not go back to the full-blown capital gains approach, where you hold a share of stock for 6 months and 1 day and sell it and pay half the tax someone who works all day pays. It's the same old approach by those in this Congress, and there are plenty of them, who say: Let us have a tax system that deals with different groups in different ways. Let us decide that those who invest shall pay no tax and those who work shall pay a significant tax. In other words, let us have a tax on work but not a tax on investment.

What kind of sense does that make? Let us tax work but not tax investment? There are a lot of streams of income in this country. Guess who has most of the investment income? Most of the folks at the upper level, the same folks who are giving the campaign contributions.

That is why these plans that say, ''Let's go ahead and tax work and we will exempt investment,'' and when they exempt the tax on investment, what they do is propose plans that give the bulk of the tax benefits to a very small group of upper income taxpayers, and the result of that is, of course, the budgets do not add up.

If the budget does not add up to a balanced budget, then you cannot meet the budget deadline of April 15 and bring a budget to the floor that completes what you said you were going to do, and that is balance the Federal budget. The only people in the Senate who have done what is necessary to take this country on a road to a balanced budget are those who, in 1993, stood up here in the face of opposition and in the face of criticism and said, ''Count me in, this is a deficit reduction package. I am willing to vote for it and it is tough medicine because it cuts spending and does increase some revenue, but count me in, because I am for reducing the budget deficit.''

I was one of those who voted for that. The easiest vote by far would have been to say, ''I'm AWOL, I'm out of here, don't count on me for a vote. All I want to do is talk about balancing the budget, and when it is time to do something about it, I am gone.''

I did not do that, nor did the majority of my colleagues. We passed that bill by one vote. We did not get one vote from the other side of the aisle. Those who talked the loudest about balancing the budget did not offer one vote to reduce the budget deficit. It has been reduced well over 60 percent. Now we need to do the rest of the job.

Today is the day by which the budget is supposed to come to the Senate to do the rest of the job. Why is it not here? It is not here because the majority party cannot bring a budget to the floor of the Senate that adds up that reaches balance. Why can they not do that? Because they are proposing very large tax cuts that go, in most cases, to the largest income earners in this country.

The Washington Times had a piece the other day from which I want to read a couple of paragraphs:

Major donors told the national committee chairman, Jim Nicholson, they are fed up with the party's congressional leadership and the party can forget about more money from them unless the GOP lawmakers enact tax cuts.

Shorthand for that: Give us our tax breaks, and we will give you more money. This comes from something called ''Eagles,'' corporate eagles who give $20,000 a year and individual eagles who give $15,000 a year. What they are saying is, ''Give us our tax cuts, we'll give you some money. Withhold the tax cuts, we'll withhold the political contributions.''

It is kind of an interesting and dismaying piece, it seems to me. But the fact is, a budget cannot be put together that proposes the kind of tax cuts the majority wants and, at the same time, shows that we are balancing the budget. That is the dilemma.

Job one in this country, in my judgment, is to balance the budget. I do not happen to think one side is all right and the other side is all wrong; they have no answers, we have all the answers. That is not the case at all. But we spent a month and a half in this Chamber talking about amending the Constitution of the United States to require a balanced budget. I pointed out then if the Constitution were altered 1 minute from now, 2 minutes from now there would be no difference in the Federal deficit, because changing the Constitution does not change the deficit. The only way you change the deficit and reach a balanced budget is the individual taxing-and-spending decisions. That is why asking the majority party who controls Congress and controls our agenda to bring a balanced budget to the floor today on April 15, which is the deadline in law for them to do so, is an important and right thing for them to do.

Mr. President, I yield to my colleague, Senator CONRAD, who has comments on this same subject. I yield him as much time as he may consume.

The PRESIDING OFFICER (Mr. ALLARD). The Senator from North Dakota.

Mr. CONRAD. Mr. President, today is an important day for Americans. April 15 is the deadline for all Americans to file and pay their individual taxes. I know that, I was signing my returns yesterday to make sure they were sent

off. I had to write a check—not as big a check as last year, I was glad for that, but, nonetheless, had to pay some additional tax in addition to what was withheld. All across America, people are engaged in that last moment of frantic scrambling to make sure they file their taxes.

Today is another deadline as well. Today is the deadline for the Congress of the United States to pass the budget for the year. And that gives rise to the question that I put on this chart: Where is the budget? We are not going to pass a budget for the next year here today. There is not even one before the U.S. Senate. But it is even worse than that, because the Budget Committee had a deadline of April 1, and we have not even considered a budget in the Budget Committee.

I am a member of the Budget Committee and have been a member for 10 years. There is no budget that the Republicans—who control the U.S. Senate and the U.S. House, and, as a result, they control the budget committees—have put before us. We have the budget from the President which they have criticized, but we have no budget from them. Mr. President, it is time for those on the other side of the aisle to come forward with their budget proposal.

What we have heard from them is endless proposals for tax cuts aimed at the wealthiest among us. We have heard the Speaker even assert that we can eliminate capital gains taxes and eliminate estate taxes and have a major tax cut for children, but he does not put forward a plan that shows us how this would all add up.

Where would the cuts be to not only eliminate the deficit, but to pay for the tax cuts? There is no plan. It is easy to talk about things we would all like to have if you do not ever have to make it add up. The difficult part of the budget process is to try to come up with a plan that will balance the budget. All of us know that requires spending cuts. Spending cuts are painful. We also know that there is a need for tax reduction in the country.

I have supported a plan. We had the centrist coalition last year, 10 Democrats, 10 Republicans, that worked together for hundreds of hours and put together a plan that was a consensus of our group on a bipartisan basis. We brought that plan to the floor of the Senate, and we received 46 votes, about evenly divided between Democrats and Republicans. Frankly, that is what it is going to take again this year. But when I hear our friends on the other side of the aisle assert that it is this side of the aisle that is responsible for budget deficits, I think we then have to talk about the record and talk about the facts.

Here is the record and here are the facts. If we look at the last three administrations and look at the record on the deficit, it is very clear who has performed and who has talked.

This is the record during the Reagan administration. He took office in 1981. The unified deficit for that year was $79 billion. It promptly shot up to over $200 billion and largely stayed that way through the Reagan administration.

Then the Bush administration came into office and started with a unified deficit of $153 billion. By the time the Bush administration was finished, they had a deficit of $290 billion.

Then President Clinton came into office, and the first year, the unified deficit was $255 billion, and each and every year, the deficit went down: $203 billion the second year of the Clinton administration, $164 billion the third year, and this chart shows $116 billion, but it actually wound up somewhat better than that. The deficit came in at $107 billion.

All of that occurred because we put in place a budget plan in 1993 to cut spending and, yes, raise revenue on the wealthiest among us. The wealthiest 1 percent of this country were asked to pay somewhat more, and we cut spending about $250 billion over a 5-year period. Over 10 years, that deficit reduction package reduced the deficit $2.5 trillion. That is an extraordinary record of deficit reduction. In fact, now we are told that the unified deficit this year, the year that will end on September 30, will come in at about $91 billion. That will be 5 years in a row of deficit reduction.

I just think if we are going to have a serious debate here over who has done what, then we ought to look at the facts, and we ought to talk about who, in fact, did have the courage to stand up and vote for that 1993 budget package, which the other side said would crater the economy. They said it would increase the deficit. They said it would increase unemployment. They said it would reduce economic growth.

They were wrong on every single score. It reduced the deficit every single year. It reduced unemployment. We have had nearly 12 million jobs created in the United States since we put that plan in place, and we have had a large economic expansion in this country. That is the record. Those are the facts.

If we are going to finally achieve closure of this and actually balance the budget, then it is going to take both sides working together, because the Republicans control the Congress, the Democrats control the White House, and nothing is going to happen unless we work together.

Last year, those of us who participated in the centrist coalition that involved Democrats and Republicans on an equal basis found the effort one of the most rewarding we have engaged in while we have been privileged to be part of this body, because we did work together. Nobody was running out and holding press conferences attacking the other side. Nobody was trying to get over on the other side. There were no raised voices. There was calm reasoning to try to achieve a result that we all understood was important for our country.

Why is it important for the country? Mr. President, what is at stake here is the economic future of the country. This chart shows our children's economic position in the year 2035 in terms of the gross national product of the United States. This is on a per person basis.

Very recently, the Congressional Budget Office issued a report and told us this: If we fail to act, the per capita size of our economy will be $33,200 in the year 2035. But if we would balance the budget on a unified basis—and I do not consider a unified balance a true balancing of the budget, but at least it is a step in the right direction—then the per capita size of our economy would be $40,900 in the year 2035. We would have much more income per person in this country if we moved toward balancing the budget. That is the message of this chart.

Why is that the case? It is the case because if we are not deficit spending, we are not eating into the societal savings account. The more savings you have, the more investment that is possible. The more investment you have, the stronger the economic growth. That is the key to the future of America's economy, and it is why it is critically important to actually balance the budget. It is not just some abstract idea. It is critically important to the economic future and health of America.

Mr. President, we hear some on the other side saying they are going to cut this tax, that tax, we are going to cut all taxes. On our side, we say we ought to have targeted tax relief. Middle-class families need tax relief. We are in favor of that. When we start talking about reducing taxes that primarily are paid by the wealthiest among us, it really does not make sense to do that and jeopardize balancing the budget. Why not? Because the biggest help that we can be to this economy is to balance that budget.

Let me just indicate that when people start talking about what will help promote growth in this economy, they look closely at the benefits of balancing the budget. Balancing the unified budget is expected to reduce interest rates by about 1 percent. In an economy with $14.5 trillion in nonfinancial sector debt, a 1-percent reduction in interest rates means an $145 billion boost to the economy in 1 year. That dwarfs any of the tax cuts that are being talked about in terms of providing a lift to the economy.

So the truth of the matter is the best tax cut that we can give, the best tax cut, the most effective tax cut, is one that leads to a balanced budget. The only way we do that, obviously, is to cut spending that has contributed to the budget deficit, and have a revenue stream that balances with the spending. That is how you balance a budget. It is not just spending. It is the combination of spending and revenue that has to be in balance.

So those who talk about massive tax cuts will have to come down here at some point with a plan that shows how

it adds up. They have not done it. They did not do it by April 1 in the Budget Committee which was their responsibility. They have not done it by today, which is by law their responsibility. So we are waiting. We are asking the question, where is the budget? When they come with a budget plan, it needs to add up. That is in the long-term interests of the United States.

Mr. President, I will yield the floor.

Mr. DORGAN. Mr. President, let me ask the Senator from North Dakota a question. Senator CONRAD is on the Senate Budget Committee and, as he indicated, the legal date for the completion of work on a budget by Congress is April 15. In fact, a couple of years ago, we heard some folks here on the floor of the Senate and in the House say, ''The President is irrelevant. We control the Congress. We will write a budget and we will ram this thing home. It does not matter what the President thinks.''

Now we hear the story, ''What the President thinks matters to us. We will not do a budget unless the President comes to the table.'' The President submitted a budget, but my understanding is that the Budget Committee in both the House and Senate have not moved forward to say, ''Here is what we in Congress think ought to comprise a budget.''

Again, my notion is that it was not done because there is not any way to add this up. If you want to give giant tax reductions, most of which will go to the upper income folks, and say that is what we promised, but we also promised a balanced budget, the best way to avoid the conflict of a budget that does not add up is to not submit one, do not show your hand.

Is that what is happening in the Budget Committee?

Mr. CONRAD. I am afraid it is. The law says: ''Before April 15 of each year, the Congress shall complete action on a concurrent resolution on the budget for the fiscal year beginning on October 1.''

We are not just supposed to have completed the budget in this Chamber. The entire Congress is to have completed the budget plan by today. We have not even started. We have not even started in the Senate Budget Committee to consider a plan. I fear the reason is that our colleagues on the other side and all over America in the last campaign promised they would cut this tax, that tax, and every tax, and when they came back here to try to see how it would add up, they find, wait a minute, it does not add up. In fact, the only way you can get it to add up is to have cuts that are even deeper than the ones they proposed last year in Medicare, education, and environmental protection.

So our friends on the other side have a real problem. The problem is their rhetoric does not match reality. The problem is they do not have a plan that adds up. It does not balance.

As I said in my statement, what is critically important is that we work together to get a plan that does balance. That will be the best thing we can do for American taxpayers and the American economy. It will mean greater economic growth. It will mean a stronger economy. As I indicated, a 1-percent reduction in interest rates, which is what the economists tell us we will get if we balance the budget, will save those who have debt—corporations, individuals, families—$145 billion in a year. That will provide more lift to the economy. That is the best lift we can give this economy of anything that we could do.

We favor targeted tax relief to middle-income folks that, in fact, are under a lot of economic pressure. That makes sense. Some of these tax schemes the people have floated that give the overwhelming weight of the tax reduction to the wealthiest among us, and then do not permit you to have a plan that adds up, does not make any sense. It is not the right course for the country. I think that is why they really have not come up with a plan. They have not begun to come up with a plan because most of those who have tried to get these numbers to add up know that they do not.

Mr. DORGAN. I ask the Senator, did the Senator hear my reading of the Washington Times story in which the Eagles from the Republican Party said to the party chairman, look, we are not going to contribute more money if you do not give us some of these tax breaks. We are tired of contributing money and getting nothing for it. That is not quite the way they said it, but it is how it reads.

It reminds me of the movie ''Jerry McGuire,'' toward the end of the movie the fellow is knocked out of the end zone, laying there holding the football, and gets up and rushes around the stadium. If you remember his chant during the entire movie ''Show me the money, show me the money.'' That is what that message was in the Washington Times report from the Eagles, ''Show us the money.''

The dilemma here is you cannot cut $500 billion or $550 billion in taxes and promise everything to everybody and then come to the floor of the Senate and say, ''By the way, here is our plan to balance the budget.'' Cut your revenue by half a trillion dollars and then balance the budget? No, what you do is create a giant hole and increase the Federal deficit.

We had a fellow named Laffer who constructed the Laffer curve, used in the early 1980's. It turns out to be a ''laugher.'' He said, ''You can cut the taxes, especially for those at the top, because we believe in trickle down, where you pour in at the top and it all trickles down to help everybody else.'' Some of us believe in the ''percolate up,'' give something to the bottom and it percolates up. Nonetheless, the Laffer curve would have substantial cuts, and somehow you balance the budget.

What happened was the largest deficits in the history of this country. Double the defense budget—that was the Reagan recipe, double the defense budget—cut taxes, and you end up with very large deficits. That does not come from me. That comes from David Stockman, who did it, who wrote a book afterward and said what a terrible thing to have done, and then we bear the results of that.

But those of us who in 1993 cast tough votes for a plan that said do what is necessary to march down the road to really balance the budget, we have taken tough steps to do this. We have marched in the right direction, but we are not there. We get there when we have balanced the budget. Senator CONRAD is talking about the requirement to do that.

I personally would like to see us essentially say, balance the budget first, and then talk about the Tax Code. There is plenty wrong in the Tax Code to the extent the upper income folks do not pay what they should or to the extent $30 billion that corporations ought to be paying, they are not. That means working people are paying higher taxes than they should. We ought to relieve them of that burden.

What I would like to do is balance the budget and then turn to the Tax Code and make the right decisions about the Tax Code. The right decision is not to say those who invest shall be tax-exempt and those who work shall be taxed. In effect, saying as they do every day, tax work and exempt investors. Gee, that sounds pretty good for those folks, because guess who supports them? The investors. They are saying exempt the folks who support us, and tax all the working folks. What about exempting workers? Capital gains cut—what about a workers' gains cut? Is there not a workers' gain when you have a circumstance where you have an increase in productivity but you have inflation that devalues some of their earnings? What about a workers' gains cut? Why is it always capital? They say no, tax work and exempt investors. What a wrongheaded approach. Yes, help investors, but you do not help investors by saying, ''By the way, you are a privileged group of people. You get to be tax-exempt,'' because they are so intending to do that in such a significant way there is not any way to add this up.

There is only one arithmetic book, and you start when you are young. Adding is simple. One plus one equals two, two plus two equals four, and I can go further than that because I went to a pretty good school, but it does not add up.

Today is April 15. The budget is supposed to be here by law. Tonight, every newscast will show there is a traffic jam at the post office because people are pushing to file their return for April 15, but the deadline to bring a budget to this floor of the Senate is not going to be met.

Guess what? The folks that run this place will be sleeping at midnight. They will not be in the post office or

driving around looking for a mail drop. They will be sleeping. Why? Because their plan does not add up.

Mr. CONRAD. Maybe they ought to have to file for an extension.

Mr. DORGAN. Maybe we should ask before the 12 o'clock postmark is necessary, maybe at least they ought to file for an extension today.

Mr. CONRAD. If I could just add, I think one of the things that gets lost is why balancing the budget has so much merit. If we balance the budget and the economists are correct that that would reduce interest rates by 1 percent, that would mean on a typical mortgage, a savings of $900 a year. Over 5 years it would be over $4,500 in savings for a homeowner. On a car loan, that would be savings of $400, and approximately $1,000 a year in savings to the typical North Dakota farmer because of interest savings.

I think we have to keep our eye on the ball here. The first and most important step we can take is to balance this budget. That will reduce interest expenses on nonfinancial sector debt by $145 billion. That will provide enormous lift to this economy. That is really the single best thing we could do for the country.

I yield the floor.

Mr. DORGAN. Mr. President, how much time is remaining?

The PRESIDING OFFICER. The time controlled by the minority will expire at 11:30, so you have 2 or 3 minutes. You can extend that by unanimous-consent request.

Mr. DORGAN. I had asked unanimous consent at 10:45 when we began to begin the hour allotted to the majority leader, and that was my intention in the unanimous-consent request.

The PRESIDING OFFICER. The Senator is correct. The Chair apologizes.

Mr. DORGAN. I yield the remaining time to the Senator from South Carolina, Senator HOLLINGS.

## TRUTH IN BUDGETING

Mr. HOLLINGS. Mr. President, I rise this morning to discuss truth in budgeting. Let me emphasize ''truth in budgeting.'' We do not appreciate, Mr. President, the reality. The reality is that we are giving billions and billions more in Government than we are willing to pay for.

In fact, Mr. President, from the year 1945 when President Truman was in office until 1980, when President Reagan came in, the deficits were an average of $20 billion. Whereas for the last 16 years, the average has been $277 billion. So for the last 16 years everybody is running around and pointing fingers as to the blame, while we have been giving $277 billion more in Government than we are willing to pay for.

Now, a couple of years ago, my distinguished colleagues on the other side of the aisle kept saying, ''If you want to change the Congress you have to change the Congressman. If you want to change the Senate, you have to change the Senator,'' and the American people said ''fine, that is what we will do.'' But instead of getting change, instead of getting a proposed budget where we pay up here for the Government we are giving, we get into this big folderol about leadership and everything else.

Under the Constitution, the Congress legislates, the President executes. It is our responsibility to legislate. In fact, the concurrent resolution for a budget is not even signed by the President. Yet, this weekend I had to listen to the distinguished chairman of the Budget Committee on the House side, Mr. KASICH, say, ''If the President could only show leadership and step up to the plate.'' They have all the jargon and litany—''if he can only show some responsibility,'' and ''if he only had the courage.'' Well, he has put up a budget. He maintains that his budget is balanced by the year 2002. There is a serious question about that, obviously. But at least he put up a budget. Now, from January to June, we are still hearing the chairmen of the Budget Committees on both sides of the Capitol asking for leadership and courage and everything else, when that is what they asked the American people for and received. We have a Republican Congress; where is the Republican budget? It is just totally out of whole cloth around here; we can't get the truth about where we are.

Now, going right to the point about their being derelict as to their responsibility. All of us have been derelict as to the reality of the deficit. All you need do is the simple arithmetic to find out how much the debt increases each year and to determine your deficit, not this unified Mickey Mouse thing which uses borrowed funds. The unified deficit is the one that was used all of last year during the campaign, and it was used the day before yesterday on the Sunday morning talk shows. David Broder used it in his column, and all the responsible writers use it. The number they use is $107 billion. Totally false. Totally false.

To get the actual deficit, you just subtract the increase from one year to the next, and you can find that the actual deficit was $261 billion. How do they get to the $107 billion? Well, Mr. President, they borrow $154 billion. You borrow $154 billion from Social Security, from Medicare, from the civil service retirement, from military retirement, and you go right on down the list until you get to $107 billion. Why not borrow that $107 billion and say the budget is balanced?

What kind of gamesmanship are we playing? When are we going to get the truth out of the free press in America and quit quoting a silly figure that doesn't reflect the reality. The reality, Mr. President, is when that deficit grows to $261 billion this year, and you add that amount to the debt and the existing interest costs, this conduct, along with Mr. Greenspan's, causes your interest costs to go through the roof. In fact, right now, interest costs are estimated at $360 billion for 1997. That was the CBO figure before the increase in interest rates. So the figure is now around $1 billion a day—$365 billion, or even more.

Mr. President, today is April 15. Today, everyone is required to pay their income tax. I just got this table from CBO which says the total amount paid in individual income tax is estimated to be $676 billion. We are already 6½ months into our fiscal year. Therefore, when I say a billion dollars a day in interest costs, what I am saying is that the people of America worked from October of last year up until today, income tax day, April 15, for what? To pay for the wasteful interest costs in Government, and this charade that continues. Half of our Nation's income taxes go to pay for interest costs on the national debt. Even if we get a little bit of savings from the CPI, a little bit from Medicare, we are still way off. I will be joining with the Blue Dogs; we are working out the figures right now for a budget freeze—no increase in taxes, no cut in taxes, no back-end loading. And even then, without the borrowings, it is going to take you 5 more years, until 2007 rather than 2002, for a true balanced budget.

The American people should understand that we are playing a game up here to buy the vote, so we can all get reelected again next year. We have been doing that for the past 16 years with this silly Reaganomics and the litany of growth, growth. One fellow, Stevie Forbes, wrote ''hope, growth, and opportunity.'' You turn on all the programs, and the discussions are all about inheritance taxes and the capital gains tax. ''Just do away with the IRS and the income tax,'' they say. We are talking out of whole cloth. We act like that is reality. We cannot afford tax cuts. Look at the figures. The domestic budget is $266 billion. The defense budget is $267 billion. Look on page 36 of your budget book. Entitlement spending is $859 billion. That comes, Mr. President, to $1.382 trillion. Then you add interest costs of $360 billion, and that is $1.742 trillion. To get down to CBO's projected revenues of $1.632 trillion, we have to cut $110 billion.

Now, that's the job that we have at hand—not capital gains, not inheritance taxes, not getting rid of the IRS and income taxes. Yes, taxes are too much. Why are they too much? Because of the interest costs on the national debt. If you go back to 1980, it was $74.8 billion. We have literally added just about $300 billion in interest costs on the national debt that must be paid up first. It is just like taxes. You might call them an increase in taxes each day of $1 billion. We are running around here cutting taxes while we are increasing their taxes $1 billion a day. But if you had that $300 billion, Mr. President, we could balance the budget, we could get improve technology, we could pave the highways, repair the bridges, give more student loans, and

we could have double the research at NIH. We could do all these things. Taxes are too high. But why are they high? For the silly charade. There is no better word for this off-Broadway show that goes on out here, without the reality, without the truth in budgeting. These people act as if we have the luxury of cutting taxes because they are too high.

You have to cut the interest costs on the debt. You have to start paying for the Government we have. They have been meeting since January to decide how can we get both sides to go along with a fraud; one grand fraud is what this is. You know it, and I know it. We will get my budget realities chart up here later on, and I will be glad to give people copies of it.

There is no question in my mind that this fraud has to be exposed because these interest costs, which are really taxes, are eating us alive. By cutting taxes, we are really saying ''let's increase the deficit, the debt, and interest costs.'' If the people don't understand that, every one of these writers should tell you that. It is not complicated at all. All you have to do is go from year to year. And we are still going to borrow from the Social Security, which is illegal. We passed a law of the Budget Act, section 13301, that said thou shalt not use Social Security trust funds in order to lower the deficit or in reporting it. Yet they violate it.

They are running around wanting to know who slept in the Lincoln bedroom or who flew on the Air Force One plane. Come on, when are we going to get to work on the real problem? That is why the American people have no confidence in this institution up here. We don't tell the truth. I remember my friend, Bill Proxmire, who got up here every day on a certain treaty. Finally, after about 6 or 7 years, he got some attention. I don't know whether people would give me that much time, but I am going to have to start taking time every morning hour to show the reality of what we are doing. No, you can't balance the budget and pay for the Government this next year, but you can put us on a truth course. If you saw that chart my distinguished colleague Mr. CONRAD had, you will find that the deficit went way down in 1985 and 1986. In 1985 and 1986 was during Gramm–Rudman-Hollings, and this was when we really cut the deficit.

I appreciate the indulgence of the Chair. I yield the floor.

The PRESIDING OFFICER. We are now into the time reserved by the Senator from Wyoming.

The Senator from Kansas [Mr. BROWNBACK] is recognized.

Mr. BROWNBACK. Mr. President, I ask for 5 minutes of the time reserved by the Senator from Wyoming to speak on the issue of taxes.

The PRESIDING OFFICER. The Senator has that right.

## TAX DAY 1997

Mr. BROWNBACK. Mr. President, I appreciate very much the opportunity to be able to address the American people on a very difficult day. I would like to recognize a couple of things that have been said by previous speakers, to start off with.

I congratulate the President on the reduction of the overall deficit that has taken place during the past 4 years, because the deficit has gone down. But what I also want to point out to the American people is there are a couple of ways of doing this. In the first 2 years of President Clinton's time in office, with a Democratic Congress, they did it by raising taxes. In the second 2 years, with a Republican Congress, we lowered the deficit by cutting spending. Now, you can go either way on this; you can raise taxes or cut spending. I happen to believe that, in the long term, when you raise taxes, you are going to cut your revenues and it is going to make things worse. The point of it is, on tax day, we should be talking about the level of taxes; they are too high in this country. The way to reduce the deficit is by cutting spending. That is not the way it was done in the first 2 years—by raising taxes.

The second thing I would like to respond to that has been raised by the other side of the aisle is capital gains taxes. That certainly needs to be cut, along with some others, and along with a $500 per child tax credit for working and struggling families.

I find it interesting that, as we look forward to working with the issue of Washington, DC, the District of Columbia, and rejuvenating the District of Columbia, a metro area that has great difficulties in this country, one that we have had a lot of problems with which are well known to this Nation—do you know what the other side of the aisle is proposing to rejuvenate Washington, DC? What ELEANOR HOLMES NORTON, along with Jack Kemp, is supporting to rejuvenate Washington, DC? They are proposing a zero capital gains tax rate on real property. Both the left and the progrowth ring on the right in this Congress are proposing zero capital gains for Washington, DC. Why would they do that? If this is such a bad thing to do, why are we doing it to Washington, DC? Because they know it will stimulate growth, hope, and opportunity. That is being put forth by ELEANOR HOLMES NORTON and Jack Kemp.

These are things that I think people have to realize. When you make those sorts of cuts, it stimulates the growth overall taking place in the economy. Now, the month of April—particularly April 15—I think serves as a powerful reminder of the size and scope of the Federal Government. Even though America will pay its taxes today, Americans will not be freed from taxation. They will not experience tax freedom day until May 9. Last year, it was May 7. This year, it goes up 2 more days, and it won't be until May 9. In other words, on May 9, ladies and gentlemen, you finally start working for yourself instead of the Government. Up until May 9, you are effectively working for the Government, paying your taxes to carry this huge, large Federal Government that is too big.

The issue is not that we should raise taxes to balance the budget; the issue is, we should cut taxes and cut the size, the scope, and the intrusiveness of the Federal Government to liberate the American people.

Today, a family of four must send both parents into the workplace to provide for the same standard of living that was once provided by only one parent. Is that a way to support the family across America, that we have to have both parents going out and working just to support the family? Is that a way to have strong families across the country? I don't think it is.

Unfortunately, even with both parents working, our families are still often unable to get ahead. Living paycheck to paycheck has been the norm for American families for as long as our Federal Government has grown as large as it as, consuming more and more.

Taxes hurt America's families. They punish good investment, they stifle entrepreneurial activity, and they hamper true economic growth. That is why I support a tax limitation amendment and insist that any budget deal must provide for meaningful tax relief.

Balancing the budget and cutting taxes are not mutually exclusive goals, as some would have you believe. In fact, balancing America's budget virtually requires that we cut taxes. In the long run, it will be more difficult to balance the budget if we do not shrink the size of our Federal Government with significant tax cuts. And what we are doing today is happening across this country. We have a good economy that is growing strong. We are having an economy that is producing more revenues coming into the Federal Government. We need that to continue to take place if we are going to be able to balance the budget. You need to have growth taking place in the economy. That is the critical nature of cutting taxes. It continues to stimulate growth so we can have those revenues coming in and balance the budget, and it is not enough to just balance the budget.

As my good colleague from South Carolina has pointed out, we need to start paying the debt down so that interest levels can go down.

The tax limitation amendment is a simple amendment requiring a supermajority in both Houses in order to raise taxes; in other words, more than a majority. You have to have a supermajority. And we should do that so that we don't just shift this Government from being debt financed to being tax financed. We need to be able to, overall, force the Government to be smaller and to live within its means instead of taking more of those means from hard-working American families.

Later today the House will vote on the tax limitation amendment. I believe this vote will send a strong message to the American people that the Republicans in the House are committed to truly reducing the tax burden in America. The Senate had an opportunity to unify with the House and show their support for this amendment but balked at the opportunity late last week. I think that is an unfortunate reality that too many people lack the wherewithal to stand up to the tax-and-spending regimes of this Government and say no—just say no—to future tax increases.

Because Congress has lacked the will in the past on both sides of the aisle to stand up to a flawed Keynesian economic principle that our Government has used in its fiscal policy, that has hurt economic growth and that has hurt our families.

I think what we have to do clearly in the future is we just have to stand up and say no to more big Government programs, to put policies in place that reduce that tax burden, that release the American people, their opportunities, their entrepreneurial spirit, and their families to grow and to prosper. Government must be cut. Taxes must be cut.

Mr. President, I want to quote the President of the United States who, a couple of years ago, made a very clear statement to the American people. It was resonating very clearly, which the American people wanted to believe. But they know it is just not true yet. And it may end up being the signature statement of this President. ''The era of big Government is over.'' Well, the era of big Government unfortunately is only over in rhetoric. In practice, it remains, and more is even being proposed by the President.

To end the era of big Government, we must end the era of big taxes and a big Tax Code. I want to point out to you, Mr. President, and others about the size of the Tax Code. This is something that Steve Forbes has made us familiar with. But I think it is pretty good on a graphic.

Just look at the words that govern our lives and the important documents that have taken place. You can see that they do not necessarily have to be documents with a lot of words to have a great deal of meaning. The Declaration of Independence—1,300 words—which declared our independence and more vision of a National Government.

The Holy Bible—773,000 words are in this document that so many people read and go to with reverence.

The U.S. Tax Code—this is just the code; this is not the regulations that underpin the code that direct all of our lives. But the Tax Code itself is 2.8 million words. If you add the regulations to it that go forward with setting out what this code actually means and interpreting it, we are up to 10 million words governing our lives.

The truth of the matter is, on the Tax Code, not only are taxes too high, but the code is so intrusive anymore that it is more about trying to cause you to do something or your business not to do something rather than being about raising revenue for the Federal Government. The Tax Code is about social engineering out of Washington instead of about what it raises for the Federal Government. You can see that, just by the sheer number of words and the volume of words that are involved in the Tax Code.

Mr. President, April 15 is a tough day for a lot of Americans, and people aren't to happy about it. They should not be, because their level of taxes are too high.

I have had people call in on radio call-in shows. I had one in Saline, KS, that was so memorable to me. A gentleman called in and he said, ''You know, Mr. BROWNBACK, I believe in serving my country. I have done everything I could to serve my country. I served in the military. I am married. I have two children. I am doing everything I can to work hard. But let me tell you, you guys are just taxing me out of my family's existence. I can't continue to support my family off of what you are taking for taxes. I believe in America and I believe in this country. But I just can't keep carrying this burden. It is too heavy. It is too much. Can you lift it off of me?''

If we will help that man in Saline, KS, he will not only start working harder and earning more and taking care of that family better, which is at the core of the cultural renewal that we need to take place in the family, but he is going to be even more of a patriot if we just release him a little bit instead of requiring him to work until May 9 just to pay his taxes. Let's let him work a little bit more to raise his family.

This day should focus on tax policies, on the failings of tax policies across the United States, on what its impact is, and on the theory that if you tax something, you get less of it, and if you subsidize something, you get more of it.

We have too much tax which is hurting too many people. It is hurting us in growth. It is hurting families. It is hurting us in the opportunity to create an era after era of big Government. And an era after the era of big Government, I think, is one of an unlimited America. But it is one in which we have to reduce the tax monster to be able to get to that.

I am happy to be able to speak about the issue of tax freedom which is not with us yet. But it is a day I hope people will recognize the importance of—of what tax policy has done, how much needs to be changed, and how we need to limit taxation taking place in this Nation.

I yield the floor.

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

The PRESIDING OFFICER (Mr. ENZI). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. 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. DOMENICI. Mr. President, parliamentary inquiry? Is there an order for people to speak at this point?

The PRESIDING OFFICER. The majority controls the next 46 minutes.

Mr. DOMENICI. I see Senator KYL. Did he plan to speak next?

Mr. KYL. I am ready.

Mr. DOMENICI. I have not spoken yet. How long would he speak?

Mr. KYL. Five minutes.

Mr. DOMENICI. Could I yield the floor, the Senator from Arizona speaks for 5 minutes, and then I could be recognized for about 7 minutes?

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

The Senator from Arizona.

Mr. KYL. Thank you.

Mr. President, first let me thank the distinguished chairman of the Budget Committee. I am glad I don't have to follow his remarks. So I am pleased to speak before he does.

Mr. President, T.S. Eliot once wrote that ''April is the cruelest month.'' Of course, he was referring to the change of seasons—of ''mixing memory with desire.'' Millions of Americans would probably agree with Eliot about April being the cruelest month, but for a far different reason. It is, of course, on April 15 that income taxes are due.

By midnight tonight, millions of Americans will have finally completed their income tax returns. According to estimates by the Internal Revenue Service, Americans will have spent 5.4 billion hours on tax-related paperwork. The Tax Foundation estimates that the cost of compliance will approach $200 billion.

If that is not evidence that our Tax Code is one of the most inefficient and wasteful ever created, I do not know what is. Money and effort that could have been put to productive use solving problems in our communities, putting Americans to work, putting food on the table, or investing in the Nation's future are instead devoted to tax preparation. And that is a waste.

It is no wonder that the American people are frustrated and angry, and that they are demanding real change in the way their Government taxes and spends.

Mr. President, the House of Representatives is today considering a proposed constitutional amendment that represents the first step in the direction of the kind of fundamental tax reform the American people have been demanding—it would require a two-thirds majority vote of the House and Senate to approve tax increases. Why do I say that it is the kind of reform the people are demanding? Because a third of the Nation's population has now imposed such limits on their State governments, and voters have approved tax limits by wide margins. In Arizona, for example, tax limitation passed with

72 percent of the vote. In Florida, it passed with 69.2 percent of the vote; in Nevada, with 70 percent.

The tax limitation amendment, which I introduced in January, now has 22 Senate cosponsors. It is something that was recommended by the National Commission on Economic Growth and Tax Reform. The commission, chaired by former HUD Secretary Jack Kemp, advocated a supermajority requirement in its report on how to achieve a simpler, single-rate tax to replace the existing maze of tax rates, deductions, exemptions, and credits that makes up the Federal income tax as we know it today.

Here are the words of the Commission:

> The roller-coaster ride of tax policy in the past few decades has fed citizens' cynicism about the possibility of real, long-term reform, while fueling frustration with Washington. The initial optimism inspired by the low rates of the 1986 Tax Reform Act soured into disillusionment and anger when taxes subsequently were hiked two times in less than seven years. The commission believes that a two-thirds super-majority vote of Congress will earn Americans' confidence in the longevity, predictability, and stability of any new tax system.

Mr. President, tax reform cannot succeed without a supermajority requirement for raising taxes. In the decade since the last attempt at comprehensive tax reform, Congress and the President have made more than 4,000 amendments to the Tax Code. Four thousand amendments. The constant changes have left taxpayers perplexed, unsure how to comply today, let alone how to prepare financially for the future. Without the protection of the tax limitation amendment, taxpayers will be vulnerable to further tax-rate increases, particularly if tax reform—which we all hope will occur within the next few years—eliminates many of the tax deductions, exemptions, and credits in which they find refuge today.

Let me make a few other points about this amendment. First, the tax limitation amendment itself cuts no taxes. It does not preclude Congress from raising taxes in the future. It only raises the bar on future tax increases.

Many people, myself included, believe that taxes are already far too high, and that we ought to cut taxes. This amendment does not do that. All it says, in effect, is ''enough is enough.'' It makes Congress find a way to meet its obligations without taking even more from the pockets of the American people.

Mr. President, here are some astonishing statistics from Americans for Tax Reform. According to the organization's calculations, about 31 percent of the cost of a loaf of bread is attributable to taxes. About 54 percent of the cost of a gallon of gas goes to taxes. About 40 percent of the cost of an airline ticket is attributable to taxes, as is 43 percent of the cost of a hotel room.

Understand that on an aggregate basis, the average family pays more in taxes than it does on food, clothing, and shelter combined. According to the Tax Foundation, Federal taxes amount to about 27 percent of the family's budget, and State and local taxes consume another 12 percent—for a total of almost 39 percent. But spending on food, clothing, and shelter totals only about 28 percent of the family budget. And families still have to find a way to pay for everything else they need—for example, medical care, transportation, education, and an occasional vacation or dinner out—out of the meager amount that is left after taxes.

So what the tax limitation amendment says is that Government already takes far too much from hard-working Americans and should at the very least take no more, unless there is a very broad and bipartisan consensus in Congress and around the country.

A second point. There is no small irony in the fact that it would have taken a two-thirds majority vote of the House and Senate to overcome President Clinton's veto and enact the 1995 Balanced Budget Act with its tax relief provisions. By contrast, the President's record-setting tax increase in 1993 was enacted with only a simple majority—and not even a majority of elected Senators, at that. Vice President GORE broke a tie vote of 50 to 50 to secure passage of the tax-increase bill in the Senate.

The tax limitation amendment is based upon a simple premise—that it ought to be at least as hard to raise people's taxes as it is to cut them. What the tax limitation amendment seeks to do is force members of Congress to think of tax increases, not as a first resort, but as a last resort.

Mr. President, I hope the House will pass the tax limitation amendment today. And if it does, I hope the Senate will take it up promptly and give the States an opportunity to consider its ratification. While there is much disagreement about whether to cut taxes and how, we should at least be able to agree that we should not raise taxes any further. I urge support for the tax limitation amendment.

I hope we will be able to pass that amendment, and I hope we will have an opportunity thereby to ensure that more money is left in the pockets of hard-working American families rather than being sent to the Federal Government here in Washington.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from New Mexico is recognized for up to 10 minutes.

Mr. DOMENICI. Mr. President, I compliment the distinguished Senator from Arizona, Senator KYL, for his devotion and dedication to doing something about the tax mess in America. I look forward to supporting many of his ideas here on the floor.

Mr. President, I thought today I would speak just a few moments about the history of the income tax law in this Nation, and see if we can't all agree without equivocation that something has really gone awry.

On October 13, 1913, President Woodrow Wilson signed the bill enacting the income tax law under the authority of the 16th amendment to the Constitution of the United States—October 13, 1913. The entire law was 14 pages long. Slightly more than 1 percent of the population had incomes large enough to be subject to the new tax.

The New York Herald predicted that many new taxpayers would proudly display their income tax receipts as evidence of the fact ''that their value and standing in the commercial world was worthwhile.'' So people were pleased to pay their taxes and held up their receipts to indicate that they had accomplished something meaningful in the United States, they had gotten somewhere.

According to the Treasury Historical Association, when the first income tax was due—listen to this—throngs of new taxpayers crowded the IRS offices to pay and some of them were glad to be there. There are throngs at the post office today mailing in their tax forms. I daresay few are glad to be there.

At the time of the enactment, Representative Cordell Hull, the chairman of the Ways and Means Committee, labeled the income tax ''the fairest, most equitable system of taxation that has been devised.''

Amazingly, most Americans actually agreed and welcomed the tax. Perhaps those statements were true in 1913, I say to our new Senator from Arkansas in the Chamber, but in 1997 they no longer reflect reality.

The current code is neither fair, equitable, efficient, nor loved. It adds one-third to the cost of capital. Capital which makes a modern economy grow and prosper is encumbered by the antigrowth ingredients of this Tax Code such that capital has had added to its cost one-third—in other words, one-third is wasted because of the nature of our tax laws. It is hostile toward savings. It is tilted toward debt. Thus, it slows economic growth, prevents jobs from being created, and makes us less competitive in world markets.

The Tax Foundation estimates that complying with the Federal tax system of the United States will cost the American people—I am not talking about paying the tax. The cost, the waste, the money, the energy—$225 billion in 1996.

Based on historical data from the IRS and the OMB—that is the Office of Management and Budget—taxpayers will spend 5.3 billion hours complying with the Federal tax laws.

Since 1954, the number of sections dealing with this have increased dramatically. Determination of tax liability has grown 1,000 percent; deferred compensation, 1,400 percent; computation of taxable income, 1,500 percent. Since 1954, there have been 31 major tax bills enacted, more than 400 public laws that have amended the Internal Revenue Code.

Two-thirds of the compliance burden is borne by the business sector. Because of the marriage penalty built throughout this code—speak of something that is antifamily. I would assume if you have a policy that is antimarriage it cannot be, by definition, very profamily—most working spouses work primarily to pay taxes rather than to improve the standard of living of the family.

Congress will be dealing with tax cuts if we arrive at a budget agreement, and that is good because it is obvious the tax take for the United States, the amount of revenue we are getting from taxes, continues to rise. But I believe ultimately the country is not going to be as well off as it should be until we do a comprehensive tax reform. We have put together, Senator Nunn and I and many Senators and many people helping, an entire new tax plan. When time comes for reform, it will be on the table. This Congress Senator DODD has agreed to carry on the work of Sentator Nunn.

We call it the USA Tax Plan—Unlimited Savings Allowance. For those who think IRA's are great investment vehicles we ought to be using, I agree, but this is an unlimited IRA tax plan because essentially people will pay taxes only on income they spend. Amounts they save or invest will not be taxed until they take it from the savings pool of the Nation, an investment pool of the Nation, and spend it. The tax would be deferred, in other words, until it is consumed and has become income that is being spent.

There is talk about tax credits and deductions for education purposes. This USA tax recognizes those needs and takes care of that. It provides a tax credit not for some taxpayers but for all, all families facing higher education expenses. This plan recognizes investment in capital should be expensed by the business community. It provides a deduction from taxable income in the year that the investment is made instead of requiring installment deductions called depreciation, which I assume is the major argument between the business community, business people, and the IRS.

This plan which I am speaking of today, with its unlimited deferral, results in a capital gains tax rate of zero so long as the proceeds remain invested. When they are no longer invested and they are being spent, they are listed as income and subject to taxes.

The President and Republicans want to provide a $500 tax credit for children, recognizing that family budgets are stretched most when there are children in the family. I should say the President wants to do this, although with less money. And the age that this stops vesting is lower in the President's proposal. Nonetheless, they both recognize that families, income tax payers are most stretched when there are members of the family under this code.

The USA tax proposal includes a family living allowance, in addition, to the dependent deduction. It does not phase out when a child reaches 13. It goes on until the child reaches adulthood.

Taken together, these two USA tax provisions provide relief equivalent to what the dependent deduction would have been if it kept up with inflation since the time it was first enacted.

So let me suggest that while we are all talking about tax cuts, and I hope I have given a bit of the history that should shock us into understanding that something basically is very wrong.

Our current Tax Code is sapping the strength of this country, it is sapping the entrepreneurial spirit of people. This country will be great when the entrepreneurial spirit, when innovation and risk taking is maximized. Unfortunately, we have a code that does the opposite, obviously, and we ought to get rid of it.

For now, we are scheduled this year for some tax cuts. I have outlined them heretofore, and the Finance Committee chairman and others have announced them, and the President has his set of proposals. But I do not think we should let today go by without saying that tinckering is not enough.

What we must do is throw out what we have and do a new one for the American people, for growth, prosperity, and peace of mind for the American people.

I yield the floor.

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

Mr. BOND. Mr. President, let me thank the Senator from Tennessee, who is next in line and allowed me to go first.

I commend my distinguished colleague from New Mexico for his great leadership on this issue. He has within his hands the needed mechanism to get to tax relief, and that is what I want to address very briefly here today.

I follow up his point about the cost of the complexity of today's Tax Code by saying we in the Small Business Committee have figures indicating that computing taxes, figuring out taxes, takes 5 percent of the revenues of small business. That is not paying the taxes. That is just figuring out how much they are.

Mr. President, each year the American Tax Foundation computes what they call ''Tax Freedom Day,'' the day of the year when the average American can quit working to pay Federal, State, and local taxes and start working for herself or himself. Last year it was May 7. This year it will be May 9. This means each day you have worked since the new year has been simply to pay your tax bill for the new year and you still have 3 weeks to go. If that does not make you happy, I do not know what will.

The American people take too much of their hard earned income to pay for Uncle Sam's spending habits. Why is the tax burden on families so high? Because Uncle Sam spends too much. It is that simple. Congress has not balanced the budget since 1969. The cumulative effect of all that deficit spending is a tax burden for most families that exceeds what they pay for food, clothing, housing and automobile costs combined. We need to fix that. We are trying to balance the budget so we can reduce the tax burden for families with children, small and home-based businessowners, family farmers, and frankly, everybody else who is taking part in the economy.

The first step in bringing tax relief to middle-class America, however, is to bring Government spending under control. A balanced budget means a healthier economy, more Government revenue and less need for taxes. As you fill in the amount of tax paid line on your 1040 form this year or as you write out your check to the IRS, think about ways you could use even a portion of that tax money and remember who is trying to balance the budget and who is not because balancing the budget and getting spending under control is the first step toward tax relief.

I thank the Chair and yield the floor.

Mr. THOMPSON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the senior Senator from Tennessee.

Mr. THOMPSON. I thank the Chair.

Mr. President, it seems at this time of year every year we tend to go out of our way to criticize the Internal Revenue Service, but I think part of the reason for that is that sometimes it seems to take so much to get their attention. As the Presiding Officer knows, the General Accounting Office has a list of high-risk agencies which they set forth as agencies that are more prone to fraud, waste and abuse, and mismanagement.

The IRS has been on that list now for 6 years in a row, and we had hearings last week in order to find out what they intended to do about it because not only do they have the normal problems that we all hear about and complain about every year, it seems now that in their attempt to modernize their computer system, which is totally outdated; they are working on 1960's technology, but in an attempt to do something about that they have spent billions of dollars and canceled one program after another and are not making substantial progress into getting into the 20th century much less the 21st century.

We also found out that the Internal Revenue Service cannot stand an audit. They do not really know how much they have spent on this computer modernization system and they really do not know how much money they collect in terms of various categories of collection.

In addition to that, we have learned more about the security problems. We know that we are all concerned about the browsing problem we have had some discussions about recently, but

now we learn of the tremendous physical security problems, so much so that they had to classify the report when they sent it over here to us because they did not want to provide a blueprint, understandably, for people who might wish them ill. It is that bad.

Congress has responded with the power of the purse. And last year we cut them back some, but that is not the total answer because they are going to need revenues in order to take care of some of these problems. So we had the hearings. We brought the IRS in. We brought the Treasury in, which the IRS, of course, is a part of. Perhaps if there is any good news in this it looks as if for the first time we do have a blueprint to work our way out of this.

Congress in the past few years has passed some legislation which requires these agencies to come in and report on what kind of progress they are making in solving some of these problems. We have not always had this, but now we have some accountability—what are they trying to achieve, and every year come back and tell us and show us in some detail what they are doing to work out of these things.

Treasury now says they are going to take a greater oversight responsibility, which they clearly should have done long before. There are timetables which they are going to be held accountable to. We are going to make sure they report back in solving these problems when they are supposed to be reporting back. So perhaps we are going to be making some progress for the first time. But this is the reason why we talk about the IRS. It is not just the fact that people do not like to pay taxes. It is just they have the right to have the IRS and all these other agencies at least reach the minimal compliance levels they expect out of the American taxpayer because, ultimately, our national security and our prosperity depend upon our faith in these institutions and certainly the IRS.

So with that, I thank the Chair and will relinquish the remainder of any time I might have.

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

Mr. SESSIONS. Mr. President, I would just like to take a few minutes on this important day in our Nation's history, this day that comes up every year, when we are responsible for paying our taxes, to discuss the problems of working families and what they are facing in America.

Two years ago, I traveled all over the State of Alabama, campaigning for Attorney General. I talked to all kinds of people. This past year I campaigned throughout the State of Alabama and talked to hundreds and hundreds of young families who are struggling throughout our State. They are struggling all over America. People who are doing their very best to live the American dream are not able to do so because of financial reasons. Many families are calling on their parents to help them with the finances and burdens it takes to raise their children. We need to help those families.

I was recently in a committee meeting in which a very wise Senator said: We look at numbers and we study statistics and we do all these kinds of things. But, when it comes right down to it, we need to use our judgment about what we believe are the most important problems facing America. In my judgment, no matter what numbers show—and numbers back me up on this—in my judgment, working families are struggling. In terms of income, the numbers have declined in the last 6 years in relative terms, considering inflation. It is more expensive than ever to raise children today.

I want to show a chart that illustrates a shocking statistic. In 1950, due to the personal exemption for children and family members, which allows you to exempt your income from taxes, 70 percent of the average working family's income was exempt from taxes. They did not have to pay taxes on 70 percent of their income. Today only 30 percent of working families' income is exempt from taxes. They must pay taxes on 70 percent of their income and they are paying at a much higher rate than they paid in 1970. Is there any reason to wonder that working families are falling further behind? In 1950, they paid 2 cents of every dollar to the Federal Government. Today, every working family pays 25 percent of every dollar to the Government. That is unacceptable. No wonder families are struggling to raise and educate their children, who will take care of us in the future.

The Republicans have proposed a bold plan to give a $500-per-child tax credit to every working family in America. I support that proposal and campaigned for it very aggressively. Just a few months ago the President said he believed in the per-child tax credit and that he would support such a plan because it is needed to bring working families' incomes up to the level that they need to be. I ask American families today to think about this. What would you do if there were two children in the family and you had a $1,000 tax credit? That means $1,000 extra income to the family, in which there would be no income tax or health care taken out—nearly $100 a month, $90 a month extra income that you could spend for your family.

It would be available to buy shoes, clothes and for field trips for school. Maybe the car breaks down—you could repair the transmission. Maybe you need a set of tires for the vehicle or just grocery money. These are the kinds of things that families struggle with every day. This tax credit would put real money into their hands and drive their incomes up in an immediate way. It would put an immediate source of income into the pockets of the people who are making America great.

These are the people who are going to raise the next generation who will lead this country. The families today are raising that next generation that will take care of us and we need to give them some relief. We need to give families some income so that they can do their job of raising their children. We need to give them the kind of commitment that our families gave to us.

One thing I must say. The President says he is for a tax credit. But you have to look at the small print, as we so often have to do. His $500 deduction would only go up to age 13. I have had children under age 13. I have had children over age 13. Anyone who has had children in that age group knows it costs more to raise a teenager than it does a younger child.

That is totally unacceptable. The President says he is for a tax credit. Let's do it. Let us support the teenagers, too. Let families have the kind of money so they can raise their teenagers in the way they should. I feel this is a very important issue for our country. I think it is important that this body recognize that we have penalized working families. It is time to give families some relief and restore them to the position they were in a number of years ago. It is time to restore and strengthen family values in America.

I yield the floor.

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

Mr. ALLARD. Mr. President, I rise today to make a few remarks concerning April 15. That is today. As all Americans are no doubt aware, today is tax day. Millions of Americans spent this past weekend finalizing their returns. Today those returns are due.

However, while the returns and taxes are due today, the tax burden continues. According to the Tax Foundation, the average American family now must work until May 9 in order to pay local, State, and Federal taxes. April 15 may be tax return day, but May 9 is tax freedom day.

The Tax Foundation also reports that Federal, State, and local taxes now cost a typical two-earner family more than that family spends on food, clothing, transportation, and housing combined. It is no wonder that most families require more than one income. As families work through their tax returns, many were no doubt struck by the complexity of the tax system. Earlier this year, Money magazine revealed the results of its annual report on tax complexity. The magazine commissioned 45 tax professionals, many of them CPA's, to complete the tax return of a hypothetical and prosperous American family. While this hypothetical family certainly had more tax issues to deal with than the typical family, the issues raised were not unique and should have been very familiar to tax professionals.

The results reported in the Money article were astounding. No two preparers came up with the same result, and

the fluctuation in the level of the taxes was striking. There were literally tens of thousands of dollars of differences between the calculations of some of the preparers.

Nearly $14 billion is spent by the Internal Revenue Service and other Federal agencies to enforce the tax laws each year. There are 136,000 employees of the Internal Revenue Service. There are 17,000 pages of Internal Revenue Service laws. There are 480 tax forms published by the Internal Revenue Service, and there are an estimated 8 billion pages of forms and instructions sent out by the Internal Revenue Service every year.

I think these statistics make the case for tax reform. There are certainly a number of reforms that need to be made at the Internal Revenue Service. However, Congress is the principal entity responsible for the Tax Code. Congress should scrap the current tax system and start fresh with a simple and fair system.

I support taking this action now. However, if our leadership determines we cannot reach agreement with the President on comprehensive tax reform, then we should at a minimum reduce taxes this year. This should be done by a reduction in the capital gains tax by at least half the current rate for all individuals, eliminate the estate taxes, and a reduction in the family tax burden. This action should be done as a part of the budget and should not be delayed.

Before I close, I would like to mention a necessary tax change in health care. This concerns medical savings accounts. Last year, Congress made the tax changes necessary to make medical savings accounts available for up to 750,000 individuals. Medical savings accounts allow companies to give the funds currently set aside for health benefits directly to their employees. These employees are then empowered to purchase their own health plans and set aside funds for future medical expenses.

MSA's, or medical savings accounts, are an important counterweight to Government and health care bureaucracies. They put greater power in the hands of individuals and families. The changes made last year have proven popular and demand for medical savings accounts is high. But even before Congress provided the full deductibility for MSA's, many employers offered them successfully for years.

Last year, I opposed the artificial cap on medical savings accounts, and today I am introducing legislation that would make medical savings accounts available to all taxpayers. This will foster the type of empowerment and competition that we need in health care. It will also increase health care coverage for the self-employed and, thus, those in transition from one job to another. Medical savings accounts are the ultimate form of health care portability.

Medical savings accounts provide a superior alternative to a further expansion of Government-run health care. Americans want health care choice and competition, not more bureaucracy.

I invite all my Senate colleagues to cosponsor this MSA extension legislation.

I yield the floor.

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

Mr. HUTCHINSON. Mr. President, every year like clockwork, with the approach of April 15, tax day, millions of Americans are out scrambling to find out how much they owe the Federal Government in taxes and how much they have overpaid the Federal Government in taxes. The IRS requires us to fill out complicated tax forms and, after plugging in numbers to formulas and performing various mathematical calculations, we come up with the magic number of what we owe the Federal Government or sometimes, rarely, what the Federal Government owes to us. To complete these tax forms is sobering. Sometimes it is a frightening experience, especially when you look at the block on your W–2 form that shows the amount of your income that has been consumed for tax purposes.

The truth be told, the typical worker toils nearly 3 hours in a typical 8-hour workday just to pay taxes. Many families with two working parents find that one of those working parents is working full time just to pay Uncle Sam. Put another way, May 9 is tax freedom day. In theory, this is the day when an individual who has been working since January 1 will be able to take home his or her first paycheck. Every penny of the income they earn during that first 5 months of the year has gone to pay their annual income taxes.

Our Nation's total tax burden is at an alltime high. Federal, State and local receipts remain at a record 31.7 percent of the gross domestic product. That is one-third of our Nation's total output now consumed in taxes.

Even more demonstrative of the magnitude of the American tax burden is the fact that the average American family pays more in taxes, as we have heard over and over again, than it spends on food, clothing, and shelter combined. This, I think, is proof positive that American families are overburdened and in need of tax relief.

That is why I introduced, with Senator GRAMS of Minnesota, who is on the floor this afternoon, the $500-per-child tax credit for all working families, regardless of income. Everyone talks about the importance of family values. It is time that we act to preserve American families by passing that $500-per-child tax credit.

I talked to a person in Pine Bluff, AR. He said, ''My children are grown. What do you have for me? I don't need that $500-per-child tax credit.'' I said, ''Sir, if you would just compute the benefit that you had as you had reared your children—they are now grown—you would see that the benefit that you had has been eroded through inflation and no longer exists.'' And he was soon convinced. As we look at that per child dependent exemption, that would be over $8,500 had it been indexed for inflation.

The 1997 tax season has been fraught with reports of abusive practices and sloppy management with the IRS—reports of taxpayer money being used to provide tax refunds to prison inmates at the nearby Lorton prison facility, of IRS agents improperly accessing taxpayers' returns, and of other coercive tactics employed by IRS agents to collect taxes.

Americans already suffer under an unfair and incomprehensible Tax Code. As they struggle to be honest, taxpaying citizens, they should not have to worry about being harassed by an agency that, according to the General Accounting Office, cannot accurately account for its own $7 billion annual budget.

I think millions of Americans feel as I do today, as we look at the Internal Revenue Service. We would say, ''Physician, heal thyself.''

I yield the floor.

Mr. FRIST addressed the Chair.

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

Mr. FRIST. Mr. President, I understand morning business was to end at 12:30. Was there a unanimous consent obtained to extend that?

The PRESIDING OFFICER. The Senator is correct, but there has not been.

Mr. FRIST. Mr. President, I ask unanimous consent that morning business be continued for 30 minutes, or until such time that speakers on the floor are allowed to make their presentation.

Mrs. HUTCHISON. Mr. President, can I make an inquiry?

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. The time was extended for the Democratic side by 10 minutes. Up until 12:40 is still the Republican time; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mrs. HUTCHISON. Thank you, Mr. President.

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

Mr. FRIST. Mr. President, I ask unanimous consent that the time be extended up until 1 o'clock, or until Senators are allowed to complete.

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

Mr. FRIST. President, I rise today to speak out for Americans on tax day—April 15. On this day more than any other, every American is reminded how much government costs—not just in actual dollars but in time and energy spent filling out forms.

Today, many of my colleagues have described the tax burden in many insightful and illustrative analogies. For example, we know that the average American will work until May 9—tax

freedom day—just to pay his or her taxes. We know that the typical American family pays 38 percent of their income in Federal, State, and local taxes—a one-third increase over the past four decades. I commend my colleagues for bringing clarity and focus to an extremely complex debate.

Today, I want to add to their comments. Putting statistics and anecdotes aside, every lawmaker should be asking three questions about tax revenue—not just on Tax Day but every day: Whose money is it? How much of it are we spending? and How are we spending it?

WHOSE MONEY IS IT?

Whenever we debate tax policy in this body, we must begin with a simple principle that should govern all our decisionmaking: There is no such thing as government money, there is only the people's money. Every dollar that comes into Washington belongs to some individual, family, or business—not the other way around. For far too long, the Federal Government has treated the income of the American people as it own—as an entitlement it deserves—and this practice must stop.

As newspaper columnist James Glassman describes it,

> Tax dollars begin life as personal dollars. They're yours, not Washington's. You do agree, through the political process, to turn over some of your income—but that deal is transitory and renewable, and it depends on Washington providing good value for your money.

That agreement is based on public trust.

When we Senators meet with constituents in our home States, we must remember: It's their money. Every time we pass a spending bill on the floor of the U.S. Senate, we must be able to look our constituents in the eye and say, ''Here is how we spent your money.'' If we can't—look them in the eye—then we have betrayed their public trust and we have failed as representatives.

HOW MUCH OF IT ARE WE SPENDING?

Too often over the last half century, lawmakers seem to have forgotten or ignored whose money they were managing. Once we remind ourselves that we are dealing with the taxpayer's hard-earned dollars, we must ask, ''How much of it are we spending?''

This year, the Federal Government will spend about $1.6 trillion. Grasping the concept of a trillion dollars is difficult, but let me try. If you started a business 2,000 years ago and that business lost $1 million a day each day from then until now, you still would not have lost your first trillion dollars. Yet our 200-year-old Government already owes $5.5 trillion.

Why? Because the Federal Government consistently spends more than it takes in, running up massive debts and threatening our economic future. This year alone, the Federal Government will spend about $107 billion more than it receives from the taxpayers. These annual deficits have added up over time to a total debt of $5.4 trillion—that's nearly $20,000 for every man, woman, and child in America. We cannot continue to shackle our children and grandchildren with this debt burden. That is why balancing the budget is so critical for our future. A balanced budget is the first step toward breaking those shackles.

HOW ARE WE SPENDING IT?

The third and final question lawmakers must ask themselves on tax day is ''How are we spending the taxpayers' money?''

The simple answer is, ''We are spending it at an unsustainable rate.'' In 1965, entitlement spending and interest on the debt consumed 30 percent of the Federal budget. Discretionary spending—which includes the basic functions of Government like defense, highways, education, medical research, and national parks—consumed 70 percent. Today, entitlements and interest consume 70 percent of the budget, while discretionary programs consume 30 percent. By 2012, just 15 years from now, entitlements and interest on our growing debt will consume all Federal revenues—leaving nothing for roads, education, national parks, medical research, defense.

We have all heard from Members who say that the current tax rate is punitive, burdensome, and a threat to the survival of our competitive, capitalistic economy. If that's true today—when our tax rate hovers at 38 percent per family—consider the effects on our economy in the future if we do nothing to change this. If we fail to act and act soon, a child born today will pay a lifetime tax rate of 84 percent on his or her earnings to pay for the cost of Government overspending. Such a burden would be at the very least unfair and irresponsible.

As the tax debate rages on, I urge my colleagues to remember that we are trustees of the American Treasury. Building and maintaining that trust is one of our most important duties as representatives of the people. If we always remember whose money we are spending, how much we are spending, and how we are spending it, I believe we can be more responsible trustees and we can leave our children a future worth working toward.

I yield the floor.

Mrs. HUTCHISON addressed the Chair.

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

Mrs. HUTCHISON. Mr. President, today is tax day, and for millions of Americans, this is the day that they end their painful ritual of fiscal fealty to the Federal Government. So I thought it would be appropriate to cite a few statistics that make tax day possible: 136,000 is the number of employees of the IRS responsible for administering the tax laws; $13.7 billion, that is the amount that it costs to administer and enforce the Tax Code; 480 is the number of forms printed by the IRS; 8 billion—8 billion—is the number of pages of forms and instructions sent out by the IRS every year; 293,760 is the number of trees that must be cut down each year to supply the 8 billion pages of paper needed for filing the country's taxes.

Mr. President, these are just a few of the statistics that point out the complexity and the burden that our Tax Code puts on the American family and the Nation itself. The typical American family pays more in taxes than it spends on food, clothing, and shelter combined. That is more than 38 percent for total taxes versus 28 percent for food, clothing, and housing.

This year, the Republican Congress wants to do something unusual for the taxpayers of our country: Give their money back to them. We want to stop penalizing young couples for getting married. Republicans want to increase the standard deduction for married couples filing jointly. In 1993, 40 percent of families paid higher taxes because they got married. A couple without children who earns $20,000 a year pays an additional $188 in taxes. When they have children, the number soars to $3,717 per year. In Texas, a mother of two children on welfare is penalized $5,862 a year for marrying a man who earns $20,000. Our Tax Code is biased against marriage, and that is just flat wrong.

We want to provide a $500-per-child tax credit for the American family to give them help in the struggles of raising a family. This would mean 3.5 million families in America would not have to pay taxes anymore. We want to cut capital gains taxes to encourage and reward investment to create new business, to create new jobs.

A low capital gains tax rate is important to our future, because we should be able to take our money and put it where we need it at the time. But many people cannot sell their assets because of the huge capital gains tax that has accrued over the years. So we need to encourage investment to create the new jobs and the new industries that will get our economy on a safer track.

We want to cut estate taxes so that years of hard work and success will not be wiped out in a generation. I have known people who have had to sell land that they inherited because they could not pay the inheritance taxes on that land. Mr. President, that is wrong. It walks away from the American dream. The American dream is if you work harder in this country, you can do better and you can create a little nest egg that will make it easier for your children to have a better life. Why in the world would we take dollars that are taxed first when you earn them, again when you invest them, then when you die? It does not make sense, and it especially hurts the small family farm, ranch, or business.

We are trying to cut the burden of taxes on the American family. What better day than today to talk about

this burden and to talk about the differences between the President and Congress and our priorities.

Thank you, Mr. President. I yield the floor.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. Time has expired. Under the current order, we are in morning business.

Mr. GRAMS. Mr. President, I ask unanimous consent to speak for up to 5 minutes.

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

Mr. GRAMS. Mr. President, there are 365 days in each calendar year, but I can think of no other date that the American people await with such universal dread as April 15, tax day.

However, there is one other date working Americans should look upon with equal disdain, and that is the date that says a great deal about the Federal, State, and local tax burden working families are expected to bear. That date is May 9, this year's tax freedom day.

As it does every year, the Tax Foundation has calculated the date the average American stops working just to pay their share of the tax burden and begins working for themselves. This year, tax freedom day falls on May 9. And while the use of the word ''freedom'' in tax freedom day implies something to celebrate, working Americans have absolutely nothing to celebrate when it comes to their taxes.

Tax freedom day falls a full day later this year than it did in 1996, meaning taxpayers must work 128 days before they can count a single penny of their salary as their own.

Of those days, 44 will be spent paying personal income taxes; 38 days will be spent paying payroll taxes; sales and excise taxes, 18 days; property taxes, 12 days; corporate income taxes, 13 days; also 3 days will be spent paying miscellaneous taxes.

When you total all that up, that is 128 days, Mr. President, 128 days in which the American people spend imprisoned by their own tax system. If the cost of complying with the tax system itself were included in the calculations, tax freedom day would be pushed forward another 13 days.

The tax burden on middle-class Americans is rising rapidly. Taxpayers are now working an entire week longer to pay off their taxes than they were when President Clinton first took office in 1993. That sounds like Government getting larger and more expensive, not the ''era of big Government is over.'' If you calculate the tax load in hours and minutes, instead of days, Americans spend fully 2 hours and 49 minutes of each 8-hour workday laboring to pay their taxes.

That is a great deal more than the 1 hour, 40 minutes it takes to pay for their family's food, clothing, and shelter.

May 9 marks the arrival of Tax Freedom Day for the average State.

Unfortunately for taxpayers in my home State, Minnesota ranks well above average in the tax burden my constituents are forced to bear. In 1997, Tax Freedom Day will not arrive in Minnesota until 4 days later, until May 13. Only five other States and the District of Columbia mark Tax Freedom Day as late or later than we do.

There has never been a time in our history when the need for tax relief was so obvious and so great. Let us make 1997 the year we enact the $500 per-child tax credit. Let us make 1997 the year we kill off the death tax. Let us make 1997 the year we promote savings and investment by cutting capital gains. Let us not let another Tax Day go by before we deliver on our promise of substantial relief for the American taxpayers.

Mr. President, it is not a normal practice of mine to quote poetry on the Senate floor. I prefer to leave the rhymes to those Senators who possess a more poetic nature than I. But because this is Tax Day, I would like to share the closing lines of a poem by Ogden Nash and then follow it up with a final comment.

''Abracadabra, thus we learn
The more you create, the less you earn.
The less you earn, the more you're given,
The less you lead, the more you're driven,
The more destroyed, the more they feed,
The more you pay, the more they need,
The more you earn, the less you keep,
And now I lay me down to sleep.
I pray the Lord my soul to take
If the tax-collector hasn't got it before I wake.''

It was 1935 when Mr. Nash first published his poem warning of the dangers of a tax system run amuck. At that time in our history, the Federal tax rate was less than four percent.

Now, I cannot imagine what kind of poem Mr. Nash would write today, at a time when Washington demands an average 28 percent of our income in taxes. And even if I could imagine what Mr. Nash would write I am not sure I would be allowed to read it on the floor of the Senate.

Mr. WYDEN. Mr. President, I ask unanimous consent to speak for 15 minutes as in morning business.

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

## APPRECIATION TO SENATE LEADERSHIP

Mr. WYDEN. Mr. President, I rise today to express my appreciation to the bipartisan leadership for responding so quickly to an issue that cries out for justice. With strong and responsive action from the leadership today, the U.S. Senate said that those who have a visual impairment will be able to fully utilize their talents on this Senate floor.

A resolution was accepted today in the Senate which allows persons requiring a guide dog, a wheelchair, or a cane to be considered on a case-by-case basis for entry to the floor. Pursuant to this resolution, the Sergeant at Arms has determined that for Ms. Moira Shea, a staffer in my office, that her guide dog is necessary and appropriate to the performance of her duties.

PRIVILEGE OF THE FLOOR

Mr. WYDEN. Given this development, Mr. President, I ask unanimous consent that my staffer, Ms. Moira Shea, be granted access to the floor of the United States.

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

## EQUAL ACCESS AND OPPORTUNITY

Mr. WYDEN. Mr. President, and colleagues, watching Ms. Shea enter the Chamber today makes me feel very proud. It is a good day for the Senate because ensuring equal access to opportunity is what the U.S. Senate is all about. Ms. Shea has been assisting my office in a number of matters, particularly nuclear waste legislation and legislation with respect to the rights of the disabled.

Yesterday, I attempted to bring Ms. Shea on to the Senate floor to assist me in debate on the nuclear waste bill. Ms. Shea is a respected economist and energy policy expert who has worked for the Federal Government for more than 20 years. She was denied access to the Senate floor yesterday because she requires the use of a guide dog as a result of a genetic condition which significantly impairs her vision.

Today, Mr. President and colleagues, I thank the majority and minority leaders as well as the chairman and ranking member of the Rules Committee for moving so expeditiously to ensure that this body extend equal opportunity to citizens who are visually impaired.

Today, a resolution was offered by the majority and minority leaders and referred to the Senate Rules Committee that seeks to permanently address this issue so that an individual with a visual impairment will not need to seek case-by-case approval just to use their talents on this Senate floor. I intend to work with Members on both sides of the aisle and with Ms. Shea to make certain that the U.S. Senate provides appropriate access to those citizens with disabilities and that the access complies with the spirit of the Americans with Disabilities Act.

It seems to me, Mr. President, that what the Senate is saying today is that a double standard will not be allowed here. In the private sector, for example, Federal law is very clear. In the private sector where you have an individual with Ms. Shea's talents and abilities, and if a guide dog or a white cane is needed to carry out those duties in the private sector, Ms. Shea would have a legal right to have that guide dog with her.

Now, I close by thanking several of our colleagues for their help in rectifying this situation. I particularly thank Senator REID of Nevada, the lead cosponsor of my resolution, as well as chairman FRANK MURKOWSKI for his support yesterday. In addition, Senators WELLSTONE and BRYAN and, in fact, all Members of the Senate who

were on the floor yesterday during discussion of this issue moved to be cosponsors of this legislation. I thank Senator FORD who also, for years, has worked for the rights of the disabled. Finally, I thank our Sergeant at Arms, Mr. Greg Casey. He has been extraordinarily patient and conscientious in working with myself and our staff. I thank him for helping to bring justice to the floor of the Senate.

Mr. President, the U.S. Senate has done the right thing today by standing up for full legal rights and equal opportunity for those like Ms. Shea who have a visual impairment. The Senate is sending a message across this country that we are not going to leave our citizens behind. I am very proud that the Senate has taken this action. I yield the floor.

Mr. HATCH. Mr. President, I compliment the distinguished Senator from Oregon and Ms. Shea for doing this historic and unprecedented resolution. This is a beautiful dog, Ms. Shea, and we are proud to have you on the floor of the U.S. Senate and proud to have your dog here as well.

Mr. LEVIN. Will the Senator yield?

Mr. HATCH. I yield.

Mr. LEVIN. I want to join Senator HATCH in congratulating and thanking the Senator from Oregon for his persistence.

Ms. Shea, we are delighted you are on the Senate floor with your dog. It is a historic day for the Senate. Senator HATCH has made the point and I join, and I think all of our colleagues join, in expressing appreciation to the Senator from Oregon who has done an important service for the Senate for making it possible for this to happen.

Mr. WYDEN. I thank my colleague.

## UNANIMOUS-CONSENT REQUESTS—S. 522

Mr. LOTT. Mr. President, today is April 15, tax day. There has been a good effort underway between Senator COVERDELL and Senator GLENN and Senator ROTH and others to bring before the Senate very important legislation, S. 522, regarding the unauthorized access of tax returns. They have come to a bipartisan agreement. I think on this day it is very important that we have this legislation come before the Senate to be debated and voted on. The American people certainly feel that should be done. I think they will feel comforted by the fact that the Senate stepped up and has addressed these concerns. This idea of a snooping through taxpayers files is very offensive to all Americans. So we need to get this done today.

Mr. President, I ask unanimous consent that at 2:15 today, April 15, the Senate proceed to the consideration of calendar No. 37, S. 522, regarding the unauthorized access of tax returns and the bill be considered under the following limitations: That there be only 1 amendment in order to the bill, to be offered by Senators COVERDELL, GLENN, and ROTH, no other motions or amendments be in order, and further, total debate on the amendment and the bill be limited to 1 hour 35 minutes, divided equally between Senator COVERDELL or his designee and Senator GLENN or his designee. I further ask consent that following the expiration or yielding back of time, the Senate proceed to vote on the Coverdell amendment, the bill then be read the third time, and there then be 10 minutes for debate, to be equally divided, to be followed by the final vote on passage of S. 522, as amended, if amended.

Mr. DASCHLE. Mr. President, I support the Coverdell-Glenn substitute amendment to establish criminal penalties for unauthorized inspection of tax returns and tax information. Penalties already exist for unauthorized disclosure of these documents. It is only fair and reasonable that these be extended to unauthorized inspection as well, particularly in light of the recent revelations involving misbehavior by some IRS employees. Tax filings are privileged, private information. Taxpayers have a right to know that the information they provide the IRS will be seen only by those who process it in the normal course of Government business.

I would like to salute Senator GLENN, in particular, for his steadfast advocacy of this legislation over the years. The distinguished Senator from Ohio was ahead of his time when, years ago, he proposed the changes incorporated into the legislation before the Senate today. On behalf of the taxpayers of my State, I would like to thank him for his leadership on this important issue.

I also want to thank Senator COVERDELL and others who have been involved in this effort. I don't know that there is much opposition at all to their mutually effective work in addressing the problem that needs to be addressed at the earliest possible date.

Unfortunately, as anyone who watches the news knows, we have a set of circumstances in the upper Midwest that also requires immediate action. Severe flooding, brought on by the most severe winter in the history of the region, has devastated hundreds of communities throughout the States of Minnesota and South and North Dakota. In my home State of South Dakota, there have been only 2 days this year in which a Presidential Disaster Declaration has not been in effect for the entire State. Despite the best efforts of FEMA and the administration to respond, State and local governments have been financially devastated by the costs associated with these disasters. The ongoing flooding that is currently occurring is having an even greater financial effect on families and individuals. In Watertown, SD, and other communities in the region, thousands of residents have been evacuated from their homes due to rising flood waters. Many of these evacuated homeowners have now discovered that they are unable to obtain benefits from their flood insurance, even though they purchased flood insurance and are now flooded out and lost their homes, their farms, and their businesses. Just last week, when many of us were home, we pledged immediate response in an effort to resolve the problem that they have as quickly as possible. I simply cannot pass up the opportunity, legislatively, to attempt to find a way to reconcile that pledge with my responsibilities here on the Senate floor.

So it is in keeping with that effort that I ask unanimous consent that as part of the Coverdell amendment, we allow this small change, which the administration is completely in support of. There is very, very minimal budgetary exposure involved, and it would be an extraordinary measure of assistance to many people who, today, are not only without insurance coverage, but are also without homes. So I simply ask unanimous consent that this small change in the flood insurance law be accommodated in the Coverdell amendment. Then I will have no objection.

Mr. LOTT. Mr. President, reserving the right to object to that additional unanimous-consent request. I might say that I am from a State that has been disaster prone, and I know that Senator DASCHLE's area has had all kinds of problems this year—drought, flooding, freezing flooding, the works. We have had similar problems in my State, from droughts to floods, tornadoes, hurricanes, freezing rain, which have caused terrible devastation. So I am sympathetic to the problem.

However, this is asking for a change in the law that has been in place since 1968. Clearly, my constituents and the constituents all over America that have had to deal with disasters have complied with and have dealt with this 30-day requirement of the insurance coverage versus 15 days. Regardless of that, I think it is something we should consider. But we have just recently been aware of the language of the Senator from South Dakota in this area. We need to assess whether there is objection to it. Will there be a budget impact? What does it mean for people that had to deal with it in the past or will in the future? We are checking with the chairmen of the Budget Committee, the Banking Committee, and the Finance Committee. I think we should not leap to do it until we know for sure exactly what the impact would be.

Again, I do think we should work with each other in a bipartisan way, always, when disasters are involved. But as good stewards of our constituents, we need to make sure we understand the ramifications, too.

So I think that within, hopefully, a relatively short period of time, we will be able to get an assessment of any negative impact that might come from this.

I hope we can get started with this legislation, which is so important with regard to snooping through IRS files.

Everybody understands that it is wrong. People are outraged by it. There is a bipartisan commitment to it. So if we don't get an agreement to get started on this now, or shortly, we will not be able to get it done today, which is symbolically a very important day to do it. So I would not be able to agree to this change in the bill at this time, while we are talking it out.

I have suggested another alternative to make in order as an amendment. There are a lot of options. We could either withdraw it, or accept it, or vote on it later in the day. We will work with the Senators that have the jurisdiction. We will talk with the Senator from South Dakota to see if we can work something out on the flood insurance provision.

In the meantime, I do object to the addition at this time. I plead with the Senator to allow us to proceed with this legislation under our unanimous-consent request while we continue to work on this issue.

Mr. DASCHLE. Mr. President, I have no objection at all to proceeding with consideration of the legislation. As I indicated, I think Senators COVERDELL and GLENN ought to be complimented for their work in trying to address this matter. There is a difference between proceeding to the bill and proceeding under the unanimous-consent request, as propounded by the majority leader. I, of course, would object to the unanimous consent request but would have no objection to proceeding to the bill in an effort to begin debate.

Mr. LOTT. In view of that, then, Mr. President, I am prepared to yield the floor. I advise Senators that we will renew our request again, probably within an hour or so after we have had a chance to check further into this matter.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Senator from Illinois, Senator DURBIN, be recognized for up to 10 minutes of morning business following the remarks of Senator HATCH.

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

The Chair recognizes the Senator from Utah.

Mr. HATCH. Mr. President, I ask unanimous consent I be permitted to proceed as in morning business for 20 minutes.

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

## DISAPPOINTMENT WITH THE ATTORNEY GENERAL

Mr. HATCH. Mr. President, I hoped to come to the floor today to deliver a statement commending the Attorney General for her courageous decision to do the right thing and request the appointment of an independent counsel to investigate the fundraising violations in connection with the 1996 Presidential election. Regrettably, I am here today for a much different reason, to express disappointment and frustration with her refusal to even initiate an independent counsel's appointment.

I appreciate the fact that the Attorney General is under enormous pressure from the White House, the Congress, the media, and the public, and that she is in a very unenviable position. I have respect and admiration for the Attorney General, but her refusal to do what the law permits and indeed requires her to do, frankly, does not engender respect or admiration in this instance.

The Clinton administration and the Department of Justice is trying to cast her decision as a legal decision when, in fact, it is a decision within her power, and in my opinion, one which she is ethically obliged to make.

As chairman of the Senate Judiciary Committee, which, pursuant to its statutory responsibilities requested 33 days ago that the Attorney General apply for the appointment of an independent counsel, I am compelled to respond to what can only be characterized as her inadequate response. In all candor, the substance of the Attorney General's report is vague, ambiguous at best, and at times, legally disingenuous. Especially in light of the fact that the committee requested she evaluate and report on ''all of the information before her,'' not just a few isolated allegations, the Attorney General's report also is incomplete, and in a rather selective way at that.

A judge in a court of law would recognize the Attorney General's report as a defense brief, too clever by a half, carefully and zealously crafted to serve a client's interest. But the Attorney General's client here is not the President of the United States or her political party, it is the public. And the public's confidence that this investigation will be fair, as thorough, and as tough as any other, altogether untainted by political considerations, has not been fulfilled. I am afraid this client, the public, has been disserved.

Given the evasiveness of the Attorney General's report, together with the delay in its transmission and the fact that as the Attorney General herself admits, ''much has been discovered,'' since the committee sent its letter, I have little choice but to conclude that much to my disappointment, the Attorney General did not receive our request with a mind fully open to doing what is plainly in our Nation's best interests.

Before responding to the Attorney General's report in more detail, I feel I should briefly review what the independent statute provides for. An independent counsel can be triggered in one of two ways: Where there is sufficient information to investigate whether any person ''covered'' by the statute may have violated Federal law; or where an investigation of someone else who may have violated the law may result in a political or other conflict of interest. It is that simple.

Let me talk, No. 1, about the mandatory trigger of that legislation. With respect to the first, the mandatory trigger where ''covered individuals'' are at issue, the Attorney General's report does little but make reference to legal ''factors that must be considered,'' and then repeatedly draws the summary conclusion that she does not have specific and credible evidence that a covered individual may have violated the law. Despite the White House's characterization of the Attorney General's decision as simply ''applying the law to the facts,'' there is virtually no application of the pertinent law to the pertinent facts actually before the public, let alone the facts before the Attorney General.

While the statute requires the Attorney General to set forth the reasons for her decisions with respect to each matter before her, in my view she has utterly failed to do so here. To illustrate just a few examples of the inadequacy of the Attorney General's response, let me point out that she fails to specifically explain why an independent counsel is not warranted to further investigate the abundant evidence that covered individuals made extensive and deliberate use of Federal property and resources for campaign purposes including, for example, the Lincoln bedroom, and other areas of the White House, Air Force One, and a computer database costing the taxpayers $1.7 million.

An authority higher than me and more independent than the Attorney General needs to determine the scope of the various laws implicated by this conduct and whether any of the laws were violated. The Attorney General's somewhat evasive approach to this entire matter is aptly illustrated by her argument that the use of the Government telephone does not constitute conversion of Government property. I am sure it does not. But as the Attorney General knows all too well, that is beside the point. The allegations of misuse of Government property are not based on phone calls.

Mr. President, the Attorneys General's evasive approach to this entire matter is aptly illustrated by her argument that the use of the Government telephone does not constitute conversion of Government property. I am sure it does not. But, as the Attorney General knows all too well, that is beside the point: The allegations of misuse of Government property are not based on phone calls, but on the diversion of resources, such as the White House, Air Force One, and the White House database for campaign purposes, while phone solicitations were not alleged to have violated the conversion laws, but rather the prohibition on solicitations from Federal property. The conclusion I cannot help but draw here is that, however involved the Attorney General's career staff was in preparing this letter, in the end, it was her political advisers who had the last word.

In short, the Attorneys General's carefully finessed and, in some cases, deliberately irrelevant legal arguments, combined with her summary

conclusions that there is no specific, credible evidence that a covered individual may have violated the law, hardly persuades one that an independent counsel is not mandated under the statute or, for that matter that the question has been given a genuinely thorough and candid evaluation.

Perhaps more fundamental, though, is the Attorney General's altogether inadequate explanation as to why she will not request an independent counsel pursuant to the second statutory trigger —to avoid a conflict of interest. Here the test is quite simple: If the Attorney General is presented with a conflict of interest in investigating whether any individuals may have violated the law, she has the discretion to proceed with the appointment of an independent counsel. Try as the White House and the Attorney General might to cast this as a narrow and technical legal question, it is anything but that; it is an ethical one requiring sensitive judgment as to what is necessary to ensure the public's confidence that an investigation can be supervised by the Attorney General and completed in a thorough and impartial manner.

In the past, the Attorney General has had a rather broad view of what is necessary to protect the public's confidence that an investigation is not compromised by any perception of a conflict of interest. In her Whitewater independent counsel request, for example, Attorney General Reno concluded that an independent counsel was required because her investigation would involve an investigation of James McDougal and ''other individuals associated with the President and Mrs. Clinton'' would amount to a conflict of interest. It was that simple. In her referral of the Nussbaum perjury allegation to the independent counsel, the Attorney General concluded that a conflict of interest existed because the investigation ''will involve an inquiry into statements allegedly made by a former senior member of the White House staff.'' It was that simple. And, testifying before Congress in 1993, Ms. Reno stated that the Iran-Contra investigation ''could not have been conducted under the supervision of the Attorney General and concluded with any public confidence in its thoroughness or impartiality.'' It was that simple.

Indeed, the Attorney General's testimony at that time thoroughly explained her rather strong view that even the slightest appearance of a conflict of interest should at all costs be avoided by the appointment of an independent counsel. It was that simple. She testified:

> There is an inherent conflict of interest whenever senior Executive Branch officials are to be investigated by the Department of Justice and its appointed head, the Attorney General. The Attorney General serves at the pleasure of the President. Recognition of this conflict does not belittle or demean the impressive professionalism of the Department's career prosecutors, nor does it question the integrity of the Attorney General and his or her political appointees. Instead, it recognizes the importance of public confidence in our system of justice, and the destructive effect in a free democracy of public cynicism.

Attorney General Reno further testified:

> It is absolutely essential for the public to have confidence in the system, and you cannot do that when there is a conflict or an appearance of conflict in the person who is, in effect, the chief prosecutor. . .. The Independent Counsel Act was designed to avoid even the appearance of impropriety in the consideration of allegations of misconduct by high-level Executive Branch officials and to prevent. . . the actual or perceived conflicts of interest. The Act thus served as a vehicle to further the public's perception of fairness and thoroughness in such matters and to avert even the most subtle influences that may appear in an investigation of highly placed Executive officials.

Now, in her report to the Judiciary Committee, however, the Attorney General adopts a far narrower view of when an independent counsel is called for. Suddenly, the conflict of interest provision has become a complicated legal threshold which ''should be invoked only in certain narrow circumstances.'' That is on page 3 of the letter to me. Directly contradicting her own public statements that it is impossible for the public to have confidence in an investigation where there is a ''conflict or an appearance of conflict in the person who is, in effect, the chief prosecutor,'' now the Attorney General claims that her discretion is limited only to situations where there is an actual conflict of interest. Quite frankly, the Attorney General's efforts to distance herself from her 1993 testimony require her to render a rather creative reading of her own testimony.

Allow me to suggest that, to the extent an independent counsel was called for to ensure public confidence in an investigation of Mr. North, Mr. Nussbaum or Mr. McDougal and his associates, one certainly is called for here. If the Attorney General has adopted a new standard for evaluating when an independent counsel is necessary to ensure the public's confidence in an investigation, she should state as much and explain the basis for her new position.

Although the Attorney General does not say as much in her letter, one can only surmise that her position is that First, there is no conflict of interest in continuing to investigate any of the individuals already under investigation, that is, Huang, Riady, Trie, Kanchanalak, John H.K. Lee, the Wiriadinatas, Charles DeQueljoe, Mark Middleton and Webster Hubbell, and second, that there is no basis for investigating whether other high-ranking officials may have violated the law. Since General Reno fails to explain her reasoning, let's step back for a moment and review some of the facts here to determine whether either of these apparent positions can really be defended.

Take Mr. John Huang, the former Lippo executive whom the Riady's are widely reported to have bragged was placed in the Clinton Administration in exchange for generous donations by the Riady family, whose ties to the Clintons date back to Little Rock in the 1980's. See, for example, the New York Times, October 7, 1996. Recall that the Lippo Group, Huang's former employer, is connected to a far-reaching network of seriously questionable activities, directly implicating not just the Riadys and Huang, but the other individuals that figure in this troubling scandal, including Charlie Trie, Pauline Kanchanalak, Soraya Wiriadinata, C.J. Giroir, Mark Middleton, Mark Grobmeyer, Wang Jun, Charles DeQueljoe, and even Webster Hubbell. Since the Department is already investigating Huang, there plainly are sufficient grounds to investigate whether he may have violated federal law. In declining to invoke the discretionary conflict of interest trigger, the Attorney General's position, therefore, must be that there is no potential conflict of interest in her investigating Huang.

Let's take a look at some of this. This is the ''Lippo Group, an Overview.''

John Huang was a former Lippo executive in the United States. He had a $780,000 severance package before he went to work for the Government. By the way, before he went to work for the Government, for 5 months he had a security clearance given him by this administration. There is a question whether that was legal; a former Commerce official, multiple contacts with Lippo during that time; former DNC vice chairman; raised more than $3.4 million; $1.6 million is to be returned; and, he visited the White House more than 75 times.

C.J. Giroir, a Lippo Joint Venture person, and a former Rose Law Firm attorney, met with James Riady, President Clinton, and Lindsey on Huang on his move to the DNC. He donated $25,000 to the DNC.

Mark Middleton, former White House aide from Little Rock, met with James Riady and President Clinton; has Far East business interests; unlimited access to the White House after his departure.

Charlie Trie, Little Rock restaurateur, had a $60,000 loan from Lippo; former Lippo executive; arranged with a former Lippo executive Antonio Pan, a Hong Kong dinner for Ron Brown; attempted to give more than $600,000 to the Clinton's legal expense trust; visited the White House at least 27 times.

I can go through all of these other people.

Mr. President, I ask unanimous consent that the description of each of them be printed in the RECORD at this point.

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

THE LIPPO GROUP—AN OVERVIEW

John Huang:

Former top Lippo executive in U.S.
$780,000 severance package

Former Commerce Official-multiple contacts w/Lippo
Former DNC Vice Chairman
Raised more than $3.4 mill. (appx. $1.6 mill. returned)
Visited White House more than 75 times

Pauline Kanchanalak:
Thai lobbyist who worked w/Huang when he was at Lippo
Contributed $235,000 to DNC—all returned
Frequent contacts with Huang
Visited White House at least 26 times

Charles DeQueljoe
President of Lippo Securities in Jakarta
Gave $70,000 to DNC
Appointed to USTR advisory panel

Webster Hubbell:
Former Associate Attorney General
Received $250,000 ''consulting fee'' from Lippo—won't say why

Wang Jun:
Lippo joint ventures
Chinese arms merchant
Senior Executive at CITIC & COSTIND (Chinese gvt. entities)
Attended White House coffee

C.J. Giroir:
Lippo Joint Ventures
Former Rose Law Firm attorney
Met with James Riady, Pres. Clinton, & Lindsey on Huang move to DNC
Donated $25,000 to DNC

Mark Middleton:
Former White House aide from Little Rock
Met with James Riady & President Clinton
Far East business interests
Unlimited access to White House after departure

Charlie Trie:
Little Rock restauranteur
$60,000 loan from Lippo
Arranged (w/former Lippo exec. Antonio Pan) Hong Kong dinner for Ron Brown
Attempted to give more than $600,000 to Clinton legal expense trust
Visited White House at least 37 times

Mark Grobmyer:
Little Rock attorney—close friend of Pres. Clinton
Consultant to Lippo
Far East business interests
Met with James Riady, Huang, & Pres. Clinton

Soraya Wiriadinata:
Daughter of Hashim Ning, former Lippo exec.
Contributed $450,000 to DNC—all returned
Has returned to Indonesia

Mr. HATCH. Mr. President, let's just take a look at the specific, credible evidence that has surfaced to date. Huang, who received a severance package from Lippo of $788,750 is reported to have:

Received a top secret security clearance that could have allowed him to review classified intelligence documents, for 5 months while still employed by the Lippo Group, and before he joined the Commerce Department, all after a lax security check that was limited to his activities in the United States;

Made at least 78 visits to the White House during his 18 months at the Commerce Department;

Received 37 intelligence briefings on issues relating to China, Vietnam, and other matters of potential interest to Lippo;

Made more than 70 calls to a Lippo-controlled bank; and received at least 70 calls; 39 classified, top-secret briefings; 30 phone conversations with Mark Middleton; 9 phone calls from Webster Hubbell; received at least 9 calls from the Chinese Embassy officials. He had at least three meetings with Chinese Government officials. He had a 1-year top secret clearance after leaving Commerce after he joined the Democratic National Committee. You wonder why national security interests were compromised and why information was given to the DNC.

Like I say, he had 30-plus phone conversations with Mark Middleton or his associates. All of them had interests—at least I understand had interests—in the Far East.

He had his transfer to the DNC orchestrated at a curious September 13, 1995, Oval Office meeting attended by the President, Bruce Lindsey, James Riady, and Lippo joint venture partner and former Rose law partner, Joseph Giroir;

Raised over $3.4 million while at the DNC—money used to reelect the President—retaining his top secret security clearance even though he was no longer working for the U.S. Government; and had $1.6 million of that $3.4 million used to reelect the President returned because of its suspicious sources.

As we now know, John Huang has taken the fifth amendment, or has asserted the fifth amendment, while the Riadys have not only taken the fifth but they fled the country. Doesn't an investigation of Huang, so close to those who are covered by the statute, and the Riadys, so close to those who are covered by the statute who, like the McDougals, are political supporters and ''individuals associated with the President,''—to use the Attorney General's language of the past—doesn't that raise a conflict of interest?

It isn't just John Huang. Here are some examples of illegal funds raised by Huang: The Wiriadinatas, $450,000. They have returned to Indonesia. All funds are supposed to have been returned by the DNC. I am not sure that is true.

Pauline Kanchanalak gave $253,000. She left the country. She is now in Thailand. Allegedly all of that $250,000 has been returned by the DNC. I am not so sure.

Mr. Gandhi gave $250,000; testified he had no assets. How could he give $250,000? All of those funds are supposed to have been returned by the DNC. I am not so sure about that either.

John H.K. Lee. He gave $250,000. He has disappeared. And those funds were supposed to be returned by the DNC. I am not so sure they have done it.

Then Hsi Lai Buddhist Temple, $166,750 raised there. The temple residents, many of whom gave part of this money, were people who had taken a vow of poverty and had no money to give. Is there no illegality there; nothing to raise a possibility that something may be wrong here which is what the statute basically says? Supposedly $74,000 of that was returned by the DNC. You mean these things aren't wrong and illegal? You mean there is no conflict of interest here at all? If all you do is look at Huang, you have to say there is something wrong here.

Then there is Mr. Charles Trie. Trie is a former Little Rock restaurateur, and reportedly a longtime friend of President Clinton who now runs an international trading company in Little Rock, AR. Mr. Trie has also asserted the fifth amendment and has even fled the country, along with these others.

He is a business partner with Ng Lap Seng, a Chinese Government official. He received a $60,000 loan from the Lippo Group. He raised $645,000 in questionable funds which have been returned by the DNC. He raised $639,000 for the Clinton ''Legal Defense Fund,'' which was returned because the source of the money could not be identified; or the sources of the moneys could not be identified.

He was during this period receiving wire transfers of very large sums from the Bank of China, owned by the Chinese Government.

He visited the White House 37 times.

He escorted Mr. Wang Jun, a Chinese arms merchant, to a White House coffee last year, which, when revealed, was described by the President as ''inappropriate.''

He wrote the President in March 1996 to question his decision to deploy aircraft carriers to the Taiwan straits when the Chinese test-fired missiles in Taiwan's direction, receiving a personal letter back from the President assuring Trie that the United States only wanted peace in the region; arranged a Hong Kong dinner for former Commerce Secretary Ron Brown; and, finally, was formally appointed to a Presidential Commission on Asian Trade in April 1996.

To the extent there was a conflict of interest preventing public confidence in the Justice Department's investigation of Oliver North or James McDougal, certainly the same conflict exists with respect to an investigation of Huang, the Riadys, and Trie, not to mention the handful of other individuals who have taken or will assert the fifth amendment, fled the country, or done both, including Pauline Kanchanalak, Arief and Soraya Wiriadanata, John H.K. Lee, and Charles DeQueljoe. Frankly, there is even more of a conflict here.

Moreover, it has become clear that there is specific, credible information providing sufficient grounds to investigate whether various high-ranking members of the administration may have known of, or conspired in, any of these apparent fundraising violations. Indeed, we now know from the Ickes files that the decision to transfer Huang from the Commerce Department to his fundraising role in the DNC was made at the September 13, 1995, Oval Office meeting which included not just Huang, James Riady, and Lippo Joint Venture Partner and former Rose Law

Partner Joseph Giroir, but Bruce Lindsey—who seems to pop up in all of these instances—and President Clinton himself, and that a participant at this Oval Office meeting reportedly recommended that the President ''reassign Huang from his Government job to a political fund-raising job, where he could extract contributions for favors done and favors yet to come.'' The New York Times, March 5, 1997. Mr. Ickes' notes expressly indicate that Huang had specifically targeted ''overseas Chinese.'' And it has been reported how this decision to transfer Huang to the DNC, made at that September 13, 1995, Oval Office meeting, was directly linked to a plan, agreed to just days earlier by the President, Dick Morris, Harold Ickes, and others, to raise funds to wage a preemptive television ad campaign. See New York Times, April 14, 1997. In short, isn't there sufficient information at least to investigate whether any of these top-level White House advisers were aware of or involved in Huang's and the Riady's far-reaching scheme to launder foreign funds into Democratic campaign coffers? Does the Attorney General expect the public to have confidence that she can thoroughly and dispassionately investigate individuals among the President's closest advisers without any conflict?

Similarly, there is now a wealth of information documenting the extensive involvement from the President down through Mr. Ickes and other White House advisers in the plans, discussed earlier, to use the Lincoln bedroom, the White House, Air Force One, and the White House's computer database to further campaign purposes, and that campaign contributions were received at the White House. The Attorney General claims she is ''actively investigating'' whether laws were violated. Doesn't this investigation of these high-level White House advisers, even if not covered individuals, present a conflict at least as great as the conflict that apparently existed with regard to the investigations of Mr. North and Mr. McDougal?

How can one say that there is no conflict when the FBI and White House are publicly squabbling over whether the White House should receive information about the investigation, and the Attorney General is smack in the middle of this squabble; when the White House falsely accuses the FBI of telling the National Security Council staff not to pass on information regarding Chinese attempts to illegally influence United States policymakers?

Indeed, the very fact that the FBI, an agency within the Justice Department, refused to produce this information to the White House on the eve of Secretary Albright's visit to China clearly suggests that the investigation has already reached high up into the White House. It is curious, to say the least, that the Department of Justice leaked its decision to the press over the weekend, but it did not actually notify the Judiciary Committee of its decision until 6:30 last night, 2 days after this letter was due. Furthermore, the Acting Deputy Attorney General's assertion that the fact that both Judiciary Committees have made a formal request would emphatically not have any impact on their decision suggests to me that the Justice Department is in a defense mode.

In short, I think there is little doubt there is at the very least a potential conflict of interest in having the Justice Department investigate these matters. The administration should not be investigating itself, it is just as simple as that, as long as we have an independent counsel statute. Simply claiming to defer to career Justice Department officials will not do. Would the public accept a Member of Congress not recusing himself or herself from a particular matter on which he or she had a major conflict of interest because staff recommended they not recuse themselves? Would the public accept a judge's refusal to recuse himself or herself in the face of a conflict because a clerk advised against it?

The fact is that the DNC, the Democratic National Committee, has simply, on the basis of its own audit, already identified over $3 million in improper contributions, violations of law, if you will. A significant portion of this illicit money has not even been returned yet, only confirming that this $3 million has already been spent, spent to reelect President Clinton.

We have people calling for campaign finance reform on this floor. Why don't we enforce the campaign finance laws that are already on the books. That is what this is all about, in part, I have to tell you. Three million dollars in illegal funds, illicit funds spent to reelect the President, already spent. I wonder how Candidate Dole feels about that.

The need for an independent counsel is not merely a matter of applying the law to the facts. The chorus we are now hearing from the President's press secretary and the Democratic apologists would seem to indicate that that is so when in fact it is not. In my opinion, Attorney General Reno was presented with an ethical question, a question ultimately of whether the public can have confidence in this investigation, whether the public can have confidence in this Justice Department, and whether the public can have confidence in the Clinton administration itself. Make no mistake about it. Attorney General Reno's decision yesterday was a significant political event, one which, much to my regret, will subject her to serious and I think justified criticism. This is not a happy day for the Department of Justice or for the public confidence in our system of justice. By continuing to permit what certainly appears to be a very serious conflict of interest, the Attorney General regrettably has, to use her own words, brought upon the Nation ''the destructive effect in a free democracy of public cynicism.''

I yield the floor. I thank the Chair.

Mr. DURBIN addressed the Chair.

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

Mr. DURBIN. I ask unanimous consent to speak for 10 minutes.

The PRESIDING OFFICER. Under a previous order, that has already been granted.

Mr. DURBIN. I was seeking recognition on the same subject. Senator HAGEL, I believe, is on the way up to join me for 10 minutes. This is a separate request. Is it possible to do both?

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

Mr. DURBIN. I thank the Chair.

I would like to address the issue that the chairman of the Judiciary Committee raised, and I am glad he stayed in the Chamber. I could not disagree with him more. If this really is a contest over the professionalism of Attorney General Janet Reno, I feel very confident to stand by her. On four separate occasions, Attorney General Reno has exercised the right to call for an independent counsel within the Clinton administration, three of those counsel investigating members appointed to the President's Cabinet and a fourth investigating the Whitewater controversy involving the Clinton family itself. It is very clear to me that Attorney General Reno is calling these as she sees them.

Look at the situation that we now have before us. The Speaker of the House of Representatives, Mr. GINGRICH, leaders of the Republican Party, all come forward and say that if Attorney General Reno does not ask for an independent counsel, they are going do drag her up to Capitol Hill, put her before the committee, maybe put her under oath, and demand to know why she has not called for an independent counsel.

I suggest to my colleagues in the Senate the independent counsel statute itself is hanging on by a slender thread if we try to politicize this process and pressure the Attorney General into calling for an investigation where it is not warranted.

Keep in mind the creation of this statute came from an era when President Nixon fired Archibald Cox as a special prosecutor, the so-called Saturday Night Massacre. The independent counsel statute was created to try to put in place a third party or a dispassionate or a detached approach to investigations. And now, because those in the majority, the Republican Party, are dissatisfied that Attorney General Reno has not called for an independent counsel, you hear all sorts of comments about we are going to put the pressure on her; we are going to bring her up here and put her before a committee to answer all these questions.

Mr. HATCH. Will the Senator yield?

Mr. DURBIN. I will be happy to yield in just a moment. It just may be a fact that there is insufficient evidence to support the charges which the Senator

from Utah and other Republicans believe. Now, this Attorney General has been involved in this investigation for a long period of time with 50 different FBI agents. If the newspaper reports are accurate, she has basically said that she will turn to her career prosecutors to make this call. I trust her judgment. I think we should trust her judgment. Applying political pressure at this point on the Attorney General is not in the best interests of a good investigation that may be necessary and may lead to the appointment of an independent counsel.

I will be happy to yield.

Mr. HATCH. I appreciate my colleague yielding.

Let us just make it clear to my colleague that this chairman of the Judiciary Committee and Chairman HYDE over in the House, when many people were calling for us to send her a letter, delayed and delayed, giving the Attorney General a lot of time, nor have we been calling improperly for her to act in any way other than properly. But it will be interesting for people to know that we had scheduled our oversight hearing for May 20 for the Attorney General to come in and to be examined by the Judiciary Committee. I think for the information of everybody who is here, she has agreed to come earlier than that, within the next 3 weeks, probably in the first week of May, and at that time she will have to justify this decision.

I think it is also safe to point out that I have been a very strong supporter of the Attorney General and still care for her a great deal. I do not like to see her subjected to this, but this is, to my knowledge, the first time that the letters from thoughtful chairmen and all the Republicans on both sides of the Judiciary Committee have been rejected and I think under much more stringent circumstances than independent counsel she has granted in the past.

So I personally hope she can assert why she has not decided to at least conduct a preliminary investigation which would have triggered another 90 days to do this. I suggested to her and to the Justice Department that she do that.

I also do not accept the—I am sorry; I will not take much longer. I do not accept her assertion that she is relying on professional staff members.

Now, I have a lot of confidence in the professional staff members down there, but this involves a lot more than that and, frankly, involves just how this statute is going to be applied.

When the time comes to reconsider this statute, I will be very interested in working with the distinguished Senator from Illinois and others to make sure that, if we are going to have a statute like this, let us have it so it works, and, frankly, I have qualms about having it at all. But since we do have it and since it does have these two main methods of triggering the call for an independent counsel and the appointment of an independent counsel, I have to say I am sadly disappointed that she has not chosen to do that under these circumstances. But I do understand my colleague at this hour rising to defend Attorney General Reno. I am not attacking her personally. I am just attacking what has been done here, and I think it should have been done before.

Mr. DURBIN. I thank the Senator from Utah. I want to say this much. If there has been any criticism of Attorney General Janet Reno in the last 6 months, it is that she is too independent. There was a question as to whether this President would even reappoint her because of her independence, the fact she had named four independent counsel. That has been the criticism of Attorney General Reno. She calls them as she sees them. She is a professional.

She has made a decision today which the Republicans are unhappy with; they wanted an independent counsel named in this case. But when she named four previous independent counsel, they cheered—good judgment, good work. Now, when she has decided not to call for one, they want to bring her up to Capitol Hill, put her before the committee, start asking questions: Why won't you bend to this pressure? I hope she does not. I hope she calls it based on the evidence.

On a show that I was on last night, one of my colleagues on the Republican side said, ''Hasn't there been enough time here? Shouldn't she call for an independent counsel?''

This is not about time. This is about evidence, credible witnesses. If they do not come forward with the evidence and with the testimony to justify an independent counsel, I hope Attorney General Reno will not bow to pressure here. I hope she will stand up for what she believes in. And as a Democrat, I am prepared to accept her decision. I believe she is professional enough that we can stand behind her. But we jeopardize the future of this statute, and I think we ought to think twice about it, by putting this kind of public pressure on the Attorney General trying to push her in one political direction or the other.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER (Mr. HAGEL). Does the Senator from Illinois yield?

Mr. DURBIN. Mr. President, I had asked for an additional 10 minutes on another topic with the Senator from Nebraska.

Mr. HATCH. Will the Senator yield for just 90 seconds?

Mr. DURBIN. I will be happy to yield to the Senator from Utah.

Mr. HATCH. I would like to say this in response. I just spent 30 minutes laying out some of the evidence that I think clearly shows the grounds for further investigation. The question is how can the Attorney General continue this investigation within the Department without a conflict of interest? I do not think she can. Again, I will cite her testimony back in 1993.

She had a strong view that even the slightest appearance of a conflict of interests should, at all costs, be avoided by the independent counsel. She said this:

> . . . there is an inherent conflict of interest whenever senior Executive Branch officials are to be investigated by the Department of Justice and its appointed head, the Attorney General. The Attorney General serves at the pleasure of the President. Recognition of this conflict does not belittle or demean the impressive professionalism of the Department's career prosecutors, nor does it question the integrity of the Attorney General and his or her political appointees. Instead, it recognizes the importance of public confidence in our system of justice, and the destructive effect in a free democracy of public cynicism.

She further testified that:

> It is absolutely essential for the public to have confidence in the system and you cannot do that when there is conflict or an appearance of conflict in the person who is, in effect, the chief prosecutor. . . . The Independent Counsel Act as designed to avoid even the appearance of impropriety in the consideration of allegations of misconduct by high-level Executive Branch officials and to prevent . . . the actual or perceived conflicts of interest. The Act thus served as a vehicle to further the public's perception of fairness and thoroughness in such matters, and to avert even the most subtle influences that may appear in an investigation of highly-placed Executive officials.

I really believe that the case has been made here. And, although I still have very fond feelings toward the Attorney General, I think she has made a tragic error. And I believe that this is not going to end it. In the end, I think we would have been a lot farther down the road had she applied for the appointment of an independent counsel.

Be that as it may, these remarks had to be made because they are important. Either we are going to have a statute or we are not. As I have said, I have never been a strong supporter of this statute. But it is there and it has been used in prior administrations. It has been used in this administration. And this case, it seems to me, is even more overwhelming than some of the prior cases where it has been used.

I yield the floor, and I thank my colleague.

Mr. DURBIN. Mr. President, who has time at this moment?

The PRESIDING OFFICER. The Senator from Illinois has the remaining time.

Mr. DURBIN. Mr. President, let me just say in closing, on this particular issue, before I move to the other with Senator HAGEL, this is a matter of the Attorney General's discretion. Whether that Attorney General is a Democrat or a Republican, under this statute the Attorney General is to gather the evidence, listen to the testimony, and decide whether or not that evidence and testimony crosses a threshold to suggest that a crime has been committed, either by a covered person in the administration or a Member of Congress, or creating a conflict of interest between the administration and the investigation.

If I listened and heard correctly, the Senator from Utah questions whether or not an Attorney General, appointed by a President, can exercise appropriate discretion when there has been a suggestion that that President or his Cabinet be investigated.

What the Senator from Utah calls into question is more than the judgment of any specific Attorney General. He calls into question the very existence of the statute. I think there are many deficiencies in this statute. I think we should address those, and perhaps reauthorize it with some changes. Among those changes, I might add, is that if an independent counsel is to be appointed, that independent counsel be truly independent.

In the history of this statute, 15 independent counsels have been named: 11 Republicans, 2 Independents, 2 Democrats. This process has been loaded to appoint Republican independent counsels. And how? Because the three judges who make the appointment, named by the Chief Justice, have created a daisy chain, where they are appointed for 2 years as the statute calls for and then reappointed for another 2 years. They keep coming back, over and over and over again, the same people, making the same judgments about the appointment of independent counsel.

I think this statute needs to be addressed. But, if we are going to attack this Attorney General because she has to exercise her discretion, believe me that is what the statute says that she must do. She must look at that evidence, decide whether it is credible, and decide whether to go forward. As unhappy as the Republicans may be with this decision by the Attorney General, I trust her judgment. I trust her professional judgment. If she says at this moment it is not warranted, I think she is right. I will stand by it.

Should she change her mind at some later date, I will accept that decision, too. But to call her up here and put her under pressure because she has made that decision is a serious, serious mistake.

At this point I believe there has been a unanimous-consent request for 10 minutes for Senator HAGEL and myself to address another issue, is that correct?

The PRESIDING OFFICER. The Senator has 7 minutes remaining of that time.

Mr. DURBIN. I thank the Chair.

(The remarks of Mr. DURBIN and Mr. HAGEL pertaining to the introduction of S. 575 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, this Senator inquires of the order of business?

The PRESIDING OFFICER. The Senate is scheduled to recess absent a unanimous-consent request.

Mr. BURNS. Mr. President, I ask unanimous consent I may proceed as in morning business for no more than 6 to 7 minutes.

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

## OUR SYSTEM OF TAXATION

Mr. BURNS. Mr. President, this is likely the single most frustrating day of the year for many Americans. What self-respecting member of any legislative body would not take to the floor and talk about his or her favorite subject, taxes? We could all relate to the tension of the day and the frustration of working our way through the ''simplified'' tax forms, worrying about making an inadvertent mistake. But, also, how we are going to do what is expected of us? With April 15 now upon us, it is time to reflect on our system of taxation and the burden it places on each and every one of us who live in this country.

I know at times the IRS finds itself as the brunt of many jokes. But to a lot of folks in Montana, tax day is no laughing matter. The fact is, families all across this Nation are forced to make some tough financial choices each year around this time. Serious questions are being asked. What can we do as a family to pay our fair share of taxes? By and large, Americans know, and they understand that some taxes are necessary to pay for the essential government services: For education, for the infrastructure of transportation and other services that we enjoy. But the question also surfaces on how to balance our family needs.

All too often, the options given require sacrifices. And, you know what? They affect children and they affect relationships. Most times, it is not fair. And sometimes it is just not right.

Unfortunately, it seems we are living in an age when only one wage earner cannot live financially secure and comfortable. Nowadays, in order to make ends meet both parents are working, even though one may prefer to remain home with their children. Families in which one parent chooses to remain at home often struggle financially, living paycheck to paycheck, while, on the other hand, dual-income families find a disproportionate share of the second check being melted away with added expenses of cost of child care, additional transportation needs and so on, and still no tax relief on the burden that is suffered on the second paycheck. Neither situation leaves families in a comfortable financial condition. Time and time again we have seen bad economic conditions lead to the demise of families and the family structure. Who suffers? Our children suffer.

I believe it is important that we begin the process of reform, which will allow our families more options and, in the end, allow them to keep more of what they earn. Those decisions should be and could be made at home instead of some IRS office or, yes, an office here in Washington, DC. Let families decide, make the financial decision of what to do with their income. All the polls that I have seen taken on the attitudes of Americans tell us that our current system of taxation is in bad need of reform. I agree. Giving Montanans and all Americans the opportunity to be financially secure should be the goal.

I might add at this point, the Nation's tax collection agency also needs to do something about its own image. That may be a feat that borders on the impossible, but it should be attempted. There are two taxes, in my estimation, that are destructive of the majority of families. They are death taxes—the estate taxes—and capital gains. Montana, my State, is a State made up of family-run farms and ranches and small businesses. With regard to the death taxes, upon the death of an owner of a small family business or a family farmer ranch, the family is required to pay more than 55 percent of the value of the farm or business value in excess of $600,000. The only thing the survivors want to do is simply continue operating the family business or farm.

But in most cases, they are forced to sell it in order to pay those death taxes. No one—no one, Mr. President—should be forced to sell the farm to save the farm.

Another equally burdensome tax is the capital gains tax, which punishes those who choose to save and invest for their future. This tax affects everybody who saves and invests to ensure they can take care of themselves and their loved ones. Like the estate tax, the capital gains tax is punitive. It is a voluntary tax. You do not have to pay capital gains tax because you do not have to sell. If you do not sell, you limit economic opportunity in the financial community.

Like the estate tax, it is a form of double taxation, moneys taxed once it is earned as income and again upon the sale of an asset or investment, and Lord knows how many times in between, making it even more difficult for families to save for the future.

The capital gains tax has a top rate of 28 percent, which is among the highest in the world. Many of the world's strongest economic powers, including Germany, Hong Kong and South Korea, have no capital gains tax at all. These countries recognize the importance of savings. They also recognize the importance of investments, and they know what it takes to create jobs, maintain an economic growth and stability and, let's face it, governments cannot take all the money and provide a stable financial future for anybody with the exception of those who choose to exploit their own government.

There is no question in my mind, in order to strengthen the American family, we must make them economically secure. No matter what we say or how good it seems, Government cannot do that. With juvenile crime at an all-time high, there is no hope for young people if they cannot see a future that

allows them to use their God-given talents to ensure economic and political freedom.

We must put in place those policies that allow us to provide essential Government services, help those who cannot help themselves and build the infrastructure that provides us with opportunity and promise for the future. We must work to ease the excessive tax burden being shouldered by families.

It would be a noble work, indeed, in this Senate, if we could provide for the time when decisions could be made by families at the kitchen table with regard to their economic and political future, when parents had more options. We must provide them.

Through reform and reduction of our tax burden, this process can begin. The opportunity exists at this time, and the time is now. It ensures parents the opportunity to raise their children comfortably and provide for a stable, financially secure future. Thank you, Mr. President.

I yield the floor.

## RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until the hour 2:15 p.m.

Thereupon, at 2:04 p.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. COATS).

The PRESIDING OFFICER. The Chair, in his capacity as the Senator from Indiana, suggests the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEVIN. 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. LEVIN. Mr. President, I thank the Chair.

(The remarks of Mr. LEVIN pertaining to the introduction of S. 576 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. LEVIN. Mr. President, I ask unanimous consent that after I speak for 4 minutes, the Senator from Illinois be recognized at that time.

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

## THE ATTORNEY GENERAL'S INDEPENDENT COUNSEL DECISION

Mr. LEVIN. Mr. President, I want to comment on the independent counsel decision of the Attorney General.

The Attorney General's obligation is to follow the law. It is not to respond to political pressure from whatever source.

Now, over the last weekend, there were some extraordinary attempts made by a number of House Republican leaders to literally scare the Attorney General into doing what they wanted. Both Speaker GINGRICH and Majority Leader ARMEY said Sunday, in effect, that if the Attorney General did not seek an independent counsel, it is because she caved in to administration pressure.

I ask unanimous consent that the April 14 article of the Washington Post, entitled ''Republicans Warn Reno on Independent Counsel,'' be printed in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. LEVIN. Mr. President, those comments by the Speaker and the majority leader of the House constitute an attempt at political intimidation and coercion. Their message to the Attorney General was that if she doesn't seek the appointment of an independent counsel, she would run the risk of being brought before a congressional committee and that she would be investigated, she would be put under oath, as though she, somehow or other, is violating her oath.

The statements by the Republican leaders in the House fly in the face of the very purpose of our independent counsel law. Now, this is a statute that we passed, on a bipartisan basis, to take politics out of criminal investigations of high-level officials. But the Speaker of the House and the majority leader of the House worked mighty hard to put politics right back into the law. Their threats to the Attorney General—and that is exactly what they were—to make her do what they want were inappropriate, and they jeopardize the very law that they are demanding she invoke.

She is required and was required to follow the law, wherever it leads her, despite the clumsy efforts at political intimidation of the Speaker of the House and the majority leader of the House. Their comments and their efforts to intimidate and coerce her to reach a conclusion that they believe is the right conclusion are inappropriate; they undermine a very important law, and they put that law's usefulness into jeopardy.

There are thresholds in the independent counsel law. The Attorney General has gone through, very carefully, in her letter to the Congress why it is she does not at this time seek the appointment of an independent counsel. She has gone through the evidence that she has and has indicated why the thresholds in the statute have not been met. She has done so carefully and professionally.

I urge every Member of this body to read the Attorney General's letter to Senator HATCH before they join any partisan effort to attempt to undermine the purpose of the law and to partisanize it.

Now, Senator Cohen and I worked mighty hard to reauthorize this law. We did it more than once. We did it because it holds out the hope that serious allegations against high-level officials can be dealt with on a nonpartisan basis. That hope is being dashed by the kind of excessive comments that the Speaker of the House and majority leader of the House engaged in last weekend when they engaged in threats and coercion, attempting to politically intimidate the Attorney General of the United States. She has not shown a reluctance to use the independent counsel statute when the threshold has been met. She is following the law to the best of her conscience and ability. She has done a professional job. I commend her for following the law and the public integrity section recommendation in her Department, rather than bowing to political pressure. I emphasize that she has not, and I believe will not, bow to political pressure from whatever source or whatever direction.

I ask unanimous consent that the Attorney General's letter to Senator HATCH be printed in the RECORD at this time.

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

OFFICE OF THE ATTORNEY GENERAL,
*Washington, DC, April 14, 1997.*

Hon. ORRIN G. HATCH,
*Chairman, Committee on the Judiciary,*
*U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: On March 13, 1997, you and nine other majority party members of the Committee on the Judiciary of the United States Senate wrote to me requesting the appointment of an independent counsel to investigate possible fundraising violations in connection with the 1996 presidential campaign. You made that request pursuant to a provision of the Independent Counsel Act, 28 U.S.C. §592(g)(1), which provides that ''a majority of majority party members [of the Committee on the Judiciary] * * * may request in writing that the Attorney General apply for the appointment of an independent counsel.'' The Act requires me to respond within 30 days, setting forth the reasons for my decision on each of the matters with respect to which your request is made. 28 U.S.C. §592(g)(2).

I am writing to inform you that I have not initiated a ''preliminary investigations'' (as that term is defined in the Independent Counsel Act) of any of the matters mentioned in your letter. Rather, as you know, matters relating to campaign financing in the 1996 Federal elections have been under active investigation since November by a task force of career Justice Department prosecutors and Federal Bureau of Investigation (FBI) agents. This task force is pursuing the investigation vigorously and diligently, and it will continue to do so. I can assure you that I have given your views and your arguments careful thought, but at this time, I am unable to agree, based on the facts and the law, that an independent counsel should be appointed to handle this investigation.

1. The Independent Counsel Act:

In order to explain my reasons, I would like to outline briefly the relevant provisions of the Independent Counsel Act. The Act can be invoked in two circumstances that are relevant here:

First, if there are sufficient allegations (as further described below) of criminal activity by a covered person, defined as the President and Vice President, cabinet officers, certain other enumerated high Federal officials, or certain specified officers of the President's election campaign (not party officials), see 28 U.S.C. §591(b), I must seek appointment of an independent counsel.

Second, if there are sufficient allegations of criminal activity by a person other than a covered person, and I determine that ''an investigation or prosecution of [that] person by the Department of Justice may result in a personal, financial or political conflict of interest,'' see 28 U.S.C. §591(c)(1), I may seek appointment of an independent counsel.

In either case, I must follow a two-step process to determine whether the allegations are sufficient. First, I must determine whether the allegations are sufficiently specific and credible to constitute grounds to investigate whether an individual may have violated Federal criminal law. 28 U.S.C. §591(d). If so, the Department commences a ''preliminary investigation'' for up to 90 days (which can be extended an additional 60 days upon a showing of good cause). 28 U.S.C. §592(a). If, at the conclusion of this ''preliminary investigation,'' I determine that further investigation of the matters is warranted, I must seek an independent counsel.

Certain important features of the Act are critical to my decision in this case:

First, the Act sets forth the only circumstances in which I may seek an independent counsel pursuant to its provisions. I may not invoke its procedures unless the statutory requirements are met.

Second, the Act does not permit or require me to commence a preliminary investigation unless there is specific and credible evidence that a crime may have been committed. In your letter, you suggest that it is not the responsibility of the Department of Justice to determine whether a particular set of facts suggests a potential Federal crime, but that such legal determinations should be left to an independent counsel. I do not agree. Under the Independent Counsel Act, it is the Department's obligation to determine in the first instance whether particular conduct potentially falls within the scope of a particular criminal statute such that criminal investigation is warranted. If it is our conclusion that the alleged conduct is not criminal, then there is no basis for appointment of an independent counsel, because there would be no specific and credible allegation of a violation of criminal law. See 28 U.S.C. §592(a)(1).

Third, there is an important difference between the mandatory and discretionary provisions of the Act. Once I have received specific and credible allegations of criminal conduct by a covered person, I must commence a preliminary investigation and, if further investigation is warranted at the end of the preliminary investigation, seek appointment of an independent counsel. If, on the other hand, I receive specific and credible evidence that a person not covered by the mandatory provisions of the Act has committed a crime, and I determine that a conflict of interest exists with respect to the investigation of that person, I may—but need not—commence a preliminary investigation pursuant to the provisions of the Act. This provision gives me the flexibility to decide whether, overall, the national interest would be best served by appointment of an independent counsel in such a case, or whether it would be better for the Department of Justice to continue a vigorous investigation of the matter.

Fourth, even this discretionary provision is not available unless I find a conflict of interest of the sort contemplated by the Act. The Congress has made it very clear that this provision should be invoked only in certain narrow circumstances. Under the Act, I must conclude that there is a potential for an actual conflict of interest, rather than merely an appearance of a conflict of interest. The Congress expressly adopted this higher standard to ensure that the provision would not be invoked unnecessarily. See 128 Cong. Rec. H 9507 (daily ed. December 13, 1982) (statement of Rep. Hall). Moreover, I must find that there is the potential for such an actual conflict with respect to the investigation of a particular person, not merely with respect to the overall matter. Indeed, when the Act was reauthorized in 1994, Congress considered a proposal for a more flexible standard for invoking the discretionary clause, which would have permitted its use to refer any ''matter'' to an Independent Counsel when the purposes of the Act would be served.

Congress rejected this suggestion, explaining that such a standard would ''substantially lower the threshold for use of the general discretionary provision.'' H.R. Conf. Rep. No. 511, 103rd Cong., 2nd Sess. 9 (1994).

2. Covered Persons—The Mandatory Provisions of the Act:

Let me now turn to the specific allegations in your letter. You assert that there are ''new questions of possible wrongdoing by senior White House officials themselves,'' and you identify a number of particular types of conduct in support of this claim. While all of the specific issues you mention are under review or active investigation by the task force, at this time we have no specific, credible evidence that any covered White House official may have committed a Federal crime in respect of any of these issues. Nevertheless, I will discuss separately each area that you raise.

a. Fundraising on Federal Property. First, you suggest that ''federal officials may have illegally solicited and/or received contributions on federal property.'' The conduct you describe could be a violation of 18 U.S.C. §607. We are aware of a number of allegations of this sort; all are being evaluated, and where appropriate, investigations have been commenced. The Department takes allegations of political fundraising by Federal employees on Federal property seriously, and in appropriate cases would not hesitate to prosecute such matters. Indeed, the Public Integrity Section, which is overseeing the work of the campaign financing task force, recently obtained a number of guilty pleas from individuals who were soliciting and accepting political contributions within the Department of Agriculture.

The analysis of a potential section 607 violation is a fact-specific inquiry. A number of different factors must be considered when reviewing allegations that this law may have been violated:

First, the law specifically applies only to contributions as technically defined by the Federal Election Campaign Act (FECA)—funds commonly referred to as ''hard money.'' The statute originally applied broadly to any political fundraising, but in 1979, over the objection of the Department of Justice, Congress narrowed the scope of section 607 to render it applicable only to FECA contributions. Before concluding that section 607 may have been violated, we must have evidence that a particular solicitation involved a ''contribution'' within the definition of the FECA.

Second, there are private areas of the White House that, as a general rule, fall outside the scope of the statute, because of the statutory requirement that the particular solicitation occur in an area ''occupied in the discharge of official duties.'' 3 Op. Off. Legal Counsel 31 (1979). The distinction recognizes that while the Federal Government provides a residence to the President, similar to the housing that it might provide to foreign service officers, this residence is still the personal home of an individual within which restrictions that might validly apply to the Federal workplace should not be imposed. Before we can conclude that section 607 may have been violated, we must have evidence that fundraising took place in locations covered by the provisions of the statute.

Thus, while you express concerns about the possibility of ''specific solicitation . . . made by federal officials at the numerous White House overnights, coffees, and other similar events,'' we do not at this time have any specific and credible evidence of any such solicitation by any covered person that may constitute a violation of section 607.

We do not suggest, of course, that our consideration of information concerning fundraising on Federal property is limited to whether the conduct constituted a violation only of section 607. However, at this point in time, we have no specific and credible evidence to suggest that any crime was committed by any covered person in connection with these allegations.

b. Misuse of Government Resources. You next assert that Government property and employees may have been used illegally to further campaign interests—conduct which might, in some circumstances, constitute a theft or conversion of Government property in violation of 18 U.S.C. §651. Again, we are actively investigating allegations that such misconduct may have occurred. However, we are unaware at this time of any evidence that any covered person participated in any such activity, other than use of Government property that is permitted under Federal law, such as the reports that the Vice President used a Government telephone, charging the calls to a nongovernment credit card. Federal regulations permit such incidental use of Government property for otherwise lawful personal purposes. See, e.g., 5 C.F.R. §2635.704; 41 C.F.R. §201–21.601 (personal long distance telephone calls). Thus, for example, allegations that a Government telephone or telefacsimile machine may have been used on a few occasions by a covered person for personal purposes does not amount to an allegation of a Federal crime. To the extent that there are allegations warranting investigation that individuals not covered by the Independent Counsel Act diverted Government resources, it is my conclusion, as I explain below, that there is at present no conflict of interest for the Department of Justice to investigate and, if appropriate, prosecute those involved in any such activity.

c. Foreign Efforts to Influence U.S. Policy. You next cite reports suggesting the possibility that foreign contributions may have been made in hopes of influencing American policy decisions. These allegations are under active investigation by the task force. The facts known at this time, however, do not indicate the criminal involvement of any covered person in such conduct.

It is neither unique nor unprecedented or the Department to receive information that foreign interests might be seeking to infuse money into American political campaigns. That was precisely the scenario that underlay the criminal investigations, prosecutions and congressional hearings during the late 1970s involving allegations that a Korean businessman was making illegal campaign contributions, among other things, to Members of Congress to curry congressional support for the Government of South Korea. In a more recent example, in 1996 an individual was prosecuted and convicted for funneling Indian Government funds into Federal elections through the cover of a political action committee.

Absent specific and credible evidence of complicity by a covered person, it has never been suggested that the mere allegation that a foreign government may have been trying to provide funds to Federal campaigns should warrant appointment of an independent counsel. Nor can it be the case that an independent counsel is required to investigate because campaign contributors or

those who donated to political parties believed their largesse would influence policy or achieve access. The Department of Justice routinely handles such allegations, and because of its experience in reviewing and investigating these sensitive matters, embracing, among other things, issues of national security, is particularly well-equipped to do so.

d. Coordination of Campaign Fundraising and Expenditures. You also suggest that the ''close coordination by the White House over the raising and spending of 'soft'—and purportedly independent—DNC funds violated Federal election laws, and/or had the legal effect of rendering those funds subject to campaign finance limitations they otherwise would not be subject to.'' We believe this statement misapprehends the law. The FECA does not prohibit the coordination of fundraising or expenditures between a party and its candidates for office. Indeed, the Federal Election Commission (FEC), the body charged by Congress with primary responsibility for interpreting and enforcing the FECA, has historically assumed coordination between a candidate and his or her political party.

Of course, coordinated expenditures may be unlawful under the FECA if they are made with funds from prohibited sources, if they were misreported, or if they exceed applicable expenditure limits. However, we presently lack specific and credible evidence suggesting that any covered person participated in any such violations, if they occurred.

With respect to coordinated media advertisements by political parties (an area that has received much attention of late), the proper characterization of a particular expenditure depends not on the degree of coordination, but rather on the content of the message. Indeed, just last year the FEC and the Department of Justice took this position in a brief filed before the Supreme Court, in a case decided on other grounds. See generally, Brief for the Respondent, *Colorado Republican Federal Campaign Committee* v. *FEC,* (S. Ct. No. 95–489) at 2–3, 18 n.15, 23–24. In this connection, the FEC has concluded that party media advertisements that focus on ''national legislative activity'' and that do not contain an ''electioneering message'' may be financed, in part, using ''soft'' money, i.e., money that does not comply with FECA's contribution limits. FEC Advisory Op. 1995–25, 2 Fed. Elec. Camp. Fin. Guide (CCH) ¶6162, at 12,109–12,110 (August 24, 1995); FEC Advisory Op. 1985–14, 2 Fed. Elec. Camp. Fin. Guide (CCH) ¶5819, at 11,185–11,186 (May 30, 1985). Moreover, such advertisements are not subject to any applicable limitations on coordinated Expenditures by the party on behalf of its candidates. AO 1985–14 at 11–185–11,186.

We recognize that there are allegations that both presidential candidates and both national political parties engaged in a concerted effort to take full advantage of every funding option available to them under the law, to craft advertisements that took advantage of the lesser regulation applicable to legislative issue advertising, and to raise large quantities of soft political funding to finance these ventures. However, at the present time, we lack specific and credible evidence suggesting that these activities violated the FECA. Moreover, even assuming that, after a thorough investigation, the FEC were to conclude that regulatory violations occurred, we presently lack specific and credible evidence suggesting that any covered person participated in any such violations.

3. Conflict of Interest—The Discretionary Provisions of the Act:

In urging me to conclude that the investigation poses the type of potential conflict of interest contemplated by the Act, you rely heavily on my testimony before the Senate Committee on Government Affairs in 1993 in support of reauthorization of the Independent Counsel Act. I stand by those views and continue to support the overall concept underlying the Act. My decisions pursuant to the Act have been, I believe, fully consistent with those views.

The remarks you quote from my testimony should be interpreted within the context of the statutory language I was discussing. When, for example, I referred to the need for the Act to deal with the inherent conflict of interest when the Department of Justice investigates ''high-level Executive Branch officials,'' I was referring to persons covered under the mandatory provisions of the Act. With respect to the conflict of interest provision, my testimony expressed the conviction that the Act ''would in no way preempt this Department's authority to investigate public corruption,'' and that the Department was clearly capable of ''vigorous investigation of wrongdoing by public officials, whatever allegiance or stripes they may wear. I will vigorously defend and continue this tradition.'' While I endorsed the concept of the discretionary clause to deal with unforeseeable situations, I strongly emphasized that ''it is part of the Attorney General's job to make difficult decisions in tough cases. I have no intention of abdicating that responsibility[.]'' These principles continue to guide my decisionmaking today.

There are times when reliance on the discretionary clause is appropriate, and indeed, as you point out, I have done so myself on a few occasions. However, in each of those cases, I considered the particular factual context in which the allegations against those persons arose and the history of the matter. Moreover, even after finding the existence of a potential conflict, I must consider whether under all the circumstances discretionary appointment of an independent counsel is appropriate. In each case, therefore, the final decision has been an exercise of my discretion, as provided for under the Act.

I have undertaken the same examination here. Based on the facts as we know them now, I have not concluded that any conflict of interest would ensure from our vigorous and thorough investigation of the allegations contained in your letter.

Your letter relies upon press reports, certain documents and various public statements which you assert demonstrate that ''officials at the highest level of the White House were involved in formulating, coordinating and implementing the [Democratic National Committee's (DNC's)] fundraising efforts for the 1996 presidential campaign.'' You suggest that a thorough investigation of ''fundraising improprieties'' will therefore necessarily include an inquiry into the ''knowledge and/or complicity of very senior White House officials,'' and that the Department of Justice would therefore have a conflict of interest investigating these allegations.

To the extent that ''improprieties'' comprise crimes, they are being thoroughly investigated by the agents and prosecutors assigned to the task force. Should that investigation develop at any time specific and credible evidence that any covered person may have committed a crime, the Act will be triggered, and I will fulfill my responsibilities under the Act. In addition, should that investigation develop specific and credible evidence that a crime may have been committed by a ''very senior'' White House official who is not covered by the Act, I will decide whether investigation of that person by the Department might result in a conflict of interest, and, if so, whether the discretionary clause should be invoked. Until then, however, the mere fact that employees of the White House and the DNC worked closely together in the course of President Clinton's reelection campaign does not warrant appointment of an independent counsel. As I have stated above, the Department has a long history of investigating allegations of criminal activity by high-ranking Government officials without fear or favor, and will do so in this case.

I also do not accept the suggestion that there will be widespread public distrust of the actions and conclusions of the Department if it continues to investigate this matter, creating a conflict of interest warranting the appointment of an independent counsel. First, unless I find that the investigation of a particular person against whom specific and credible allegations have been made would pose a conflict, I have no authority to utilize the procedures of the Act. Moreover, I have confidence that the career professionals in the Department will investigate this matter in a fashion that will satisfy the American people that justice has been done.

Finally, even were I to determine that a conflict of interest of the sort contemplated by the statute exists in this case—and as noted above I do not find such a conflict at this time—there would be a number of weighty considerations that I would have to consider in determining whether to exercise my discretion to seek an independent counsel at this time. Because invocation of the conflict of interest provision is discretionary, it would still be my responsibility in that circumstance to weigh all the factors and determine whether appointment of an independent counsel would best serve the national interest. If in the future this investigation reveals evidence indicating that a conflict of interest exists, these factors will continue to weigh heavily in my evaluation of whether or not to invoke the discretionary provisions of the Act.

* * * * *

I assure you, once again, that allegations of violations of Federal criminal law with respect to campaign financing in the course of the 1996 Federal elections will be thoroughly investigated and, if appropriate, prosecuted. At this point it appears to me that that task should be performed by the Department of Justice and its career investigators and prosecutors. I want to emphasize, however, that the task force continues to receive new information (much has been discovered even since I received your letter), and I will continue to monitor the investigation closely in light of my responsibilities under the Independent Counsel Act. Should future developments make it appropriate to invoke the procedures of the Act, I will do so without hesitation.

Sincerely,

JANET RENO.

EXHIBIT 1

[From the Washington Post, Apr. 14, 1997]

REPUBLICANS WARN RENO ON INDEPENDENT COUNSEL

(By John E. Wang)

House Speaker Newt Gingrich (R-Ga.) said yesterday Attorney General Janet Reno should be called before Congress to testify under oath if she does not tell Congress today that she will seek an independent counsel to investigate alleged abuses in Democratic Party fund-raising.

Gingrich declared he has no confidence in Reno as attorney general and, when asked if she should resign, said: ''We'll know tomorrow,'' the deadline for Reno to respond to a request from congressional Republicans that she call for an independent counsel in the matter.

''The evidence mounts every day of lawbreaking in this administration,'' Gingrich said on ''Fox News Sunday.''

''If she can look at the day-after-day revelations about this administration and not conclude it's time for an independent counsel, how can any serious citizen have any sense of faith in her judgment?''

Late last week, the indications were that Reno would likely not seek a counsel in the case, which is already being investigated by career Justice Department prosecutors, but aides emphasized no final decision had been made.

If she decides not to ask a three-judge panel to name an independent counsel, Gingrich said, Reno needs to explain her decision. ''She needs to answer in public, she needs to answer, I think, under oath,'' he said.

Senate Judiciary Committee Chairman Orrin G. Hatch (R-Utah) said Reno ''becomes a major issue'' if she does not call for an independent counsel.

''The conflict of interest, both apparent and real, it seems to me, would necessitate her choosing an independent counsel,'' he said on ABC's ''This Week.'' ''If she doesn't, then I think there's going to be a swirl of criticism that's going to be, I think, very much justified.''

Justice Department spokesman Bert Brandenburg dismissed such talk. ''Unfortunately, this has become a battle between law and politics,'' he said in a telephone interview. ''The Justice Department will adhere to the law.''

Reno routinely asks the career prosecutors looking into the matter whether any development requires the appointment of an independent counsel, according to Brandenburg. So far, they have not said that an independent counsel is indicated, he said.

The law says the attorney general must ask for an independent counsel if there is specific, credible information of criminal wrongdoing by top administration officials—including the president, vice president and Cabinet officers—the head of a president's election or reelection campaign or anyone else for whom it would be a conflict of interest for the Justice Department to investigate.

House Judiciary Committee Chairman Henry J. Hyde (R-Ill.) said an independent counsel was needed to maintain public confidence in the investigation. ''In-house investigations, as honorable as they might well be, don't sell the public on the fact that they are independent,'' he said on ABC.

While Hyde said he retains his confidence in Reno as attorney general, Gingrich was sharply critical of her for not telling White House officials the FBI suspected China was planning to make illegal campaign contributions. Reno has said she telephoned national security adviser Anthony Lake, failed to reach him and never called back.

''If you're the top law enforcement officer of this country . . . wouldn't you say to the White House, 'Gee, the president and the secretary of state ought to know we think the Chinese communists may be trying to buy the American election'?'' he said.

House Majority Leader Richard K. Armey (R-Tex.) suggested Reno is victim of the political pressures within the administration.

''This is a person that would like to be professional and responsible in their job, and that makes her out of place in this administration,'' Armey said on CBS's ''Face the Nation.'' ''She is in a hopeless situation. . . . If I were Janet Reno, I would just say, 'I can't function with people that stand with these standards of conduct and behavior and I'm leaving.'''

On another topic, Gingrich said the United States should ''consider very seriously'' military action against ''certain very high-value targets in Iran'' if there is strong evidence linking a senior Iranian government official to a group of Shiite Muslims suspected of bombing a U.S. military compound in Saudi Arabia last year.

''We have to take whatever steps are necessary to convince Iran that state-sponsored terrorism is not acceptable,'' he said. ''The indirect killing of Americans is still an act of war.''

The Washington Post reported yesterday that intelligence information indicates that Brig. Ahmad Sherifi, a senior Iranian intelligence officer and a top official in Iran's Revolutionary Guards, met roughly two years before the bombing with a Saudi Shiite arrested March 18 in Canada. According to Canadian court records, the man, Hani Abd Rahim Sayegh, had fled Saudi Arabia shortly after the June 25 bombing that killed 19 U.S. servicemen and wounded more than 500 others.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

## JACKIE ROBINSON AND PENSIONS FOR FORMER NEGRO LEAGUE/MAJOR LEAGUE PLAYERS

Ms. MOSELEY-BRAUN. Mr. President, particularly as we are talking about tax day, I think it is important, also, to talk about something that, as Americans, we can celebrate together on this day.

Today marks the anniversary of an important day in American history. Today is the 50th anniversary of Jackie Robinson's dismantling of the color barrier in major league baseball. It might even be said that his actions, in so doing, were the beginning of the dismantling of American apartheid and the system of Jim Crow segregation that kept us apart in this country. I know for a fact that I would not be here in the U.S. Senate today had it not been for the achievement of Jackie Robinson. I daresay that the victory of Tiger Woods in the Masters, which every American celebrated, I think, would not have happened had it not been for Jackie Robinson's achievement.

It was 50 years ago that Jackie Robinson became a member of the Brooklyn Dodgers, making history by opening doors that had previously been closed to African American athletes. The year 1997 also marks the year that major league baseball owners agreed to give pensions to several baseball players who played in the then-segregated Negro Leagues. Many of those players followed in the path that was blazed by Jackie Robinson, but they were ineligible for major league pensions. The fact that the owners fixed that this year again is reason for us to celebrate.

Mr. President, there are few Americans today who do not know of Jackie Robinson, the baseball great whose talent and pursuit of excellence enabled him to break the color barrier 50 years ago. Jackie Robinson began his baseball career in 1945 as a Negro League player after serving his country in World War II. The following year he joined the minor league operation of the Brooklyn Dodgers, and was named the Minor League Most Valuable Player. In 1947, he was brought up to play in the major leagues, and was named 1947's Rookie of the Year. Two years later, he was named the league's Most Valuable Player. In 1962, Jackie Robinson became the first African-American named to Baseball's Hall of Fame.

Jackie Robinson's legacy, however, is not restricted to that of a sports legend, or even a civil rights pioneer. Today I want to talk about some of his many achievements off the baseball field. While playing professional baseball, Jackie Robinson served as an inspiration to many people of the heights they could achieve. Upon his retirement, he was determined to make a real difference in the quality of the lives of others. As founder of the Jackie Robinson Development Corp. and the Freedom National Bank, he was able to provide access to capital and affordable housing to low income families in the underserved community of Harlem.

Even today, his good works continue through his widow, Rachel Robinson, who started the Jackie Robinson Foundation 1 year after his death. The Foundation provides full 4-year college scholarships for minority and disadvantaged young people. The recipients are chosen based on academic strength, community service, leadership potential and financial need. There have been over 400 Jackie Robinson scholars from across the country with a 92 percent graduation rate.

In order to celebrate these achievements, Senator D'AMATO and I led the effort to mint a commemorative coin in honor of Jackie Robinson. I am delighted that this legislation passed and that the Jackie Robinson Foundation will benefit from profits earned by the coin. Minting will begin later this year.

Jackie Robinson's extraordinary successes were the result of phenomenal talent and determination. While much of the world knows of Jackie Robinson's success, we must not forget the African-American baseball players who played in the Majors and helped integrate the game, yet did not receive the recognition for their contribution to the game, nor, for that matter, receive a pension for their time in the Majors.

Last year, I became aware of the plight of Sam Jethroe, a former major league ball player whose career in baseball began in the Negro League. Sam Jethroe, born in East St. Louis, IL, on January 20, 1922, began playing for the Cleveland Buckeyes, a Negro League team, at the age of 20. He played for the Buckeyes for seven seasons, and was one of the recognized stars of the Negro League.

A switch-hitting outfielder who threw right-handed, Jethroe was christened ''Jet'' for running so fast; opposing teams actually worked at strategies to slow him down. Sam Jethroe was also a good hitter; he batted .300 during his time with the Buckeyes and he led the Negro League in hitting in 1942, 1944, and 1945.

Although African-Americans had previously been banned from the major

leagues, Mr. Jethroe was given a tryout with the Boston Red Sox in 1945. He wasn't signed onto a major league team, however, until 1949, 2 years after Jackie Robinson's historic appearance in the league. At that time, Mr. Jethroe became the first African-American baseball player on the Boston—now Atlanta—Braves and debuted on their team in 1950. He was their starting center fielder.

In 1950, Sam Jethroe won the base-stealing crown, with 35, scored 100 runs, and batted .273, with 18 homers and 58 RBI's. As a result he was named National League Rookie of the Year in 1950, the third African-American to capture the honor in 4 years, following Jackie Robinson and pitcher Don Newcombe. In 1951, Sam Jethroe was even better. He repeated his stolen base title win and batted .280, with 101 runs scored, 29 doubles, 10 triples, 18 homers, and 65 RBI's.

After spending 1953 in the minors, Mr. Jethroe completed a successful career in baseball by playing two games with the Pittsburgh Pirates.

At the time that Sam Jethroe played baseball, a player needed 4 years of service in the major leagues in order to qualify for a pension. As you may know, players active since 1980 need only 1 year in the majors to qualify. Because Sam Jethroe fell short of the 4-year requirement, he has never received a pension. I believe that Mr. Jethroe would have qualified for a pension; that is, he would have played more than 4 years in major league baseball had it not been for the fact that he was banned from baseball because of the color of his skin.

The misfortune of the ban was compounded by the change of vesting rules for pension eligibility. Sam Jethroe is now 74 years old, and does not enjoy a secure retirement.

Pension security goes to the heart of our challenge to treat the end of life as the golden years rather than the disposable years. Retirement security has been likened to a three legged stool. Social security, private pensions, and personal savings constitute the basis of an income stream for the later years of life. While Sam Jethroe was eligible for social security benefits, he had limited savings, and did not receive a pension for his years in major league baseball.

Sam Jethroe's compelling story prompted me to contact Jerry Reinsdorf of the Chicago White Sox to see if anything could be done to help Sam Jethroe and Negro League veterans suffering from similar circumstances.

Mr. Reinsdorf took the initiative and raised the issue of pension protection with other owners for those people who were excluded from major league baseball prior to the breaking down of the barriers by Jackie Robinson.

In 1997, the owners decided to provide pensions to the African-Americans who played solely in the Negro leagues before 1948, as well as those who played both in the Negro leagues and in the major leagues. I would like to commend Jerry Reinsdorf for his help in this matter. Sam Jethroe and the other Negro League players would not have received this long-awaited relief had it not been for him.

I also want to commend the owners for the tremendous good will and propriety of their decision. They recognized an injustice and fixed it. It is fitting that major league baseball recognize the contributions of these fine athletes in the year that we recognize and celebrate the 50th anniversary of Jackie Robinson's historic breakthrough in major league baseball.

So, Mr. President, in summary, I would like to say that there is good news today, the 15th of April. Not only did Jackie Robinson 50 years ago help open up doors in America, but he helped to change hearts. Fifty years ago, after the owners of major league baseball debated whether or not to let people of color play America's game, they made a decision that America's game would take care of one of its own. It seems to me to be an essential American story, that in 50 years' time we have seen enough change in this country, given rise by the sacrifice, the commitment, and the excellence pursued by Jackie Robinson and those like him who opened up doors. Now, 50 years later, those doors have been opened, and the hearts of many Americans have, indeed, been changed.

I think that is good news for today that we can all celebrate.

(The remarks of Ms. MOSELEY-BRAUN pertaining to the introduction of S. 586 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Senator from Missouri is recognized.

Mr. ASHCROFT. I thank the Chair very much for this opportunity to speak in morning business.

I commend the Senator from Illinois for her excellent remarks regarding Jackie Robinson, who is an American leader, an inspiration in terms of an individual whose conduct was inspiring not just to people of one race or another but to all America. This is the day upon which we are encouraged to and would appropriately celebrate his vast achievements and his substantial contributions. I thank the Senator from Illinois for her comments in that respect.

(The remarks of Mr. ASHCROFT pertaining to the introduction of S. 579 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

## UNANIMOUS-CONSENT AGREEMENT—S. 522

Mr. LOTT. Mr. President, I ask unanimous consent that beginning immediately, at approximately 3:20 today, the Senate proceed to the consideration of Calendar No. 37, S. 522, regarding the unauthorized access of tax returns, and the bill be considered under the following limitations: There be only one amendment in order to the bill, to be offered by Senators COVERDELL, GLENN, ROTH and MOYNIHAN; no other motions or amendments be in order; further, total debate on the amendment and the bill be limited to 35 minutes divided equally between Senator COVERDELL or his designee and Senator GLENN or his designee.

I further ask unanimous consent that following the expiration or yielding back of time, the Senate proceed to the vote on the Coverdell amendment, the bill then be read a third time and there be 10 minutes for debate at that point to be equally divided, to be followed at that point by a vote on S. 522, as amended if amendment.

That would mean we would have 45 minutes of debate and have final passage shortly after 4 o'clock, probably 5 minutes after 4.

That is my unanimous-consent request.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. Reserving the right to object, I would like to ask the majority leader if I could have unanimous consent for 10 minutes to introduce a bill and speak after the vote on the Coverdell legislation?

Mr. LOTT. Mr. President, we have a number of Senators that may be requesting time to speak after this. I think we can accommodate the Senator, but I would like to get a minute where maybe we can get all those wrapped up and we will get an agreement during the debate. So the Senator will get the 10 minutes shortly after the vote, if he would defer for now, and I will see what we have to do. We will certainly treat the Senator fairly in that context.

Mr. DURBIN. I withdraw my objection.

Mr. DASCHLE. Reserving the right to object, I thank my colleagues, especially Senator COVERDELL, for working with us to try to resolve this matter. The language that we now have incorporated, or will have incorporated, in the resolution is certainly acceptable. I hope we can have a good debate and pass this legislation this afternoon. It is important we do it today, but it is also important this legislation, involving flood victims, be passed today. This will accommodate our need in that regard.

I thank Senator COVERDELL and the majority leader for their cooperation. I have no objection.

Mr. LOTT. Mr. President, I will send an amendment to the desk. I do want to note, while this is going to the desk, we did work to accommodate the Senator and other Senators from the area where there have been floods. We have made a change in the time flood insurance is required to be covered by—we limited the times involved, so we could have time to assess, maybe, the impact and whether or not to put it on a permanent basis. But I want the RECORD

to show that we worked to make sure that Senators' concerns, which were certainly understandable, were accommodated.

Was there objection?

The PRESIDING OFFICER. No objection was heard to the majority leader's request.

Mr. LOTT. I thank the Chair.

## TAXPAYER PRIVACY PROTECTION ACT

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 522) to amend the Internal Revenue Code of 1986 to impose civil and criminal penalties for the unauthorized access of tax returns and tax return information by Federal employees and other persons, and for other purposes.

The Senate proceeded to consider the bill.

AMENDMENT NO. 45

(Purpose: To amend the Internal Revenue Code of 1986 to prevent the unauthorized inspection of tax returns or tax return information)

Mr. LOTT. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Mississippi [Mr. LOTT], for Mr. COVERDELL, for himself, Mr. GLENN, Mr. ROTH, and Mr. MOYNIHAN proposes an amendment numbered 45.

Mr. COVERDELL. 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:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Taxpayer Browsing Protection Act''.

**SEC. 2. PENALTY FOR UNAUTHORIZED INSPECTION OF TAX RETURNS OR TAX RETURN INFORMATION.**

(a) IN GENERAL.—Part I of subchapter A of Chapter 75 of the Internal Revenue Code of 1985 (relating to crimes, other offenses, and forfeitures) is amended by adding after section 7213 the following new section:

**''SEC. 7213A. UNAUTHORIZED INSPECTION OF RETURNS OR RETURN INFORMATION.**

''(a) PROHIBITIONS.—

''(1) FEDERAL EMPLOYEES AND OTHER PERSONS.—It shall be unlawful for—

''(A) any officer or employee of the United States, or

''(B) any person described in section 6103(n) or an officer or employee of any such person,

willfully to inspect, except as authorized in this title, any return or return information.

''(2) STATE AND OTHER EMPLOYEES.—It shall be unlawful for any person (not described in paragraph (1)) willfully to inspect, except as authorized in this title, any return or return information acquired by such person or another person under provision of section 6103 referred to in section 7213(a)(2).

''(b) PENALTY.—

''(1) IN GENERAL.—Any violation of subsection (a) shall be punishable upon conviction by a fine in any amount not exceeding $1,000, or imprisonment of not more than 1 year, or both, together with the costs of prosecution.

''(2) FEDERAL OFFICERS OR EMPLOYEES.—An officer or employee of the United States who is convicted of any violation of subsection (a) shall, in addition to any other punishment, be dismissed from office or discharged from employment.

''(c) DEFINITIONS.—For purposes of this section, the terms 'inspect', 'return', and 'return information' have the respective meanings given such terms by section 6103(b).''

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (2) of section 7213(a) of such Code is amended by inserting ''(5),'' after ''(m)(2), (4),''.

(2) The table of sections for part I of subchapter A of chapter 75 of such Code is amended by inserting after the item relating to section 7213 the following new item:

''Sec. 7213A. Unauthorized inspection of returns or return information.''

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to violations occurring on and after the date of the enactment of this Act.

**SEC. 3. CIVIL DAMAGES FOR UNAUTHORIZED INSPECTION OF RETURNS AND RETURN INFORMATION; NOTIFICATION OF UNLAWFUL INSPECTION OR DISCLOSURE.**

''(a) CIVIL DAMAGES FOR UNAUTHORIZED INSPECTION.—Subsection (a) of section 7431 of the Internal Revenue Code of 1986 is amended—

(1) by striking ''DISCLOSURE'' in the headings for paragraphs (1) and (2) and inserting ''INSPECTION OR DISCLOSURE'', and

(2) by striking ''discloses'' in paragraphs (1) and (2) and inserting ''inspects or discloses''.

(b) NOTIFICATION OF UNLAWFUL INSPECTION OR DISCLOSURE.—Section 7431 of such Code is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and by inserting after subsection (d) the following new subsection:

''(e) NOTIFICATION OF UNLAWFUL INSPECTION AND DISCLOSURE.—If any person is criminally charged by indictment or information with inspection or disclosure of a taxpayer's return or return information in violation of—

''(1) paragraph (1) or (2) of section 7213(a),

''(2) section 7213A(a), or

''(3) subparagraph (B) of section 1030(a)(2) of title 18, United States Code,

the Secretary shall notify such taxpayer as soon as practicable of such inspection or disclosure.''

(c) NO DAMAGES FOR INSPECTION REQUESTED BY TAXPAYER.—Subsection (b) of section 7431 of such Code is amended to read as follows:

''(b) EXCEPTIONS.—No liability shall arise under this section with respect to any inspection or disclosure—

''(1) which results from a good faith, but erroneous, interpretation of section 6103, or

''(2) which is requested by the taxpayer.''

(d) CONFORMING AMENDMENTS.—

(1) Subsections (c)(1)(A), (c)(1)(B)(i), and (d) of section 7431 of such Code are each amended by inserting ''inspection or'' before ''disclosure''.

(2) Clause (ii) of section 7431(c)(1)(B) of such Code is amended by striking ''willful disclosure or a disclosure'' and inserting ''willful inspection or disclosure or an inspection or disclosure''.

(3) Subsection (f) of section 7431 of such Code, as redesignated by subsection (b), is amended to read as follows:

''(f) DEFINITIONS.—For purposes of this section, the terms 'inspect', 'inspection', 'return', and 'return information' have the respective meanings given such terms by section 6103(b).''

(4) The section heading for section 7431 of such Code is amended by inserting ''INSPECTION OR'' before ''DISCLOSURE''.

(5) The table of sections for subchapter B of chapter 76 of such Code is amended by inserting ''inspection or'' before ''disclosure'' in the item relating to section 7431.

(6) Paragraph (2) of section 7431(g) of such Code, as redesignated by subsection (b), is amended by striking ''any use'' and inserting ''any inspection or use''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to inspections and disclosures occurring on and after the date of the enactment of this Act.

**SEC. 4.**

(a) IN GENERAL.—Section 1306(c)(1) of the National Flood Insurance Act of 1968 (42 U.S.C. 4013(c)(1)) is amended by striking ''30'' and inserting ''15''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be construed to have taken effect on January 1, 1997, and shall expire June 30, 1997.

Mr. COVERDELL. Mr. President, as I understand the situation at the moment, we now have until 4:05, when the unanimous consent called for the vote. Time would be equally divided?

The PRESIDING OFFICER. The Senator from Georgia is correct.

Mr. COVERDELL. Is that about 20 minutes on each side?

The PRESIDING OFFICER. There will be 17½ minutes for each side.

Mr. COVERDELL. Mr. President, first, let me thank all the Senators who have played a significant role in this legislation that we are about to vote on, certainly Senators GLENN of Ohio and ROTH of Delaware and others, who have committed themselves to ending the practice on the part of the IRS of snooping through the personal tax files of American citizens.

Recently, the GAO issued its report on IRS system security, on April 8, which was initiated at the request of Senator GLENN. The General Accounting Office concluded that the IRS has failed to effectively deal with file snooping. It says:

Further, although the IRS has taken some action to detect browsing—

That word means looking at the personal tax files of American taxpayers.

it is still not effectively addressing this area of continuing concern because (1) it does not know the full extent of browsing and (2) it is consistently addressing cases of browsing.

The GAO found that the IRS still does not know the full extent of file snooping, it says:

Because the IRS does not monitor the activities of all employees authorized to access taxpayer data . . ., IRS has no assurance that employees are not—[snooping, they use the word browsing] taxpayer data, and no analytical basis on which to estimate the extent of the browsing problem or any damage being done.

The Internal Revenue Service stated a zero tolerance policy, with regard to file snooping. In 1993, Commissioner Margaret Richardson stated:

Any access of taxpayer information with no legitimate business reason to do so is unauthorized and improper and will not be tolerated.

She said:

We will discipline those who abuse taxpayer trust up to and including removal or prosecution.

Recent reports have documented up to 800, last year alone, files were violated, hundreds of employees have been involved—and there have been 23 suspensions. This statement that was made to the American people has not been fulfilled. That is why this legislation is here today.

Since the IRS Commissioner made this statement, the IRS has found 1,515 additional confirmed cases of file snooping. But, as I said, only 23 resulted in job termination and only 23 percent resulted in any disciplinary action at all. Since 1991, there have been 3,345 confirmed cases of file snooping by IRS employees.

This is reprehensible activity. These are very, very personal records and are expected to be maintained in just that way. I think the irony of this is that whenever you get at odds with IRS, you get audited. Some would say audited is a kind word. Some people feel they have been bludgeoned. But the IRS has been engaged in activity that is reprehensible and it is time for them to be audited.

This measure, coauthored by myself, Senator GLENN, Senator ROTH and others, is the beginning of an audit of IRS. It is symbolic that we pass this legislation today but it is important to note that the IRS Accountability Act comes right behind this, the IRS Accountability Act, which will deal not only with file snooping, but with random audits, balancing the ledger between the taxpayer and this agency, and putting IRS agents under the same laws as the rest of American citizens.

Recently, the Wall Street Journal, on April 3, 1997, printed an article about IRS activities. I will quote it here. According to a Federal jury here, this gentleman:

> . . . took unauthorized looks at returns of a political opponent, [this is an IRS employee] a family adversary, and two associates in the white-supremacist movement whom, the government says, he suspected of being informers. The jury convicted [this gentleman] in December 1995 on 13 counts of wire and computer fraud, and he spent 6 months of 1996 in jail.

Some IRS browsers apparently are merely nosy. Geoffrey Coughlin, a Houston account analyst, last year pleaded guilty to looking at more than 150 unauthorized files, including those of friends and relatives, ex-girlfriends, politicians, and sports stars.

This is another case. Robert M. Patterson, an IRS examiner in Memphis, TN, scanned agency computers for tax records of people named Dolly Parton, Wynonna Judd, Karen Carpenter, Garth Brooks, Elizabeth Taylor—well, it is pretty clear, to understand the drift here.

This legislation, Coverdell-Glenn-Roth, makes it a Federal misdemeanor, $1,000 fine, a year imprisonment under the Federal sentencing guidelines. A convicted offender would pay costs of prosecution and be dismissed from position where applicable. It covers Federal employees and officers, and State and other employees who have access to tax records.

Taxpayers whose files have been accessed and are disclosed without proper authorization can seek civil action; such civil action against the United States, when the offender is a Federal employee, and against the individual offender when not a Federal employee. It requires taxpayer notification if we certify that their files have been improperly accessed or disclosed and they would be notified when the offender is charged formally.

There are several Senators who want to speak on this measure. I notice the Senator from Ohio has arrived, the coauthor of the proposal.

I am going to yield to the Chairman of the Finance Committee, Senator ROTH, who has done outstanding work on this proposal.

Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. The Senator from Georgia has 9 minutes remaining.

Mr. COVERDELL. I yield 5 minutes to the chairman of the Finance Committee.

The PRESIDING OFFICER. The Senator from Delaware is recognized for 5 minutes.

Mr. ROTH. Mr. President, students of history may remember Henry Stimson. He served America as Secretary of War and Secretary of State in the first half of the 20th century. While in office, Stimson tried to close down American counterintelligence sources. His reason, you may recall, was that ''gentlemen do not read each other's mail.''

Today, Mr. President, Henry Stimson would not only be concerned about counterintelligence operations but about the Internal Revenue Service as well. Recent reports disclose that among the abuses and misuses of power and access at the IRS is the ability of IRS employees to snoop in the files of unwitting taxpayers.

While it's not the mail that these snoops are reading, it is something just as sensitive. I don't know of anyone who wants his or her detailed financial information perused without reason. The millions of Americans who comply with the law and file tax returns each year, should be able to do so without fear or hesitation that someone—for purposes of curiosity, revenge, or even a more avaricious motive—is snooping through their private information.

If Government has one responsibility to these men and women it certainly must be to ensure their privacy. Current law does prohibit the disclosure of confidential taxpayer information. However, the Internal Revenue Code does not specifically prohibit IRS employees from unauthorized inspection or snooping of confidential taxpayer information.

I can think of no better day to call for change that today, April 15, when once again those millions of trusting Americans are rushing their returns off to the IRS.

You may remember, Mr. President, that last year, Congress amended title 18 of the United States Code to make it a crime to use a computer to snoop information of any Federal department or agency, including the IRS. However, last year's legislation did not apply to unauthorized inspection of paper documents.

The bill we introduce today will correct that. It will require that tax return information be kept confidential by the IRS and it's employees. It will ensure that IRS employees do not snoop confidential taxpayer information.

This bill will create a criminal penalty in the Internal Revenue Code of up to 1 year in prison and/or a fine of up to $1,000, plus the cost of prosecution for unauthorized willful browsing of confidential taxpayer information. The bill will also require the abusing employee to be fired.

The bill will allow civil damages for snooping, and, if an IRS employee is indicted for unlawful inspection or disclosure of a taxpayer's confidential information, the bill will require that the IRS notify the taxpayer.

Mr. President, this bill will provide additional protections and some peace of mind for taxpayers. I want to thank Senator COVERDELL and Senator GLENN for their efforts to protect taxpayers by making it a crime for IRS employees to snoop taxpayer data.

Mr. MOYNIHAN. Mr. President, I rise as an original cosponsor of this legislation to associate myself with the remarks of the distinguished chairman of the Committee on Finance. Unauthorized browsing of confidential tax information undermines the confidence of taxpayers, and such behavior ought to be subject to criminal penalties—which it will be under this bill.

This legislation is a product of the bipartisan efforts of the Senator from Ohio, Mr. GLENN, the Senator from Georgia, Mr. COVERDELL, the chairman of the Finance Committee, Senator ROTH, and the Senator from New York, among others. I join my chairman in urging its prompt enactment.

The PRESIDING OFFICER. Who yields time?

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. GLENN. We each have 17 minutes, is that correct?

The PRESIDING OFFICER. Seventeen and one-half minutes.

Mr. GLENN. I yield myself such time as I shall use.

Mr. President, today is April 15. We do not need to tell everybody that. It is tax day for most Americans. On this day, honest hard-working citizens voluntarily—voluntarily—share their most personal and sensitive financial information with their Government.

All Americans should have unbridled faith that their tax returns will remain absolutely, unequivocally confidential and zealously safeguarded. That is the hallmark of our taxpaying system, and if this trust is breached, it shakes the whole foundation of our very Government, because it means our people are losing faith in their Government.

That is why I am proud to be standing here today as one of the authors, one of the sponsors, the Democratic sponsor of legislation to outlaw what I have come to term as ''computer voyeurism.'' That is the unauthorized inspection of your tax information by those not entitled to see it, not the people legitimately working on your tax account.

In 1993 and 1994, as chairman of the Governmental Affairs Committee, I held hearings which first exposed this insidious practice. We came across it almost by happenstance.

In 1990, I was pleased to work with my distinguished colleague who just spoke, Senator ROTH, then ranking member of the committee, to pass into law the Chief Financial Officers Act. That measure required major Government agencies to do something for the first time which our own private businesses take for granted. That is, producing annual auditable financial statements so we know how much money is being spent, where it is being spent, and how it is being spent.

I figured that of all the Government agencies which should be able to balance its books and come up with a good auditable statement, it would be the IRS; it should be able to account for all the revenue taken in, and the IRS would be the agency we would look at first. In fact, before the CFO Act, we had no idea of the differences between what revenues the IRS reported it was collecting and what was actually on the books. Little did I know then how wrong I really was.

For 4 years running now, the IRS has not been able to pass its own audit. The General Accounting Office, which we asked to go in and help audit the IRS, still cannot even render an opinion on the reliability of the IRS's own books due, in part, to missing records, unsubstantiated amounts, and unreliable information. If we have that situation in the IRS, you can imagine what the situation is in some of the other agencies of Government.

The IRS, I guess if we put it in our own household terms, it would be records in a shoe box under the bed. If your return was being audited and you could not come up with the documents, you would be called on the carpet for that. You would not get too much sympathy. But all that is another story, one of which the Governmental Affairs Committee has held numerous oversight hearings on.

But it was through these initial GAO CFO audits we first discovered the problems IRS was having in preventing and detecting employees who get their kicks, apparently, out of surfing through other people's tax returns, ones they are not supposed to be working on or looking at.

Our hearings revealed that in the years 1989 to 1994, more than 1,300 IRS employees were investigated on suspicion of snooping through private taxpayer files. Those probes resulted in disciplinary action against 420 workers, primarily in the Southeast region where the investigation was concentrated.

My investigation found that some IRS employees had been browsing through the financial records of family members, ex-spouses, coworkers, neighbors, friends and enemies, and celebrities in particular.

They also had submitted fraudulent tax returns and then used their computer access to monitor the IRS review of those returns.

They used the computer to issue fraudulent refunds to family and to friends and, in fact, one employee was reported to have altered about 200 accounts and received kickbacks from inflated refund checks.

We, in Congress, at that time were absolutely stunned at these revelations and did not believe it could happen, but it did. But it did not light a candle to the firestorm across the country from outraged—appropriately outraged—American taxpayers because we got a wave of indignation. Taxpayers were shocked to know that the most personal information they voluntarily, and in good faith, provide to the Government could, in effect, become an open book for others' private entertainment.

Even worse was the pitifully low number of employees fired for committing these awful actions. It turned out that no criminal penalties existed for these kinds of browsing offenses.

Mr. President, above the entrance to the main IRS building in DC are inscribed the famous words uttered by Oliver Wendell Holmes:

> Taxes are what we pay for a civilized society.

Unfortunately, what American citizens have been subjected to in this case is downright uncivilized behavior.

At our hearings, the Commissioner of Internal Revenue pledged to implement a ''zero tolerance'' policy. Warnings of possible prosecution for unauthorized use of the system began appearing whenever workers logged on to the main taxpayer account database. Explicit memos went out to all employees warning them against such unauthorized activities.

Finally, a new automated detection program, called EARL—electronic audit research log—was installed on the primary computer system to monitor employee use and alert managers to possible misuse.

To evaluate the effectiveness of these actions, particularly the new computer detection system, I asked GAO to conduct a review. I also asked the inspector general at the Department of Treasury to perform an inspection.

In the meantime, we worked with the Treasury Department, the Department of Justice and the IRS to come up with a legislative solution for closing the legal loophole that let browsers off the hook from criminal punishment.

That effort culminated in the legislation, the Taxpayer Browsing Protection Act, which I introduced in 1995 during the 104th Congress and as S. 523 for the 105th Congress.

The goal was simple: to make willful browsers subject to a criminal misdemeanor penalty of up to $1,000 and a year in jail, and if any IRS employees are convicted of such an offense, they would be fired immediately. Zero tolerance should mean what it says—absolutely, positively no tolerance.

That legislation was incorporated into this amendment and was the basis for the bill as is currently being considered in the House.

We were not able to pass my bill in the last Congress—we did come close to trying to move it in the Senate—the issue has gotten more exposure now due to two recent court cases.

Just last year, in Tennessee, a jury acquitted a former IRS employee who had been charged with 70 counts of improperly peeking at the tax returns of celebrities such as Elizabeth Taylor, Dolly Parton, Wynonna Judd, Michael Jordan, Lucille Ball, Tom Cruise, President Clinton, and Elvis Presley, just to name some of them.

More recently, just a few weeks ago, a Federal appeals court in Boston reversed the conviction of a former employee who had been found guilty of several counts of wire and computer fraud by improperly accessing the IRS taxpayer database. It is reported that he had browsed through several files, including those of a local politician who had beaten him in an election, and a woman he once had dated. The Government had alleged that this worker was a member of a white supremacist group and was collecting data on people he thought could be Government informers.

In both of these cases, though there was unauthorized snooping, because there was no subsequent disclosure to third parties, no criminal penalties could be meted out. As the First U.S. Circuit Court of Appeals held:

> Unauthorized browsing of taxpayer files, although certainly inappropriate conduct, cannot, without more, sustain a felony conviction.

Sounds ridiculous, but that is what the court ruled. That was their interpretation of the fine print of the law. I doubt these kinds of decisions give great comfort to honest law-abiding citizens.

I should note that last year, Congress passed the Economic Espionage Act of 1996. My good friend, Senator LEAHY, played a major part in this effort. This law does provide title 18 criminal penalties for anyone intentionally accessing a computer without authorization, or exceeding authorized access, and obtaining any information from any Department or agency of the United States. This section may be helpful in prosecuting future cases, since it would apply to tax information stored in computers.

This provision is not enough in our efforts to deter and punish browsing, for, according to the IRS, it does not apply to the unauthorized access or inspection of paper tax returns, return

information in other forms, such as documents or magnetic media, such as tapes.

That is why we, all taxpayers, need the protections originally espoused in the bill and incorporated in this amendment to specifically fill this gap and ensure unauthorized browsing or inspection of any tax information in any form is subject to criminal penalties, and that is what this does. It will also provide those criminal sanctions within the Internal Revenue Code so that the confidentiality scheme governing tax information and the related law enforcement mechanisms are preserved in the same section.

While I do feel the recent court decisions have spurred us on, I also believe the new findings contained in a GAO report I released last weekend entitled ''IRS Security Systems: Tax Processing Operations and Data Still at Risk Due to Serious Weaknesses,'' have brought this problem to the forefront.

This report is the evaluation I asked GAO to undertake in 1994 in response to the actions implemented by the IRS to prevent browsing and enforce its zero tolerance policy. It was released by GAO earlier this year; however, because some of the specific details could potentially jeopardize IRS security, the report was designated for ''Limited Official Use'' with restricted access.

I have been involved in this important issue for a long time and because I believe the public has a right to know, I requested that GAO issue a redacted version of the report suitable for public release. I thank GAO for their hard work in this matter and also the IRS for their cooperation in making this possible.

The findings of GAO's report are disturbing. Even more important, their conclusions are reaffirmed by the IRS in a comprehensive internal report of their own compiled last fall.

In addition, I should add, they are buttressed to some extent by a review I asked the Treasury Inspector General to conduct on IRS computer security controls and the Service's progress in addressing the shortcomings. That report, too, is ''Limited Official Use.'' But I can tell you, while there have been some positive actions taken to proactively confront this problem, we are nowhere near any satisfactory resolution.

The bottom line is although the IRS efforts in this area are well-intentioned, unfortunately they have come too late and fall far short of the commitment and determination sorely needed to tackle this problem head on.

The findings of GAO's report are disturbing. Just as important, their conclusions are affirmed by the IRS in a comprehensive internal report of their own compiled last fall.

GAO found that serious weaknesses in IRS's information security makes taxpayer data vulnerable to authorized use, to modification, or to destruction. According to GAO, the IRS also has no effective means for measuring the extent of the browsing problem, the damage being done by browsing, or the progress being made to deter browsing.

Finally, and this is something I am having GAO look at further, we do not know to what extent the detection and control systems exist in other IRS databases, besides ''IDRS,'' the primary taxpayers' account system looked at here. That may be open for further problems.

I was struck by the candor in the IRS's own internal report on the ''EARL'' detection system. That report found its progress in management programs to prevent and detect browsing ''painfully slow,'' as they determined. Quite distressing to me, the IRS internal report indicated that some employees felt IRS management does not aggressively pursue browsing violations. Some workers, when confronted about their snooping activities, saw nothing wrong and believed it would be of no consequence to them even if they were caught. Hard to believe.

Mr. President, we have to fix that. When you have over 1,500 investigations of browsing cases since my last hearings 2 years ago, and only 23 workers fired, something just is not right. That does not sound like zero tolerance to me.

I have a more detailed summary of the major findings contained in both the GAO and internal IRS report which I ask unanimous consent to have printed at the end of my statement.

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

(See exhibit 1.)

Mr. GLENN. I also point out the effectiveness of controls used to safeguard IRS systems, facilities, and taxpayer data. GAO found serious weaknesses in these efforts, especially in the areas of physical and logical security.

For example, the facilities visited by GAO could not account for over 6,400 units of magnetic storage media such as tapes and cartridges which might contain taxpayer data. Now, IRS responded last week they have located 5,700 of the units, but that means that 700 are still unaccounted for. That begs the question: Where are they? Are they deemed lost? And can they be misused? Each of the units can store tax information on thousands of Americans. We need to know where they are. Moreover, GAO only visited selected facilities. I just wonder if the IRS is able to track all of its inventory at the other major sites not visited by GAO. We would like to know what the results are there, too.

GAO also found that printouts containing taxpayer data were left unprotected and unattended in open areas of two facilities, where they could be compromised. I do not want to say much more on this portion of the report than I have already said, except that these matters and the others referred to by GAO must be dealt with swiftly and effectively.

I am glad to have brought this matter to the Senate's attention and am pleased to have the support of colleagues. I commend the efforts of Senator COVERDELL in this area. He has added very significant provisions to some of the original language. I think we have an excellent bill. I want to congratulate him for taking the initiative in bringing this up.

The first of the sections that Senator COVERDELL brought would require that a taxpayer be notified by the Secretary of the Treasury when a criminal indictment or charge is brought against an IRS employee for unlawful inspection of that taxpayer's return or return information. This is something I remember Senator Pryor, our former colleague, bringing up before the Commissioner at one of our earlier hearings.

The second new section will provide taxpayers with a civil remedy in such unauthorized inspections as similarly provided under current law for unlawful disclosures. This provision clarifies that civil liability will not be a remedy in cases where the inspection is requested by the taxpayer or in any instance which results from an accidental review of a return or return information.

I want to be clear about that last point in reference to the legislation at hand. I do not want to compromise IRS employees' ability to do what they are supposed to be doing, especially in the areas of return processing, examination, and inspection. Under this bill, IRS employees will continue to be able to inspect tax returns or return information as authorized by the Internal Revenue Code or tax administration purposes without penalties. Only intentional, willful, unauthorized inspections will be subject to prosecution, where you knew or should have known it was wrong.

As the report by the House Ways and Means Committee states: ''Accidental or inadvertent inspection that may occur—such as, for example, by making an error in typing in a TIN [Taxpayer Identification Number]—would not be subject to damages because it would not meet this standard.''

These are good provisions and I welcome their inclusion. I also want to thank my distinguished colleague, Senator ROTH, who sat with us as ranking member of the Governmental Affairs Committee during our hearings last year during consideration of the Taxpayer Bill of Rights 2, pledged his commitment and support for bringing this legislation to the floor.

Let me say a word about the men and women who work at the IRS. The vast majority of the people who work at the IRS are just as fine a people as there are in this room or anywhere else in this country. They are dedicated. They are trying to do a good job. I do not want to unduly scare anyone that this is commonplace or that their privacy has been violated. You have a few bad apples over there, but I am sure most of the people over there want to turn in themselves because most of the people

of the IRS, including the Commissioner, are proud of the work they are doing.

The Commissioner has done a good job in many areas. I have been complimentary of her. Her plan to deal with the IRS is a good one. The way of getting it downhill to the centers and the different regions and having it done there did not occur the way it should have, with what I thought was a very good plan. I do not want to condemn all the IRS over there. Normally, the people look down on the tax man every April 15. We know that. It is not popular to pay taxes. The people working there are doing a great service for this country, and we want to weed out those few bad apples that may be over there.

I have visited some of the sites and I know what some of the IRS employees are up against. It is not an easy job. They are, by and large, a dedicated bunch, committed to their job and laboring under difficult conditions with very outmoded systems. Unfortunately, in this day and age, they must also fear for their own personal safety. However, even just a single incidence of this behavior is one too many and cannot be tolerated.

The IRS has a moral and legal obligation to uphold when Americans provide the Government with their most personal and private information. The IRS must have the complete trust and confidence of taxpayers. That means we cannot tolerate any of this browsing or mishandling of accounts. The American people expect and demand nothing less.

I thank you, and I reserve the balance of my time.

MAJOR FINDINGS FROM GAO REPORT, SUPPLEMENTED WITH EXCERPTS FROM THE IRS' EARL EXECUTIVE STEERING COMMITTEE REPORT

THE IRS SYSTEM DESIGNED TO DETECT BROWSING (EARL) IS LIMITED

The main monitoring system, EARL, is supposed to be able to detect patterns of potential abuse by IRS employees in the IRS' primary database (IDRS). GAO found that the EARL system is ineffective because it can't distinguish between legitimate work activity and illegal browsing. Only through time-consuming manual reviews, which, according to internal IRS documents can sometimes take up to 40 hours, can actual instances, of snooping be positively identified.

Moreover, EARL only monitors the main taxpayer database. There are several other systems used by employees to create, access, or modify data which, apparently, go unsupervised. This is something I have asked the GAO to look into further.

According to GAO, ''because IRS does not monitor the activities of all employees authorized to access taxpayer data . . . IRS has no assurance that these employees are not browsing taxpayer data and no analytical basis on which to estimate the extent of the browsing problem or any damage being done.''

In fact, according, to the IRS' EARL report:

''The current system of reports does not provide accurate and meaningful data about what the abuse detection programs are producing, the quality of the outputs, the efficiency of our abuse detection research efforts, or the level of functional management follow through and discipline. This impedes our ability to respond to critics and congressional oversight inquiries about our abuse detection efforts.''

IRS PROGRESS IN REDUCING AND DISCIPLINING BROWSING CASES IS UNCLEAR

IRS' management information systems do not provide sufficient information to describe known browsing incidents precisely or to evaluate their severity consistently.

The systems used by the IRS cannot report on the total number of unauthorized browsing incidents. Nor do they contain sufficient information to determine, for each case investigated, how many taxpayer accounts were inappropriately accessed or how many times each account was accessed.

Consequently, for known incidents of browsing, IRS cannot efficiently determine how many and how often taxpayers' accounts were inappropriately accessed. Without such information, IRS cannot measure whether it is making progress from year to year in reducing browsing.

Internal IRS figures show a fluctuation in the number of browsing cases closed in the last few years: 521 cases in FY'91; 787 in FY'92; 522 in FY'93; 646 in FY'94, and; 869 in FY'95.

More distressing, however, is the fact that in spite of the Commissioner's announced ''Zero Tolerance'' policy, the percentages of cases resulting in discipline has remained constant from year to year. Figures for FY'91–FY'95 show that the percentage of browsing cases resulting in the IRS' three most severe categories of penalties (disciplinary action, separation, resignation/retirement) has ranged between 23–32 percent, with an average of 29 percent.

The IRS' internal report also confirms this: ''A review of disciplinary actions for IDRS abuse over the last four years showed that only 25% of the cases result in some discipline.''

That report also indicated that almost one-third of the cases detected were situations where an employee accessed their own account, which, according to the report, is ''generally attributable to trainee error.''

INCIDENTS OF BROWSING ARE REVIEWED AND REFERRED INCONSISTENTLY

IRS processing facilities do not consistently review and refer potential browsing cases. They had different policies and procedures for identifying potential violations and referring them to the appropriate unit within IRS for investigation and action. Further, IRS management had not developed procedures to assure that potential browsing cases were consistently reviewed and referred to management officials throughout the agency.

The IRS internal report identifies this as a problem area, too:

''Although the EARL system has been under development since 1993, the service has not yet maximized its ability to identify IDRS browsing. The process is labor intensive and there is little accountability for effectively using EARL and handling the cases it identifies. There is little consistency in the detection procedures from one center to the next or in how discipline is applied on abuse cases throughout the nation.''

PENALTIES FOR BROWSING ARE INCONSISTENT ACROSS IRS

Despite IRS policy to ensure that browsing penalties are handled consistently across the agency, it appears that there are disparities in how similar cases are decided among different offices, or even sometimes within the same office. Examples of inconsistent discipline included:

Temporary employees who attempted to access their own accounts were given letters of reprimand, although historically, IRS terminated temporary employees for this type of infraction.

One employee who attempted to access his own account was given a written warning, while other employees in similar situations, from the same division, were not counseled at all.

The IRS' EARL internal report also demonstrated widespread deviations on how browsing penalties were imposed. That report showed that for FY'95, for example, the percentage of browsing cases resulting in employee counseling ranged from a low of 0 percent at one facility to 77 percent at another. Similarly, the report showed that the percentage of cases resulting in removal ranged from 0 percent at one facility to 7 percent at another. For punishments other than counseling or removal (e.g., suspension), the range was between 10 percent and 86 percent.

More incredible to me—and quite distressing—is the extremely low percentage of employees caught browsing each year who are fired for their offense, according to the IRS' own figures. Would you believe that, for all of the browsing cases detected and closed each year, the highest number of employees fired in one year has been 12. Between FY'91–FY'95, only 43 employees were fired after browsing investigations. That is generally 1% of the total number of cases brought each year. Even if you include the category of resignation and retirement, the highest percentage of employees terminated through separation or resignation/retirement in any one year has been 6%.

PUNISHMENTS ASSESSED FOR BROWSING NOT CONSISTENTLY PUBLICIZED TO DETER VIOLATIONS

GAO found that IRS facilities did not consistently publicize the penalties assessed in browsing cases to deter such behavior. For example, one facility never reported disciplinary actions. By contrast, another facility used its monthly newsletter to report disciplinary actions for browsing, including citing a management official who had accessed a relative's account.

By inconsistently and incompletely reporting on penalties assessed for employee browsing, IRS is missing an opportunity to more effectively deter such action.

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

The PRESIDING OFFICER. The Senator from Georgia has 4 minutes and 23 seconds, plus the 5 minutes.

Mr. COVERDELL. Mr. President, first let me thank my good colleague from Ohio, Senator GLENN, for the extended effort and work, some of which he outlined in his statement, over a period of years to get at this problem. I appreciate his kind remarks in regard to my efforts.

Mr. President, the fact that we have come to a situation where it has been certified by the General Accounting Office and others that employees of the Internal Revenue Service have been reviewing personal records in an unauthorized way must be stopped. The purpose of this legislation is to do just that.

Senator GLENN also complimented the many loyal employees who work at the Internal Revenue Service, and that should be done. We would be remiss not to do so.

Mr. President, there is a reason that half the American people are offended

by this agency. The belligerence, the intimidation is well-documented, time and time again, and it is time that aura of having a standard or status that is higher than the taxpayer themselves come to an end.

As I said, on this Senator's part, this legislation is but a beginning of the kind of accountability that I think needs to be put in place with regard to the relationship between the Internal Revenue Service and the American people.

Somebody said today, in all the flurry of meetings, trying to resolve the differences here, that in no case should the average American citizen be frightened by an arm of their Government in the day-to-day function and relationship between people and their Government. The people should not be intimidated. They should not be fearful of this relationship.

I will leave the individual unnamed, but not long ago I was in a commercial establishment and I was visiting with probably a 70-year-old-plus woman in Atlanta. I was completing the transaction, and she said she wondered if she might be in touch with me. I said, ''Of course.'' I was about to leave, so I was trying to give her my card. I said, ''Here is somebody you can call to give me the details,'' and she leaned over between her computer and her cash register and motioned me to come over and began whispering to me about a problem that involved her and the IRS—a 70-year-old woman, a hard worker for years and years. She was scared to death. She was whispering to me because she was frightened. That has left a mark on me. It has happened to me more than once.

All too often the citizens that contact me with regard to problems with the IRS are of very modest means and they cannot defend themselves. They cannot protect themselves. They are frightened to death.

I hope what we jointly, in this bipartisan effort, are doing is but, as I said, a first step. We are ending a reprehensible practice that has occurred on the part of some at the IRS, but there is much work to be done as we begin a congressional audit of the Internal Revenue Service.

I am prepared to yield back my time and relinquish the floor for final comments from the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. GLENN. I thank my distinguished colleague from Georgia. I know we are approaching the time when we are supposed to have a vote.

The American people have to have the utmost confidentiality in the IRS. We have to have somebody collect the taxes that does everybody in this country good, that builds roads, the airways, does everything, so those who say we are mad at the IRS and we will do away with it, if they will just think what they are saying, what we need is to have zero tolerance for browsers and misuse of the system. That is what this addresses today. Our legislation will get the snoops out of the IRS. Our legislation says if you are going to snoop, you are going to jail. It is that simple.

If you are going to snoop, you are going to pay also. You are also going to lose your job. I think browsing angers me just like being violated personally, almost. Everybody has to feel that way because you trust your Government. We say we are giving this information willingly, honestly, and then they are misusing it. They are browsing, and the information may not remain confidential. We don't know what is going to happen to it. The American people deserve better than that.

I deplore those who are guilty of engaging in IRS-bashing. And it always seems to build to a crescendo on April 15. I repeat that most IRS employees are just as honest as anybody in this room or anybody in America. They are dedicated workers. They want to clean out this snooping and they want to see this problem go away just like all the rest of us do, so that more Americans don't lose faith in our voluntary tax system.

Mr. President, I ask unanimous consent to add JOHN KERRY of Massachusetts and Senator KOHL of Wisconsin to the bill as cosponsors.

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

Mr. LEAHY. Mr. President, last Congress we passed legislation I had written to provide criminal penalties for unauthorized snooping in computers. I understand that the Republican leadership is bringing up an extension of that legislation today. I am happy to see them bring it up, but I also point out to the American people that we have already passed some very strong legislation on this.

In fact, in terms of privacy protection legislation, we could have passed additional, strong legislation last year to provide protection and criminal sanctions against misuse of personal medical information, except that the Republican leadership objected to it. That medical records confidentiality legislation was we put together in a bipartisan fashion with Senator BENNETT of Utah, myself, and others, based on work a number of us have been doing for years, but we were blocked when it was going to pass last year. I hope that the Republican leadership willingness to extend protections against government snooping into private financial records will signal a new attitude and willingness to address the crisis that is looming with respect to the confidentiality of health care information, as well.

I think we have to ask, why is it suddenly so important to take up this IRS bill today without consideration by the Senate Judiciary Committee or any Senate Committee. Aha, what is today? April 15. This is, as more and more things around here are, a staged event for partisan political purposes. This is tax day, to be sure. But, unfortunately, the Republican majority is looking for something to do and something to distract from the fact that it is not doing what it is supposed to do today.

Along with all Americans we have to file our income taxes today, April 15. The Republican leadership of the House and Senate, however, is supposed to pass a budget by April 15. I suspect that there are tens of millions of Americans who are getting their taxes filed by today. When they go down to file their taxes, having stayed up late and worked it out, they should ask the leadership in the House and Senate if that Republican leadership has done what the law requires them to do—to have a budget by April 15. Guess what? Has one been passed? No. Has one even been debated? No. There is a law that says that, by April 15, we must pass it, but today will come and go and the Senate will miss its statutory deadline.

Now, I ask my friends throughout this country, Republican, Democrat, and Independent, if you don't follow the law that says you have to file and pay your taxes by April 15, what is going to happen? Aha, you might suddenly become a guest of the State, in a very secure place—bars on the windows, bars on the doors.

What happens to the leadership of the House and the Senate if they don't obey the law and have a budget passed by April 15? They will be on the floor in the House and the Senate with a distraction.

So while I support the extension of the law we introduced in 1995 and passed last year in order to cover the paper records of the IRS, I remain concerned that the Senate is not making the progress that we need to make on the Federal budget, on the chemical weapons treaty, and on confirming Federal judges. We have confirmed two Federal judges in 4 months. There are 100 vacancies. Talk about zero population growth. At this rate, at the end of the Congress there will 150 vacancies.

Then there's campaign finance reform. Remember campaign finance reform? Has anybody heard of it since the handshake in New Hampshire. Ha, ha and ho, ho. The Republican leadership could bring up campaign finance reform this afternoon if they wanted to. You are not going to see it.

I understand that the House plans to use the Constitution as a political prop again today. I guess I should at least be grateful that the Senate has avoided that temptation—for today.

All I suggest, Mr. President, is that the American people are required to follow the law and file their taxes today. The U.S. Senate and the House of Representatives are required to have a budget by today—and we are waiting.

Privacy is a precious right of every American. When our own Government workers abuse their access to personal information and compromise our privacy, it is doubly wrong.

While I was happy that we are taking this matter up today and to support it, I comment briefly on the manner in

which this matter is proceeding. Unfortunately, the Senate of the United States is not doing the work that needs to be done to serve the interests of the American people. We are not confirming the Federal judges that we all need, we are not making progress on balancing the budget, we are not considering the chemical weapons treaty, and we are not considering campaign finance reform legislation.

I commend Senator GLENN for his efforts in following up on his longstanding efforts to monitor abuse of access to Internal Revenue returns and information by Government employees.

When we file our tax returns today and the American people reveal to the Government intimate details about their personal finances, we rightfully expect that the Internal Revenue Service and its employees will treat that information with confidentiality, as the law has long contemplated. Reports that IRS employees are snooping through these files to satisfy their own voyeuristic urges are unacceptable. Unauthorized browsing by IRS employees has been a longstanding problem, according to a recent GAO report, and one that has concerned a number of us for years.

It is one of the principal circumstances that motivated me to include within legislation that I authored last Congress criminal sanctions against unauthorized snooping. Back in June 1995, I introduced, with Senators KYL and GRASSLEY, legislation making snooping through use of Government computers a crime. We obtained the views of the Attorney General, the FBI Director, the Secret Service and others. The bill was considered and reported twice by the Senate Judiciary Committee and passed by the Senate as part of a legislative package back in October 1996. The National Information Infrastructure Protection Act, title II of Public Law 104–294, made it a Federal crime for Government employees to misuse their computer access to obtain private information in Government files. Under the law, Government employees who abuse their computer privileges to snoop through personal information about Americans, including tax information, are subject to criminal penalties.

Part of our purpose in passing that law was to stop the snooping by IRS employees of private taxpayer tax returns. In 1994, at least 1,300 IRS employees were internally investigated for using Government computers to browse through the tax returns of friends, relatives, and neighbors. At a 1995 oversight hearing of the Department of Justice, I asked the Attorney General whether a criminal statute making it clear that such snooping is illegal would send a clear signal that we want our private information provided to the Government to remain private? Her response focused on the need for passage of the NII Protection Act. Attorney General Reno stated:

> Enactment of a new statute covering such situations is advisable to send a clear signal about the privacy of such sensitive information. To that end, included as part of [the NII Protection Act] is an amendment to 18 U.S.C. §1030(a)(2) that would make it clearly illegal for a government employee to intentionally exceed authorized access to a government computer and obtain information.

I have long been concerned with maintaining the privacy of our personal information. Doing so in this age of computer networks is not always easy but is increasingly important.

By passing the NII Protection Act we have already closed a loophole that had existed in our laws. That loophole resulted in the dismissal of criminal charges earlier this year against an IRS employee who went snooping through the tax returns of individuals involved in a Presidential campaign, a prosecutor who was investigating a family member, a police officer and various social acquaintances. He made these unauthorized searches in 1992, before our new law went into effect. He was able to retrieve on his computer screen all the taxpayer information stored in the IRS main data base in Martinsburg, WV. Since the IRS employee did not disclose the information to anyone else and did not use it for nefarious purposes, the wire and computer fraud charges against him had to be dismissed. The point is that with President Clinton having signed the NII Protection Act into law last October 11, the law has been corrected to make such unauthorized snooping through individual tax records by means of computers a Federal crime.

Employees of the IRS and other Government agencies and departments are forewarned that under the law and augmented by the NII Protection Act last year, unauthorized browsing through computerized tax filings is criminal and will be prosecuted.

I am hopeful that the National Information Infrastructure Protection Act and its privacy protections will help deter illegal browsing by IRS employees and help restore the confidence of American taxpayers that the private financial information we are obliged to give the Government will remain private.

Our job is not done, however. We need to remain vigilant to protect the privacy of our intimate personal information in this era of computer networks. I am particularly concerned that we are doing a woefully inadequate job at protecting the privacy of our medical information. For several years I have worked on legislation to provide privacy protection to our health care information. I hope that this year we will finally enact this much-needed and overdue legislation. If we do not, we risk having the computerized transmissions of health care information required by the so-called administrative simplification provisions of the law passed last year, without the privacy protection that the American people expect and deserve.

Mr. BAUCUS. Mr. President, the public expects some essential services from the Government. Social security payments, highway funding, national defense, a safety net in bad times, clean air and water, the National Park System, and so on. These are important to the country and the Government should provide them.

So most folks are willing to pay their fair share of taxes. Nobody likes it, but most of us do it regularly and honestly. But we do expect the Government to keep it fair, make it as simple as possible, and keep it private.

And we've recently found that in their zeal to catch the few people who don't pay their taxes, some tax collectors forget the most fundamental truth about our tax system. Citizens have rights that must be protected.

One of the first bills I introduced when I first came to the Senate was a Taxpayers' Bill of Rights, to protect taxpayers in disputes with the Internal Revenue Service. And I noted:

> Oliver Wendell Holmes reasoned that ''Taxes are what we pay for a civilized society.'' However, Justice Holmes did not consider additional burdens imposed on taxpayers—added costs and delays that result from inefficiencies and inconsistencies in the administration of tax law.

That was back in 1979. And it took a while, but in 1988 we finally passed a comprehensive Taxpayer Bill of Rights. That went a long ways toward defining taxpayer rights and gave some protection against arbitrary actions by the IRS.

This law made IRS give at least 30 days' notice before levying on a taxpayers' property, so that he or she would have time to file an appeal. It exempted more kinds of property from IRS levies, and raised the wage total exempt from collection. It allowed taxpayers to collect costs and attorney's fees from the Government if the IRS acted without substantial justification. And it let taxpayers sue the Government for damages if IRS employees acted recklessly in collecting taxes or intentionally disregarded any provision of the Internal Revenue Code.

This helped make taxation a little more fair and accountable. But it didn't solve all the problems. Last year, we did some more with the Taxpayer Bill of Rights II. This created an Office of Taxpayer Advocate within the IRS to help taxpayers resolve their problems with the IRS. It gave taxpayers more power to take the IRS to court in order to abate interest and eased the burden of proof for collecting attorney's fees and costs when you challenge an IRS decision and win. And it raised the damages a taxpayer can collect in the event an IRS agent recklessly or intentionally disregards the Internal Revenue Code.

But as important as these laws are, we need to do a lot more to give taxpayers confidence in the system and the people who work in it.

Today we're going to go a little further. Every once in a while we find that some IRS employees are snooping around in tax returns that ought to be private. That's happened twice this

year—first, with the revelation that President Nixon tried to pressure his IRS Administrator to look through political opponents' returns, and now when we hear that some IRS employees have browsed in returns for fun. Our bill today will impose criminal penalties on anyone who does it. And we'll make sure the taxpayer whose records have been violated in this way can be notified so that they too can take action. Without this high level of protection of taxpayer privacy, we undermine our ability to make a system of voluntary taxation work.

Once this bill is signed into law, as I am confident that it will be, we must not rest on our laurels. There is still much work to be done to fully protect the rights of taxpayers. The administration proposes simplification and Bill of Rights initiatives that we must review very soon. The Commission on the Restructuring of the Internal Revenue Service will also issue a bipartisan report that will help us address a broad range of problems with the IRS.

That should be a top priority. We need a tax system that brings in the revenue to pay for essential services. One that balances the budget. But also one that is fair and reasonable, and understands that most of us are good people who obey the law and shouldn't be picked on all the time. It's that simple.

Mr. CAMPBELL. Mr. President, I am pleased to be a cosponsor of S. 522, legislation which would allow civil and criminal penalties to be imposed for the unauthorized access of tax returns and return information by employees of the Internal Revenue Service or other Federal employees. It is altogether appropriate that this issue should come before both the House and Senate on April 15, and I applaud the efforts of my colleagues, Senators COVERDELL and GLENN, to work together on this bipartisan piece of legislation.

Abuse by employees of the IRS has been of concern to Members of Congress for many years. Over the years numerous Coloradans have written me to express their concerns with this type of abuse as well. And with the recent release of the report by the General Accounting Office detailing its findings on security problems at the IRS, in addition to reports on browsing by IRS employees through private taxpayer files, this issue has once again come to the forefront.

This morning, as chairman of the Appropriations Subcommittee on Treasury and General Government, I held a hearing to receive testimony on the issue of browsing. For the record, I would like to state the witnesses included: Senator JOHN GLENN; Larry Summers, Deputy Secretary of the U.S. Department of the Treasury; Dr. Rona B. Stillman, Chief Scientist for Computers and Telecommunications with the GAO; Margaret Milner Richardson, Commissioner of the IRS; and Valerie Lau, inspector general of the U.S. Department of the Treasury.

It became clear in all of the witnesses' testimonies this morning that currently it is not necessarily illegal for IRS employees to browse through taxpayer files. The law, as it exists, makes it difficult for the IRS to take effective action against those employees who are caught browsing taxpayer files.

Those IRS employees who do access the computerized or paper records of celebrities, friends, or enemies most often do so just for the fun of it. However, let me tell you—taxpayers do not find this activity very funny. It is an invasion of privacy, and unauthorized browsing should be punishable with civil and criminal penalties. During this morning's hearing, Treasury officials kept referring to taxpayers as ''customers''. Well, I would like to clarify that in my State Coloradans do not consider themselves customers. If anything, they consider themselves victims. Unfortunately, taxpayers have become victims of browsing, and they currently have no assurances that browsers will be held accountable for their actions.

With that, Mr. President, I ask unanimous consent to submit a couple of items for the record to be printed immediately following my statement. First, I have an article from the Washington Post. In addition, I would also like to submit a relevant section of the Electronic Audit Research Log's Executive Steering Committee Report on taxpayer privacy.

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

(See exhibit 1.)

Mr. CAMPBELL. Finally, I would simply like to reiterate my support for S. 522. I would like to be able to tell my constituents that Congress recognized the need to safeguard their personal tax records and took action accordingly by passing this legislation and sending it on to the President for signature.

EXHIBIT 1

[From the Washington Post, Apr. 9, 1997]

IRS AUDIT REVEALS MORE TAX BROWSING

(By Stephen Barr)

The Internal Revenue Service fired 23 employees, disciplined 349 and counseled 472 other workers after agency audits found that government computers were still being used to browse through the tax records of friends, relatives and celebrities, an IRS document released yesterday showed.

The document, covering fiscal 1994 and 1995, listed 1,515 cases where employees were accused of misusing computers. After accounting for the firings, the disciplinary action and the counseling, 33 percent of the cases were closed without any action and the remaining 12 percent took retirement or were cleared.

Yesterday's disclosure, made by Sen. John Glenn (D–Ohio), marked the second time that IRS employees have been faulted for peeking at tax records. A probe in 1993 and 1994 turned up more than 1,300 employees suspected of using government computers to browse through tax files. At the time, the IRS promised ''zero tolerance'' for such snooping.

But the new data indicate the problem has continued and the agency does not know how big a problem it has on its hands. ''I don't know what kind of new math they are using, but that doesn't sound like zero tolerance to me,'' Glenn said at a news conference, where he released excerpts of IRS documents and a General Accounting Office (GAO) report.

Government employees face criminal penalties for misuse of computer databases, but loopholes have thwarted prosecution of some IRS employees who snooped in files but did not disclose the information to others. Glenn and other lawmakers, including House Ways and Means Committee Chairman Bill Archer (R–Tex.), have proposed legislation this year to tighten the laws.

David A. Mader, the IRS chief for management, said ''browsing is not widespread'' at the 102,000-employee agency, but stressed that curious employees must understand that even one unauthorized peek in tax files undercuts the IRS goal of fair and confidential tax administration. The IRS supports efforts to tighten laws, he said.

''It is challenging to change the behavior of an organization this size,'' Mader said. Not every employee deserves to be fired when accused of browsing, he said, but ''we ought to start with the assumption we're going to fire them and then look at the circumstances.

The disclosure of additional IRS employee snooping comes at a time when privacy advocates are increasingly worried about the government's growing dependence on computers and information technology. The GAO, for example, has issued more than 30 reports in the last four years describing how government systems are vulnerable to ''hackers'' and even federal employees who want to change data, commit fraud or disrupt an agency's operations.

The GAO, in reviewing IRS computer security at Glenn's request, found that five IRS centers could not account for about 6,400 computer tapes and cartridges that might contain taxpayer data. Since the GAO audit, however, 5,700 of the tapes and cartridges have been found, Mader said. He said the problem involved inventory controls and that no tapes were lost.

In two centers, computer printouts containing taxpayer data were left unprotected and unattended in open areas, the GAO said.

GAO found some computer problems were so sensitive that the congressional watchdog agency feared public disclosure could jeopardize IRS security. As a result, Glenn received a confidential report on those problems and the GAO-prepared report released yesterday leaves out some matters and does not identify the tax processing centers with lax security practices. But the breaches of taxpayer privacy led congressional investigators to conclude that IRS computer systems operate with ''serious weaknesses'' that place tax returns and tax files ''at risk to both internal and external threats,'' GAO said.

The IRS handles more than 200 million taxpayer returns each year at 10 primary centers. After the returns are processed, the data are electronically transmitted to a central computer site, where master files on each taxpayer are maintained and updated.

To avoid compromising taxpayer information, the IRS developed a software program to monitor the electronic trail left by employees as they call up tax returns and files on their computer screens. The program, the Electronic Audit Research Log (EARL), also signals managers when an employee's work pattern or use of command codes appears at odds with the tasks assigned. The audit trail covered about 58,000 employees who use the IRS's main computer system. But the GAO found EARL does not monitor IRS employees using secondary computer systems and does not effectively distinguish between browsing and legitimate work.

The IRS internal audit, in a section on disciplining employees, said, ''Some employees, when confronted, indicate they browsed because they do not believe it is wrong and that their will be little or no consequence to them if they are caught.''

The IRS document added that agency managers ''apply vastly different levels of discipline for similar offenses,'' sending ''an inconsistent message to the workforce.'' Glenn called for swift passage of his bill to end loopholes in the law that allow some federal workers to escape prosecution for browsing through records.

He cited a federal appeals court decision in February that overturned a guilty verdict against a Ku Klux Klansman employed by the IRS in Boston who browsed through tax records of suspected white supremacists, a family adversary and a political opponent.

Last year, a former IRS employee was acquitted of criminal charges after peeking at the records of Elizabeth Taylor, Lucille Ball, Tom Cruise, Elvis Presley and other celebrities.

In both cases, there was little or no testimony to prove that the IRS workers passed information to others or used the information in a criminal way.

Congress expanded criminal penalties last year to deter the use of computer data without proper authorization, but the provision does not apply to paper tax returns or magnetic tapes.

EARL EXECUTIVE STEERING COMMITTEE REPORT

Attached are excerpts from a lengthy internal IRS audit on the state of taxpayer privacy at the agency. Following are highlights, including the executive summary of the report. Left out are discussions of computer codes and other primarily technical information.

DISPOSITION OF CASES—MISCONDUCT ALLEGATIONS INVOLVING MISUSE OF IDRS

[Population approximately 56,500]

| | FY 1991 | | FY 1992 | | FY 1993 | | FY 1994 | | FY 1995 | |
|---|---|---|---|---|---|---|---|---|---|---|
| | Actions | Percent | Actions | Percent | Actions | Percent | Actions | Percent | Actions | Percent |
| Clearance | 5 | 1 | 75 | 10 | 10 | 2 | 50 | 8 | 58 | 7 |
| Closed Without Action | 174 | 33 | 245 | 31 | 146 | 28 | 204 | 32 | 291 | 33 |
| Counseling | 221 | 42 | 202 | 26 | 205 | 39 | 190 | 29 | 282 | 32 |
| Disciplinary Action | 100 | 19 | 242 | 31 | 140 | 27 | 163 | 25 | 186 | 21 |
| Separation | 7 | 1 | 7 | 1 | 6 | 1 | 12 | 2 | 11 | 1 |
| Resignation/Retirement | 14 | 3 | 16 | 2 | 15 | 3 | 27 | 4 | 41 | 5 |
| Total | 521 | | 787 | | 522 | | 646 | | 869 | |
| Disciplinary Action/as a percent of IDRS users | 0.21% | | 0.45% | | 0.28% | | 0.35% | | 0.41% | |

Mr. HAGEL. Mr. President, we are engaged in an important debate—a debate about privacy, liberty, and the role of Government in our lives. The American people want less Government, less regulation and less taxes. They want less hassle and more respect from their Government.

I am proud to be an original cosponsor of the Taxpayer Privacy Protection Act, which was introduced by my distinguished colleague from Georgia, Senator COVERDELL. The Senate will vote on this important legislation later today, and I urge all of my colleagues to support it.

As the April 15 income tax deadline approaches each year, Americans rush to file their returns while wading through a paper storm of tax forms that even some tax lawyers have trouble understanding. During tax season, animus for the IRS reaches its peak as taxpayers are reminded what an intrusive, overbearing bureaucracy the Internal Revenue Service has become.

Nobody likes taxes, and nobody likes tax collectors. They are necessary evils. But if we must have them, then we need to do all we can to ease the burden they impose on our citizens and to make the system user-friendly and respectful of our people.

The IRS system today is neither user-friendly nor respectful. Today we have an IRS that is out of control from top management all the way down to its field offices, and the American taxpayers are paying the price for that disarray—a price in inefficiency, inconvenience, intrusiveness, and even harassment.

The American people deserve better. It is bad enough that taxpayers have to pay for an agency that wastes their money and time. But it is simply unacceptable that the IRS has tolerated some of its employees snooping through confidential taxpayer information.

The headlines of our newspapers have been littered with accounts of IRS employees reading taxpayers' confidential files without authority and without cause. During fiscal years 1994 and 1995, there were 1,515 cases of IRS employees browsing through confidential taxpayer computer records, according to a recent General Accounting Office report. These employees violated the privacy of hundreds of taxpayers when they snooped through the tax returns of friends, family member or celebrities without authorization and without justification.

Yet, of those 1,515 cases of snooping, only 844 resulted in employees being fired, disciplined, or counseled.

Let me emphasize that, Mr. President—only 844 of the 1,515 snoops had action taken against them. That means almost 700 known cases of snooping went unpunished.

This is not acceptable. Unauthorized snooping is wrong and intolerable. That is why the laws need to be changed.

The Taxpayer Privacy Protection Act imposes civil and criminal penalties against IRS employees who snoop through tax returns and related information without authority. It puts real power in the hands of taxpayers who are the victims of IRS snooping—it lets them bring suit against the IRS employee who is responsible. Under this legislation, IRS employees can be fired, fined, and jailed if they are found guilty of snooping.

This bill is an important step toward protecting Americans from an out of control IRS. It is an important step toward holding IRS employees accountable for their actions. It is a small but important step toward making our tax system respectful, trustworthy, and sound.

It should become law—now.

Mr. FAIRCLOTH. Mr. President, as a cosponsor of S. 522, The Taxpayer Browsing Protection Act, I urge my colleagues to support this important measure to stop IRS employees from electronically browsing through taxpayer files.

Mr. President, today is not a day when most Americans feel much sympathy for the IRS. For many Americans finishing up their tax returns, the last several days have been painful ones, with families struggling to understand and fill out complex forms, writing checks to the IRS and wondering where all the money they send to Washington actually goes.

And it doesn't help to see recent news accounts of the $4 billion of the taxpayers money has been wasted by the IRS in an effort to modernize its computer system—without success. That's nearly enough money to pay for our troops in Bosnia, and for continued disaster relief to areas of the country damaged by floods and storms, including areas of North Carolina still suffering from the effects of Hurricane Fran.

And so, Mr. President, today is not a good day for the American people to be told of yet another outrage at the IRS. As many as 211 million Americans who file tax returns this year will pay over $1.6 trillion in taxes. That is outrage enough. Quite frankly, the American people are overtaxed, and I hope that we can provide them some tax relief this year.

As complicated and burdensome as our Tax Code has become, the vast majority of taxpayers fill out their tax forms honestly and completely. In fact, our entire system of tax collection depends on the voluntary compliance of the American people. Much of the information contained in these tax returns is extremely private and sensitive. Taxpayers have a right to expect that this information will be treated with the greatest of care.

For that reason, I was deeply troubled by the results of the recent investigation of the Internal Revenue Service by the General Accounting Office

which has prompted this hearing. The GAO has uncovered at least 1,515 cases where IRS employees have used Government computers to browse through the private tax files of Americans—without authorization.

According to the GAO, this is not the first time that IRS employees have been caught peeking in on private tax files. In 1993 and 1994, the GAO discovered that more than 1,300 IRS employees had used Government computers to electronically browse through tax records. At that time, the Commissioner of the IRS announced a new zero tolerance policy for such behavior.

Unfortunately, zero tolerance has been more like zero improvement. According to the GAO, little has changed since this problem was first identified in 1993. IRS employees are still snooping into tax files without proper authorization. The system put in place by the IRS to fix the problem and detect unauthorized browsing—the Electronic Audit Research Log, or EARL—can't even tell the difference between browsing and legitimate work.

To make matters worse, an IRS internal audit found that many employees who were caught browsing did not believe that snooping in taxpayers' files is wrong, and perhaps even more troubling, they thought there would be little or no consequence to them if they were caught.

I am concerned that we can't count on the senior management of the IRS to supervise their employees. In fact, I am concerned about the supervisors themselves, and I wonder who is watching them. I find news accounts that the IRS may be conducting politically motivated audits of selected nonprofit organizations deeply troubling.

Mr. President, the IRS has demonstrated that it cannot adequately supervise its own employees to protect the privacy of the American people. Stronger measures are clearly needed. That is why I am a cosponsor of of S. 522, The Taxpayer Browsing Protection Act offered by my good friend, Senator COVERDELL. I join my colleagues in support of the measure.

Mr. President, due to a prior family commitment, I was unavoidably detained and missed the vote on S. 522. Had I been present I would have voted ''aye.''

Mr. COVERDELL. Mr. President, I ask for yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

Mr. COVERDELL. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 45.

The amendment (No. 45) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time.

The PRESIDING OFFICER. The question now occurs on passage of the bill.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina [Mr. FAIRCLOTH] and the Senator from Oregon [Mr. GORDON SMITH] are necessarily absent.

Mr. FORD. I announce that the Senator from West Virginia [Mr. ROCKEFELLER] is necessarily absent.

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

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 43 Leg.]

YEAS—97

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

NOT VOTING—3

| | | |
|---|---|---|
| Faircloth | Rockefeller | Smith (OR) |

The bill (S. 522), as amended, was passed, as follows

S. 522

*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 ''Taxpayer Browsing Protection Act''.

**SEC. 2. PENALTY FOR UNAUTHORIZED INSPECTION OF TAX RETURNS OR TAX RETURN INFORMATION.**

(a) IN GENERAL.—Part I of subchapter A of chapter 75 of the Internal Revenue Code of 1986 (relating to crimes, other offenses, and forfeitures) is amended by adding after section 7213 the following new section:

**''SEC. 7213A. UNAUTHORIZED INSPECTION OF RETURNS OR RETURN INFORMATION.**

''(a) PROHIBITIONS.—

''(1) FEDERAL EMPLOYEES AND OTHER PERSONS.—It shall be unlawful for—

''(A) any officer or employee of the United States, or

''(B) any person described in section 6103(n) or an officer or employee of any such person,

willfully to inspect, except as authorized in this title, any return or return information.

''(2) STATE AND OTHER EMPLOYEES.—It shall be unlawful for any person (not described in paragraph (1)) willfully to inspect, except as authorized in this title, any return or return information acquired by such person or another person under a provision of section 6103 referred to in section 7213(a)(2).

''(b) PENALTY.—

''(1) IN GENERAL.—Any violation of subsection (a) shall be punishable upon conviction by a fine in any amount not exceeding $1,000, or imprisonment of not more than 1 year, or both, together with the costs of prosecution.

''(2) FEDERAL OFFICERS OR EMPLOYEES.—An officer or employee of the United States who is convicted of any violation of subsection (a) shall, in addition to any other punishment, be dismissed from office or discharged from employment.

''(c) DEFINITIONS.—For purposes of this section, the terms 'inspect', 'return', and 'return information' have the respective meanings given such terms by section 6103(b).''.

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (2) of section 7213(a) of such Code is amended by inserting ''(5),'' after ''(m)(2), (4),''.

(2) The table of sections for part I of subchapter A of chapter 75 of such Code is amended by inserting after the item relating to section 7213 the following new item:

''Sec. 7213A. Unauthorized inspection of returns or return information.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to violations occurring on and after the date of the enactment of this Act.

**SEC. 3. CIVIL DAMAGES FOR UNAUTHORIZED INSPECTION OF RETURNS AND RETURN INFORMATION; NOTIFICATION OF UNLAWFUL INSPECTION OR DISCLOSURE.**

(a) CIVIL DAMAGES FOR UNAUTHORIZED INSPECTION.—Subsection (a) of section 7431 of the Internal Revenue Code of 1986 is amended—

(1) by striking ''DISCLOSURE'' in the headings for paragraphs (1) and (2) and inserting ''INSPECTION OR DISCLOSURE'', and

(2) by striking ''discloses'' in paragraphs (1) and (2) and inserting ''inspects or discloses''.

(b) NOTIFICATION OF UNLAWFUL INSPECTION OR DISCLOSURE.—Section 7431 of such Code is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and by inserting after subsection (d) the following new subsection:

''(e) NOTIFICATION OF UNLAWFUL INSPECTION AND DISCLOSURE.—If any person is criminally charged by indictment or information with inspection or disclosure of a taxpayer's return or return information in violation of—

''(1) paragraph (1) or (2) of section 7213(a),

''(2) section 7213A(a), or

''(3) subparagraph (B) of section 1030(a)(2) of title 18, United States Code,

the Secretary shall notify such taxpayer as soon as practicable of such inspection or disclosure.''.

(c) NO DAMAGES FOR INSPECTION REQUESTED BY TAXPAYER.—Subsection (b) of section 7431 of such Code is amended to read as follows:

''(b) EXCEPTIONS.—No liability shall arise under this section with respect to any inspection or disclosure—

''(1) which results from a good faith, but erroneous, interpretation of section 6103, or

''(2) which is requested by the taxpayer.''.

(d) CONFORMING AMENDMENTS.—

(1) Subsections (c)(1)(A), (c)(1)(B)(i), and (d) of section 7431 of such Code are each amended by inserting ''inspection or'' before ''disclosure''.

(2) Clause (ii) of section 7431(c)(1)(B) of such Code is amended by striking ''willful disclosure or a disclosure'' and inserting

''willful inspection or disclosure or an inspection or disclosure''.

(3) Subsection (f) of section 7431 of such Code, as redesignated by subsection (b), is amended to read as follows:

''(f) DEFINITIONS.—For purposes of this section, the terms 'inspect', 'inspection', 'return', and 'return information' have the respective meanings given such terms by section 6103(b).''.

(4) The section heading for section 7431 of such Code is amended by inserting ''**INSPECTION OR**'' before ''**DISCLOSURE**''.

(5) The table of sections for subchapter B of chapter 76 of such Code is amended by inserting ''inspection or'' before ''disclosure'' in the item relating to section 7431.

(6) Paragraph (2) of section 7431(g) of such Code, as redesignated by subsection (b), is amended by striking ''any use'' and inserting ''any inspection or use''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to inspections and disclosures occurring on and after the date of the enactment of this Act.

**SEC. 4. NATIONAL FLOOD INSURANCE ACT OF 1968.**

(a) IN GENERAL.—Section 1306(c)(1) of the National Flood Insurance Act of 1968 (42 U.S.C. 4013(c)(1)) is amended by striking ''30'' and inserting ''15''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be construed to have taken effect on January 1, 1997, and shall expire June 30, 1997.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. COVERDELL. 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 would like to announce officially—as most Senators know, but in case they missed it—that that was the last recorded vote for the day. We are discussing some other issues that we hope to get agreement on today and tomorrow. We will keep the Members informed on that.

## UNANIMOUS-CONSENT REQUEST—SENATE RESOLUTION 73

Mr. LOTT. Mr. President, I would like to now propound a unanimous-consent request that the Senate proceed immediately to the consideration of a Senate resolution submitted by myself regarding the sense of the Senate relating to tax relief for the American people. I further ask unanimous-consent that there be 10 minutes for debate on the resolution equally divided in the usual form, and following that debate the Senate proceed to a vote on the adoption of the resolution to be followed by a vote on the preamble, and the motion to reconsider be laid upon the table.

I might take just a moment so that there can be a response to that unanimous-consent request. This is a sense of the Senate which just declares a need for tax relief for the American people, and condemns the abuses of power and authority committed by the Internal Revenue Service.

We have discussed this with a number of Senators. We have provided it to the other side of the aisle.

So I propound that unanimous-consent request.

The PRESIDING OFFICER. Is there objection?

Mr. DORGAN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I ask unanimous consent that the Senate proceed to—before I propound the unanimous-consent request, let me explain my objection to the resolution offered by the Senate majority leader and then indicate that I would intend to offer a resolution of my own.

Some of the provisions that are in the resolution offered by the Senator from Mississippi, the majority leader, are not troublesome, but there are some provisions and some language that are very troublesome to some of us in this resolution.

It is clearly a partisan resolution written in a manner that suggests that one side is no good, the other side is all bad, and for that reason I object to it.

In the spirit of discussing the taxes, tax burden on the American citizens and the ability to address meaningful tax reform for American families and to do so in a budget process that has a requirement that the Congress bring to the floor of the Senate and pass a budget today on April 15, I would offer a unanimous-consent request and will do so, and the resolution that I will offer is a resolution that talks some about the tax burden that we face in this country and our desire to offer meaningful tax relief to American families but to do so in the context of a budget that reaches balance, and that we do it in a process as described by law in this country, that a budget be brought to the Congress, be passed by April 15.

It is unusual that we have not even started a budget process at this point. April 15 is two deadlines. One, people will line up at the post office this evening in a traffic jam trying to file their income tax return and get an April 15 postmark because people at the post office want to meet their obligation.

There is a second obligation today, and that is the obligation of the Congress to pass a budget resolution, by law, on April 15. Obviously, we are far from that position of being able to pass a budget resolution. No budget resolution has come from the Budget Committee. There is not an indication that such a budget resolution will be forthcoming.

In the resolution that I will ask unanimous consent to offer we ask that the majority party take up without delay a budget resolution that balances the budget by the year 2002 and targets its tax relief to working and middle-class families to the same degree as the proposal offered by the President and, at the same time, protects important domestic priorities such as Medicare, Medicaid, education, and the environment.

I might say there is a difference with respect to our interest in tax relief. There are those who propose tax relief but do it in a way that says what they would like to do is especially exempt income from investment, which means there is more of a burden on income from work. It is an approach that says let us tax work but let us exempt investment. Guess who has all the investment income in the country. The upper-income folks.

And so you have a proposal that essentially says let us exempt the folks at the upper-income scale, and then we will shift the burden, and what we will end up doing is taxing work.

Some of us think that is the wrong way to offer tax relief, that overburdened working families deserve some tax relief in this country, and we believe a responsible budget that allows for some tax relief to working families but still protects important priorities, and, importantly, balances the budget in 2002, is a responsibility of this Congress. And it so happens that today is the day by which that is supposed to be done.

## UNANIMOUS-CONSENT REQUEST—SENATE RESOLUTION 74

Mr. DORGAN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of a resolution I will send to the desk submitted by myself and on behalf of Senator DASCHLE regarding the sense of the Senate relating to the budget deficit reduction and tax relief for working families.

I further ask there be 10 minutes for debate on the resolution equally divided in the usual form, and, following that debate, without intervening action, the Senate proceed to vote on the adoption of the resolution, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. LOTT. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senate majority leader.

Mr. LOTT. Also, I must say it is regrettable that the objection was heard on the earlier unanimous-consent request for a sense-of-the-Senate resolution in this area. I had hoped the Senate would be able to adopt the resolution in a timely manner, considering this is April 15, tax day, the day that most Americans have the worst feeling about in the entire year. This is a

sense-of-the-Senate resolution, and as a matter of fact I would assume that we could probably come together on language that would make it clear we feel that working Americans should have and deserve some tax relief and we need to do it today, not May 9, which is how long the American people have to work to pay their taxes for the year. Until May the 9th we all work for the Government, and then after that we get to keep the money we have been earning because we have paid off the tax burden that the American people are saddled with.

I know of examples of young Americans who are working making $30,000 a year and their tax burden, when you add it all up, is probably 40 percent. Others, like my own young son who is a young entrepreneur, creating jobs, trying to help people get a job, keep a job, make a living, get some basic training, move on, are paying over 50 percent. We now have probably the highest tax burden on working Americans in history. It is very high. It is oppressive.

With regard to the budget itself, as a matter of fact, Congress has only met the April 15 deadline for budget resolutions once in 15 years. That is not to say we should not do it. I had hoped we would meet that deadline this year, and I will work toward that goal in the future. One of the reasons we have not is because we have been working in good faith with the administration to see if we could come together on agreement of a package that would take us to balance by the year 2002 with tax relief for working Americans.

I remind Senators, as a matter of fact, that there has been bipartisan support for tax relief for working Americans. Senator BREAUX and Senator LIEBERMAN have supported capital gains tax rate cuts. I think maybe the Senator from North Dakota was referring to that a moment ago. Senator TORRICELLI joined Senators BREAUX, NICKLES, CRAIG, and I in saying the estate tax, the death tax, clearly is one of the worst things we have in the Tax Code because it undermines the American dream of working and saving up something, producing something and leaving something to your children but now the tax law takes 44 percent, minimum, of a life's work above certain levels, once you get above the exemption, and up to 55 percent under certain conditions.

We should raise that exemption for individuals, for small businesses, farmers, and ranchers, in the Senator's State, in the North Dakota area, in my State and all across America.

So we should come up with a sense-of-the-Senate resolution today, April 15, that makes a commitment to reducing the burden. As a matter of fact, one of the reasons why we need to do it, the Senator will recall we had the largest tax increase in history that was passed in the first year of the Clinton administration, 1993. We need to give back a little bit of that to families with children, and to the capital gains area where a lot of people are not selling or not being able to get the benefit of their lands or stocks or what they own because they do not want to have to pay the excessive capital gains tax rate.

But without saying OK, you did it, we did it, they did it, what I am advocating this afternoon is we get a sense-of-the-Senate resolution in a bipartisan way in which we agree that the American people deserve some relief. And that is what the title says here—declare the need for tax relief for the American people and condemn the abuses of power and authority committed by the Internal Revenue Service. We have already done that today. We have already said that their snooping around through files is wrong, and we put some penalties in the law for that. We worked together on that one.

So it seems that while there has been objection heard on both sides I guess so far this afternoon, I think we ought to see if we cannot come to an agreement on something where the American people can say, yes, look, they really are committed to doing their job in controlling the rate of growth in the Federal Government and giving some tax relief to the American people. So I would be constrained at this point to object to that unanimous-consent request.

The PRESIDING OFFICER. Objection is heard.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. Without belaboring this at great length, the Senator from Mississippi said we will not go through ''you said, they said, we said,'' having already done that. The fact is I would not have objected, nor would other Members on this side of the aisle have objected to this resolution except this is not a resolution you bring to the floor and say, by the way, let us be bipartisan.

Let me give you an example. This is a resolution that says page 1, sub 5, ''President proposed and Democratic-controlled Congress enacted a $241 billion tax increase on the American people in 1993, the largest in history,'' and on and on and on. It was not the largest in history. The largest in history came during the Reagan administration in 1982, the largest tax increase in history documented by the Congressional Budget Office and Joint Tax Committee, but that is beside the point.

In 1993, a provision that I voted for was a deficit reduction provision, and guess what happened as a result of that? Yes, the deficit was reduced. Contest that? Well, even Alan Greenspan says it was reduced as a result of that action. The deficit was reduced because we had the courage to reduce spending and increase some revenue. The deficit has been reduced over 60 percent since 1993. We have had economic growth. We have had job creation. We have had lower interest rates. And the fact is this country was put back on track because the deficits were being reduced and we were moving in the right direction.

Now, was it controversial to do that? Yes, of course, it was. Why was it controversial? Because it lends itself to this sort of nonsense, someone coming to the floor of the Senate and saying, well, gee, look at the Democrats over on the other side of the aisle. This resolution says, well, the Democrats did it. The Democrats passed the largest tax increase in history.

Some of what the majority leader said I agree with, and we can draft a bipartisan resolution that talks about the common interests here. Should we try to do some tax relief for working families? Of course, we should. Let us do that in the context of a balanced budget. Can we do something that allows people to pass businesses and family farms from one generation to the other without inheriting the business and the farm and the estate tax obligation? Yes, let us do that. Should we, however, agree to some of the other proposals on the other side that say let's have a zero tax on estates, exempt all estates and have no estate tax, and, by the way, let us decide there be a zero tax for the capital gains that someone has?

Kevin Phillips, a Republican commentator, today on NPR talked about that issue, and I will read it again in the Chamber tomorrow. I read it today. It makes no sense to decide we are going to have a tax system, and there are four streams of income in this country and we decide to treat a couple streams of income by exempting them and the other streams will bear a tax burden. So we will create a situation where someone would propose, let's tax those people who are recipients of income from investments and decide then, all right, we have taxed them at half the rate they used to be taxed. Now we will exempt them altogether. Let us just have a total tax exemption for people who have their income from investments, but people who get their income by working, let's go ahead and keep taxing those folks.

Guess what. It is like squeezing a balloon. When you exempt a class of income over here from any tax obligation, the people who are over here remaining to pay the tax are going to pay a higher burden. It is saying let's exempt people who are investors and we will ask people who work to pay a higher tax.

Does that make any sense? Tax work but exempt investment? Capital gains tax—I proposed a capital gains tax proposal that says if you hold a capital asset for 10 years, maybe you should be able to take $250,000 with a zero tax rate during your lifetime; tax free $250,000 during your lifetime. But should we go back to the good old days where you have a tax shelter industry with tens of thousands of people doing nothing but help people convert ordinary income to capital gains so they

end up paying no tax so the people who go to work every day end up paying a certain tax. I do not think so. It does not make sense to me.

If the Senator from Mississippi wants to pass a bipartisan resolution and takes these kinds of things, especially, out of it, write a resolution and we will pass it. I have no problem with that. But you cannot call this bipartisan, bringing this to the floor and throwing out sort of an in-your-face admonition about what Democrats did in 1993. Most of us feel good about what we did in 1993. We turned this country around, and passed a piece of legislation that substantially reduced the Federal deficit, substantially reduced the Federal budget deficit, helped create new jobs, put us on a course to economic growth and reduced interest rates. That is what we did, and we did not get one vote to help us. All we got was criticism then and now, 4 years later, we slip papers under the doors and over the transom, to say, ''Here is what they did, here is what they did back in 1993.''

That is not the way to do business. If you want to do a resolution, let us do one. Let us just take all this backbiting out of it and do a resolution that reaches the consensus that I think we could reach on some of the things that we think should be done with respect to our Tax Code.

I yield the floor.

## MORNING BUSINESS

Mr. DORGAN addressed the Chair.

Mr. LOTT. Mr. President, if I could, I have a brief unanimous-consent request that I do not think will be a problem. I ask unanimous consent there now be a period for morning business with Senators to speak for up to 5 minutes each.

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

Mr. LOTT. For the information of all Senators, as I noted, there will be no further rollcall votes. We are working on a time agreement for tomorrow on the assisted suicide legislation that has already passed the other body. I would expect that rollcall to occur mid to late afternoon, and we are still working on the situation with regard to the nominee to be Secretary of Labor. So there could be at least one and maybe two votes tomorrow. We will give Senators the exact time once we have information.

I yield the floor.

The PRESIDING OFFICER (Mr. ROBERTS). Who seeks time?

## TAXES

Mr. BUMPERS. Mr. President, I compliment my distinguished friend from North Dakota on his very prescient remarks, which I think are right on target. I listened to a lot of the debate today on the question of taxation, and I must say I find it puzzling. I do not really mean this, but I say quite often that I wish everybody had the opportunity to live through the Depression. My brother and sister and I were lucky. We had something to eat. We also had devoted parents and that makes up for a multitude of problems. However, not everyone is as fortunate. Some people need a helping hand.

Nobody likes the idea of taxes. I coughed up a sizable amount yesterday to the IRS. I did not particularly enjoy it. But I have never begrudged the taxes I paid, even though, as a U.S. Senator, I see a lot of waste. I see money misspent. I see priorities misplaced. And sometimes it is kind of a bitter pill to swallow. But I can not accept the idea that some Senators that have propounded today that somehow there is something unholy and evil about paying taxes. As Justice Holmes said, taxes are necessary ''to make our society a civilized one.'' To complain about the taxes we pay in order to live in a civilized society is unfathomable to me.

My brother, who is my best friend, does not like to pay taxes. I keep reminding him the thing he and my sister and I had that a lot of children did not have when we were growing up, is that we chose our parents well. A lot of children do not have that luxury. The fact is that the Federal Government has done a tremendous amount of good with our tax funds. I think about the house we lived in and the fact that the water well was only about 10 steps away from the outhouse, and people died of typhoid fever in the summertime and we could not figure out why. All of a sudden, Franklin Roosevelt was elected President, the first President of the United States who began to treat the South as a part of the United States and not as a conquered nation. So, we began to get paved streets, running water, indoor plumbing, electricity, natural gas, housing, medical help, free shots against typhoid fever and smallpox at the schoolhouse, by a nurse paid for by those insidious taxes that we pay.

Mr. President, if I could just list all of the things that have happened since I was 10 years old, that have made us the great Nation we are, not one single Member of the U.S. Senate would take any of them back—not one. I am thinking about the housing programs we have, the farm programs we have, the medical research that we do, the medical help we give people. I think about the bank insurance fund. If we had not had the FSLIC fund when the S&L's were all going broke, you think about what a catastrophe that would have been in this country. That is what happened during the Depression, the banks went broke. And my mother, who had carefully saved $1,100 selling cream and eggs and chickens on Saturday, lost every nickel of it when the bank went under. And she grieved about it until her dying day.

Who would turn their back on the environmental improvements we have made in this country? Mr. President, 65 percent of the streams were unfishable and unswimmable. Now 65 percent are swimmable and fishable, and nobody here wants to do anything but go to 100 percent clean water and air for our children and grandchildren yet to come.

I could go on with many other things the Government has done to benefit us all. For instance, we have dammed the rivers that used to flood every spring. My mother and father used to go down to the Arkansas River every April, see people straggling along the road who had lost their homes and all their possessions, pick them up, take them home, keep them for a couple of nights until the water receded, and take them back to the area they had called their homes. We dammed the Arkansas River. It not only provides navigation but recreation and flood control. And people in those same areas of Arbuckle Island do not have to worry about it anymore.

And now some in Congress want a constitutional amendment that would require a two-thirds vote to raise taxes. You could not even correct a mistake with less than two-thirds of the vote. You could not close a tax loophole with less than two-thirds of the vote. It would favor the wealthy, who would be assured their taxes would never go up. And it would be a terrible disservice to the people who rely on Government services—yes, even welfare recipients. Like I say, everybody did not have Bill and Lattie Bumpers for parents.

We talk about family values. I have the three greatest children and the greatest family a man could have. I know all about family values. I put mine up against those of anybody in the world. Yet you and I know there are a lot of children in this country who would be better off almost anyplace than where they are.

So, I believe in helping these children. We keep on building more prisons and spending $25,000 a year for every person we incarcerate, and if we had given that child an education at roughly half the cost, he would not be in prison. When I was Governor I used to go to the prisons and talk, sit and have lunch with them, interview them, talk to them. I never met one with a college degree, though there probably were a few. I never met one who owned his own home. I didn't meet very many who did not come from a broken home.

Mr. President, I stand here on April 15 and we are still without a budget. Instead, we are wasting the peoples' time with a debate between the Democrats and Republicans about taxes. So far as I am concerned, the whole country loses with that debate. If you really want to restore confidence in the American political system and you want to stop the alienation of people's attitudes toward Congress and what goes on here, do two things: Balance the budget and change the way you finance campaigns. Anybody who thinks a democracy can survive when the laws

we pass and the people we elect are totally dependent on how much money we put on it is dreaming.

And, if you want to stop alienation and really cause people to dance in the streets, balance the budget. In 1981, FRITZ HOLLINGS, Bill Bradley and DALE BUMPERS were the only three Senators who voted for Ronald Reagan's spending cuts and against his tax cuts. I can show you absolute documented proof, if everybody had voted that way we would have had a balanced budget in 1985. But, no, the herd instinct swept across this body and we voted for those massive tax cuts that guaranteed the budget was going to go out of control. And it did. Just as I screamed from this very spot in 1981.

Here we are, back to the same old stand. It reminds me of trying to housebreak my little dog. I just could not do it. His memory was just too short. And he is not alone. The memories of people in this body are awful short, too. Nobody seems to remember how we got an additional $3 trillion in debt from 1981 to 1992.

So, it is nonsense to talk about a two-thirds vote to raise taxes. Even the Articles of Confederation, which started out by saying you have to have 9 of 13 States agree to raise taxes before you can do it, had to be changed because they knew that would not work.

Mr. President, I have tried to make two points today. As I have said many times before, if it had not been for a generous, compassionate, caring Government, who had taxes to pay for my education on the GI bill, I would not be standing here right now. I have been trying to pay back this great Nation, the oldest democracy on Earth, with an organic law which we call the Constitution; next to the Holy Bible the most sacred to me. And every time we get in a tough political spot somebody says, ''Well, let's amend the Constitution.'' When I think about some of the people here trying to tinker with what Ben Franklin and James Madison and John Adams and Alexander Hamilton did, crafted the greatest document and delivered under that document the greatest Nation, the greatest democracy on Earth, and people are constantly trying to destroy it, undo it—I shudder when I hear some of my colleagues wanting to undo what the greatest assemblage of minds ever assembled under one roof did to bring this all about.

What do they want to do? Make it impossible to raise taxes because the rich would have to pay. I am not going to be caught voting to cut Medicare and welfare and Medicaid and have somebody come to me and say, ''Did you use it for balancing the budget?''

No.

''Did you use it for education, so that everybody can have a college education?''

No.

''Did you put it into housing? The environment?''

No.

''What on Earth did you do with it?''

Why, we cut taxes for the wealthiest 5 percent of the people in America. That is what we did with it.

I will be 6 feet under before you catch me voting for something like that.

I just came over here to say that the citizenry of this country, when you stop and talk to them from the heart, if not the head, talk to them from the heart and the head, let them know we are the luckiest people alive.

Yes, I paid a lot of taxes yesterday, and I did not like it, but I will tell you what I do like. I enjoy living in a civilized society where the crime rate is down, where the unemployment rate has been dramatically reduced, where inflation is under control, where people have jobs and where some Senators are trying to figure out a way to educate every child in this country who wants it.

So, no, I am not voting for any of this nonsense that would require a two-thirds vote to raise taxes. That is not a democracy. I consider myself just about the luckiest man that ever lived, No. 1, because of my parents and No. 2, because I got elected to the U.S. Senate after serving my State as Governor for 4 years. Why? It is the greatest place in the world to keep faith with humankind, to give other people the same kind of chances you had.

So I am very fortunate to be an American, and I did not begrudge the taxes I paid yesterday, just as I never begrudged the taxes I have paid, and I think most of the Members of the Senate agree with that when they stop and really reflect on it.

I yield the floor.

The PRESIDING OFFICER (Ms. SNOWE). The Senator from Minnesota.

Mr. GRAMS. Madam President, thank you.

## TAX DAY AND TAX RELIEF

Mr. GRAMS. Madam President, I would like to talk a little bit about tax day and, of course, the arguments going on here in the last few minutes about taxes and who should pay them, how much should be paid. I find it a little ironic, but perhaps not surprising, that efforts to get a couple of resolutions on the floor to approve or have the Senate go on record that the American taxpayer, the American family, the American working people need tax relief—we tried to get just a resolution approved under a unanimous-consent agreement, but it was denied.

Many talk about tax relief. The only problem is there are many more in this body who talk against tax relief. I have been a strong supporter of family tax relief, and I have been the author and have supported for the last 4 years an effort to get a $500-per-child tax credit across the board. That is not really enough, because when you look at how we support families and children, if we kept pace—and a lot of you just looked at your 1040 forms, 1040EZ forms, and you found out for every dependent you can deduct $2,550. If that had kept pace with inflation from 1955, it would be worth over $9,000. So over the last 20 or 30 years, somehow we have found children or families less worthy of tax relief than we do today.

We talk about other tax relief, like the death tax, the estate tax. In other words, you have worked all your life, you have tried to put something away, as you are encouraged to do, to provide for your family after you are gone, to be able to leave your children or your spouse some money for the means of doing better. But yet, when you die, the Government wants to come in and take the majority of it. I think it was Paul Harvey who went through this the other day on the radio and talked about if you had a $3 million estate, by the time the Government got finished taking money away from you through penalties, et cetera, and the estate tax and everything else, your family would get $400,000, the Government would get $2.6 million of that.

If you had an estate of $1.9 million, the tax on it would be 85 percent that would go to the Government. What kind of a message does this send to anybody? Does it tell you that you should save? ''Why? I'm going to save up all my money so that the day I die, the Government can come in and take 85 percent of it away from my kids.''

We talk about the death tax, and we talk about eliminating the estate tax. You worked all your life, you have already paid your taxes on those dollars. This is after-tax income, and yet, when you die, the Government says, ''That's not enough, we want the bulk of whatever you have in your savings account and cap gains tax.''

There is always talk about how it is only a tax cut for the wealthy. Granted, there are people who have money who are going to benefit from this, but it is capital they are going to reinvest. When we talk about being able to provide an economy for working families in this country, we need to grow, and that needs investments, it needs capital, no matter where it comes from—foreign investors, local, domestic. We need those dollars.

Right now, it is estimated that $7.5 trillion is locked up in old investments; in other words, in companies that maybe are not as efficient as new companies, old products that could be replaced by new, because of penalties of taking your money out of one investment to put into another, and the Government is standing there to grab a majority of it. In other words, people cannot afford to take it out of one investment because the Government is going to confiscate a large part of that. So those investments remain locked up. What we are saying is cap gains would release a flood of new investments into new jobs, new companies, new products; it would expand the economy, it would provide new revenues.

I know my time is going to run out, but let me talk quickly about tax cuts.

We always hear these charges of where did the deficit go wrong, and they all go back and blame it on Ronald Reagan in 1981. He said, ''Let's have some tax relief for Americans,'' and he pushed through a tax relief package. During 1981 to 1990, revenues to the Federal Government nearly doubled. They increased 99.4 percent—99.4 percent—but that was not enough because this Congress spent 112 percent. They spent far exceeding even the growth in the revenues.

They say, and we have seen the charts this morning, ''Let's look at where the blame is; the blame is the Reagan-Bush administrations because that is when the deficits went up, and let's give all the credit to President Clinton because this is where the deficit is coming down.''

Let's retrace that. During the Reagan-Bush administrations, who controlled the purse strings? Who was in control of Congress? I don't want to throw stones, but I think everybody knows. It was controlled by Democrats. Who controlled spending? Ronald Reagan suggested and was able to get through tax relief under the premise that for every $1 in tax relief, there would be a $2 reduction in spending. But once the revenues came in, the eyes got big and people just could not resist being the good guy on the block and taking your money and spending it. In fact, they spent it so fast they even outspent a rapidly growing economy.

Who was to blame? It was not Reagan or Bush, it was the democratically controlled Congress spending the dollars.

Let's look at the last 4 years. They say in the last 4 years, deficits have actually gone down. From 1993 to 1995, they went down because Bill Clinton got through the largest tax increase in history. Again, who passed it? It was Congress who passed it, and that was controlled by the Democrats. So we did have deficit reduction but, again, because of tax increases. In fact, this Congress has raised taxes once on average every 22 months.

The last 2 years, under a Republican controlled Congress, deficits continued to go down, but because of reductions in spending.

Here we have a difference in philosophy. We could balance the budget if we take 80 percent of everything you make. We can probably balance the budget and still increase spending, but it would come out of somebody's pocket. I don't know, it does not seem to make sense. In a recent USA/CNN poll, 70 percent of Americans said they wanted tax relief, meaningful tax relief. Not this give-and-take, smoke-and-mirrors, a little bit here, little bit there, targeted what you believe as tax relief, not what they believe you should have but what you believe you should have.

Let's look at 5 years. The Government is going to take $8.6 trillion from you over the next 5 years, and we are asking in tax relief one penny on every dollar. Somehow, you are going to hear from this body that we cannot live with 99 cents on the dollar, but you, as taxpayers, sure can give it all up. Somehow you can make the sacrifice, tighten your belt, spend less on your children, education, food, clothing, shelter, homes, maybe a night out for pizza, but do not let Congress take one penny on the dollar less than what they want to spend. By the way, that would not even be enough.

The support for taxes, I still support—let's look at DC and the budget in DC.

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

Mr. GRAMS. I was going to wrap this up by saying the District of Columbia has problems with their budget, and what has been the proposed solution? Give them tax relief. I think the whole country has a serious problem, taxpayers have a problem, just like what is facing Washington, DC, and I think they need tax relief as well.

Thank you, Madam President. I yield the floor.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Madam President, first, I wish to compliment and congratulate my colleague from Minnesota for an outstanding statement on really the need for tax relief. Today is tax day. Today is the day that thousands of Americans will be running to the post office trying to make sure they get their taxes filed on time.

In my household, it is not a pleasant time. My wife and I have been married 28-plus years, and this is always the time where we are scrambling around to make sure we find all the charitable contributions, make sure we get all the 1099's, make sure we get all the forms together, and it is not pleasant, it is not easy, it is not something we look forward to.

I heard my friend and colleague from Arkansas say he does not mind one bit the amount of money he pays in taxes. I will say, as a taxpayer, I mind. I will say a lot of taxes are unfair and a lot of taxes are very counterproductive to individual freedom. As a matter of fact, a lot of taxes actually suffocate an individual's ability to expand, to grow, to work for yourself, to take care of your family.

I will give you a couple of examples and one of the reasons why this Senator favors very much balancing the budget but also, likewise, cutting taxes for families, particularly working families, making some changes in estate taxes as outlined by my colleague, Senator GRAMS, and making some changes in capital gains. Let's touch on a couple of examples.

I heard my colleague from Arkansas say, ''Well, they're cutting taxes for the wealthy.'' You do not have to be very wealthy, and all of a sudden you are working for the Government more than you are working for yourself. If you are a self-employed individual and you have a company, maybe you have a painting service or lawn service—I used to have a janitor service when I was in college—if you are self-employed, single, and you have taxable income at $25,000, most people would not categorize you as rich. But according to Government sources, you must be, because the Government wants half of everything you make.

If a person has a taxable income at $25,000, their marginal income tax bracket is 28 percent Federal income tax. That individual must also pay Social Security taxes; if self-employed, he pays 15.3 percent. Add that to the 28, and that is 43.3 percent, and that is before they pay any State income tax. In my State that is about 7 percent.

That means that person, that individual with taxable income of $25,000 pays 28 percent Federal income tax, 15.3 percent FICA tax, unemployment tax, Social Security, Medicare tax. You add the two together and get 43.3, add State income tax and, bingo, that person is taxed at over 50 percent, and any additional dollar they make is going to Government.

I think that is too high. I do not think Government is entitled to take over half of what they make. They are the ones creating the work. They are the ones doing the job. They are the ones putting in the labor, the sweat, the equity, the homework, the education necessary to create the job, create the service, and Government is coming in saying they want half of it. If it is a couple and their taxable income is $40,000, they are in the same 50-percent tax bracket.

I think that is too high. I think estate taxes are high. My colleague said that is cutting taxes for the wealthy. You can have a taxable estate of $1 million, and Uncle Sam says they want 39 percent. Why in the world, if a person accumulates a couple of restaurants, maybe two or three restaurants, and they happen to have an estate value of $1.6 million—we have a $600,000 exemption, so he has two or three restaurants and their value is worth, say, $2 million, why should Uncle Sam say it wants 40 percent of it? What did Uncle Sam do to generate those businesses? Why should it be entitled to 40 percent?

Or if you have a taxable estate of $3 million, Uncle Sam wants 55 percent of that estate. Again, it could be a farm, ranch, machine job, it could be a restaurant, it could be any type of business. Why should the Government come in and say, ''We want over half''? What did Government do to create those jobs, that business? I disagree. That tax is unfair. It needs to be changed. I think it is counterproductive. I do not think it raises money.

I think when you get into marginal rates, over half of the people find ways to avoid taxes. They will come up with schemes. They will come up with scams. They will do different scams. They do not want the Government to

get over half of what they make. They work to get it down.

We should change rates. When we change rates, my colleague from Minnesota mentioned, when we lower that tax on transactions, there are more transactions, and the Government makes more money. A lot of people are sitting on a lot of transactions. They would like to sell this land for that, and buy this land, or sell this stock and buy that stock, but they do not want to if Uncle Sam says, ''We want 28 percent for that exchange.'' If you reduce the tax on that exchange, capital gains, you will have a lot more trading, a lot more buying and selling, and Government will make money on the transactions. The Government does not make money if people sit on the assets and do not trade the assets.

The point is, we can reduce the rates and generate more money for the Federal Government, and, I think, create a healthier, more stable economy.

So, Madam President, I make this statement urging my colleagues that this is the year that we can balance the budget and provide tax relief for American families. It should be a done deal. President Clinton campaigned for tax relief in 1992. He did not deliver. Actually he delivered just the opposite. In 1993, he passed the largest tax increase in history. In 1996, President Clinton campaigned for tax relief. Bob Dole, the Republican candidate, campaigned for tax relief. Both said they favored a $500-tax-credit per child. You would think that would be a done deal. We passed that last year in the last Congress. President Clinton, unfortunately, vetoed it. You think it would be a done deal and now it would happen. I am not so sure everybody on the other side is willing to do that. Hopefully the President will.

I want to work with the President. I want it to become law. I do not have an interest in passing a tax bill just to have it vetoed. I want to pass a tax relief package this year that includes relief for American working families, that includes a reduction in capital gains, that includes estate tax relief, that includes incentives to save, IRAs, saving for retirement and education, I want to pass that and have it become law.

We look forward to working with the President and other Members in this body to pass a bipartisan package that can actually reduce taxpayers' taxes this year.

Madam President, I ask unanimous consent for an additional 5 minutes.

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

## GENERAL RENO'S ACTIONS UNDER THE INDEPENDENT COUNSEL LAW

Mr. NICKLES. Madam President, Attorney General Janet Reno's refusal to appoint an independent counsel to investigate the Clinton administration's highly questionable fundraising activities is based upon a shocking misinterpretation of the history, purpose, and requirements of the independent counsel law.

Ms. Reno states that the act ''does not permit'' invoking the independent counsel provisions unless there is ''specific and credible evidence that a crime may have been committed by'' a person covered by the law. In fact, the law requires that it be invoked whenever there is ''information sufficient to constitute grounds to investigate'' whether any person covered by the law may have violated Federal law. In short, even though General Reno acknowledges that there are ''sufficient grounds to investigate,'' and even though that investigation is ongoing as I speak, she insists on controlling the investigation herself.

There remains no conceivable room for doubt that the Clinton administration, the Clinton-Gore campaign, and the Democratic National Committee engaged in fundraising practices that must be investigated. Virtually every editorial page in the Nation, from the Wall Street Journal to the New York Times, have demanded an investigation. Indeed, even the highest officials at the DNC have acknowledged that their practices were questionable and have agreed to return over $3 million in contributions from foreign nationals, persons who gave contributions in the names of others, and contributions that may have come from foreign governments. And serious questions exist as to the use of Government property to solicit contributions and reward contributors.

The Vice President has admitted that he made numerous telephone calls from his official office using a Clinton-Gore campaign card to raise funds for the purpose of furthering the Clinton-Gore reelection campaign. Several of the recipients of those calls said that they felt pressured to contribute because they had ongoing business with the Government. Other telephone call recipients perceived these calls as constituting a shakedown. When a charge was recently aired that a prominent Member of Congress had pressured a potential contributor, a Federal grand jury investigation was launched within days of the allegation. Shouldn't the Vice President, or the President, who had pointedly not denied making fundraising calls from his office, be investigated as well?

The purpose of the independent counsel law is to entrust the investigation of these matters to someone who is not a subordinate of the official or officials being investigated. Yet General Reno refuses to invoke the independent counsel law until she is satisfied that laws have, in fact, been broken. That decision is not hers to make. That interpretation stands the law on its head.

It is impossible to defend the proposition, as the Attorney General attempts to do, that covered persons are not implicated in the investigation that she is presently conducting and which should be conducted by an independent person. Documents released by the White House prove conclusively that the fundraising by the President's reelection campaign and by the DNC was run, on a day-to-day, hands-on basis by the President, himself, and his direct subordinate, Deputy Chief of Staff Harold Ickes. The DNC took orders directly from the President through Mr. Ickes. And the President and the Vice President and the First Lady were directly and substantially involved in all fundraising activities by the Clinton-Gore campaign and by the DNC, which was raising not soft money, but money that was raised for the purpose and used directly to fuel the President's reelection drive.

The Attorney General seems to feel that some of the laws implicated by these practices may not or should not be prosecuted. But that prosecutorial decision must not be made by someone who owes her position in Government to the official who may have possibly violated those laws. It does not answer this concern for the Attorney General to state that she is relying on career officials in the Department of Justice. As long as they are reporting to her, they are reporting to the President. She may not independently investigate the conduct of President Clinton any more than Attorney General Mitchell could investigate President Nixon or Attorney General Meese could investigate President Reagan.

I am not prejudging the results of the investigation which must be conducted into these matters. But I know that the practices that must be investigated may have violated Federal criminal laws, and that those violations may have been encouraged, inspired, directed, or condoned by the President or his immediate subordinates. The people of the United States are entitled to a prompt, full, fair, and independent investigation of these matters, and that investigation cannot be controlled by a person who serves at the pleasure of the President.

## TAX RELIEF, TAX REFORM, AND IRS REFORM

Mr. CRAIG. Mr. President, an estimated 30 million taxpayers will file their Federal income tax returns today. They will be among the more than 100 million households filing returns so far this year.

Most of these households do not have charitable feelings about the process to which their Government has just subjected them.

Today, tax day, is the right day to call for tax relief, tax reform, and reform of the Internal Revenue Service.

The Tax Foundation has announced today that tax freedom day for 1997 will be May 9—128 days into the year and later than it has ever been in our taxpaying history.

Mr. President, our colleague, the senior Senator from West Virginia [Mr. BYRD], is a student of classical history. I read recently that subjects in some of

the outer provinces of the Roman Empire stirred up civil unrest when Roman plus local taxation reached an estimated 25 percent of their income.

Today, the typical American family of four pays 38 percent of its income in taxes at all levels—working 3 hours of every 8-hour day just to pay taxes.

Tax-and-spend liberals don't like it when taxpayers are reminded that it is the taxpayer's money—not the Government's —that is taken in taxes.

I continue to support reasonable, fair tax relief that is pro-family and pro-economic growth.

Among other efforts, today, I am joining again as an original cosponsor, with Senator ASHCROFT, of the Working Americans Wage Restoration Act.

American wage-earners are double taxed. They pay Social Security taxes and income taxes twice on the same wages. The least they deserve to an above-the-line deduction against their income taxes for the taxes they pay into Social Security.

Too often within government, common sense is the least common kind of sense.

The Ashcroft-Craig bill would be one important step in the right direction.

American workers and their families need tax relief as soon as we can enact it. They are also clamoring for fundamental tax reform.

Compliance with the current Federal income tax system costs 5.4 billion hours a year and $200 billion—$700 for every man, woman, and child in America.

The IRS publishes 480 different tax forms, and another 280 forms to explain the first 480 forms.

If laid end-to-end, the 8 billion pages of instructions sent out by the IRS every year would circle the Earth 28 times.

The Internal Revenue Code is too complex, produces arbitrary results, and is far too involved in social engineering.

It is costing the Government the trust and confidence of the American people.

That's why Senator SHELBY and I will reintroduce the Freedom and Fairness Restoration Act—the flat tax bill—in the coming weeks.

Our bill would create a single, flat, tax rate of 17 percent. Families of modest and middle-class means would be protected—by a personal exemption amounting to $33,800 for a family of four.

A fair, flat tax system would reward work, promote savings and economic growth, and increase willing compliance with the law. As much as Americans distrust the tax laws, they fear the tax collector who enforces them.

Small wonder: Drug dealers, child molesters, and organized crime hit men have more legal rights than an average taxpayer whom the IRS suspects of underpaying his or her taxes.

Blatant disregard for individuals' rights has all been in pursuit of one goal: Get the money.

An ever-growing Federal Government, with its voracious appetite for taxpayers' hard-earned dollars, has led Congresses dominated for decades by tax-and-spend liberals to expand the powers of the Internal Revenue Service and allow the agency to ignore the due process of law protections to which American citizens otherwise have been entitled.

Americans expect to enjoy due process of the law as one of their fundamental rights. But that's not the case when you're dealing with the IRS.

Most of the time, if a criminal suspect is not publicly attracting the attention of a law enforcement officer, no one from the government—from the FBI to the local sheriff—can search their home or seize their property without a warrant from an impartial court, based upon a showing of probable cause.

But if the IRS thinks someone has underpaid their taxes, it can seize cars and freeze bank accounts on its own authority—without obtaining any kind of impartial, prior approval.

It can consider the taxpayer guilty until proven innocent. It can impose costly penalties until the taxpayer—sometimes after years of court proceedings—conclusively proves they did nothing wrong.

So-called ''horror stories'' about the IRS are multiplying. Sometimes the problem is brought on by a Tax Code that is too complicated even for the IRS to understand. Sometimes the problem is with IRS agents who act outside the law. And sometimes, it happens when IRS officials push to the limit the legal powers they've been granted by past Congresses and Presidents. In any case, there's never an excuse for such behavior.

Congress is now investigating these incidents. We are working to make the IRS more accountable and the process fairer.

One of these efforts will take a major step closer to becoming law today—S. 522, the ''anti-snooping'' bill introduced by Senator COVERDELL. I am proud to be a cosponsor.

This bill will clamp down on rogue IRS agents and put a stop to the unauthorized inspection of taxpayers' information. Years into the age of the computer, this is overdue. Absolute power corrupts absolutely.

Congress never should have granted powers to the IRS that allow it—that, in fact, have encouraged it—to trample the due process rights that all Americans should enjoy.

Criminal activity by individual, rogue IRS agents should not be hidden behind a shield of sovereign immunity.

We will pass the anti-snooping bill today. It is one small part of a larger reform package that still needs to be passed.

Many of the other needed reforms are included in another of Senator COVERDELL's bills, S. 365, the IRS Accountability Act. I am also proud to be a cosponsor of that bill, as well.

No people can remain free, or their government effective, if they do not display trust and confidence in each other.

Yet America's tax system increasingly eats like a corrosive acid at these very bonds of support and legitimacy.

I am committed to the three-step program necessary to restore fairness to the tax system and trust to the people:

Pro-family, pro-growth tax relief; a simpler, fairer, flatter Tax Code; and reform for the tax collector, increasing accountability and requiring the IRS to treat the taxpayer with dignity, respect, and due process of the law.

## STUDY ON TAX CONTRIBUTIONS OF IMMIGRANTS

Mr. KENNEDY. As tax day is here, it is worth considering the contributions of legal immigrants to Uncle Sam.

A new study by the Library of Congress highlights the extraordinary level of Federal taxes paid by legal immigrants. Recent immigrants—including both those who have not yet naturalized and those who have become citizens—paid an estimated $55 billion in Federal income taxes in 1995. Without immigration, the Government would have had $55 billion less to pay for key services or deficit reduction.

We have long known of the major contributions of immigrants in developing innovative technologies, creating jobs for American workers, vitalizing our inner cities, serving in our Armed Forces, and in many other ways. But this report also shows that immigrants pay their way in Federal taxes.

The $55 billion that recent immigrants contributed is almost three times what the Federal Government will spend this year on law enforcement to deal with crime. It is twice what the Federal Government will invest in education. It is nine times the budget of the Environmental Protection Agency.

Often in recent years, Congress has been too quick to engage in immigrant-bashing, or too slow to recognize the immense contributions of immigrants to the Nation's heritage and history. Studies like this help to redress the balance, by demonstrating the continuing important role of immigration in our modern society.

## THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday, April 14, 1997, the Federal debt stood at $5,378,600,468,556.80. (Five trillion, three hundred seventy-eight billion, six hundred million, four hundred sixty-eight thousand, five hundred fifty-six dollars and eighty cents.)

Five years ago, April 14, 1992, the Federal debt stood at $3,895,238,000,000. (Three trillion, eight hundred ninety-five billion, two hundred thirty-eight million.)

Ten years ago, April 14, 1987, the Federal debt stood at $2,280,863,000,000.

(Two trillion, two hundred eighty billion, eight hundred sixty-three million.)

Fifteen years ago, April 14, 1982, the Federal debt stood at $1,063,287,000,000. (One trillion, sixty-three billion, two hundred eighty-seven million.)

Twenty-five years ago, April 14, 1972, the Federal debt stood at $430,716,000,000 (four hundred thirty billion, seven hundred sixteen million) which reflects a debt increase of nearly $5 trillion—$4,947,884,468,556.80 (four trillion, nine hundred forty-seven billion, eight hundred eighty-four million, four hundred sixty-eight thousand, five hundred fifty-six dollars and eighty cents) during the past 25 years.

## JURISDICTION FOR LAWSUITS AGAINST TERRORIST STATES

Mr. HATCH. Mr. President, I have introduced legislation to make a technical correction to the provision of the Antiterrorism and Effective Death Penalty Act of 1996, which provided a limited exception to the Foreign Sovereign Immunity Act, allowing U.S. courts to hear claims by American victims of foreign terrorism against the lawless governments that sponsored the terrorist act. I am pleased to be joined by Senator MACK, Senator KENNEDY, Senator D'AMATO, and Senator MOYNIHAN in introducing this bill.

Nearly a year ago, when we passed the landmark Antiterrorism and Effective Death Penalty Act, Congress took the important step of ensuring that Americans who are harmed by foreign governments committing or directing terrorists acts can sue those governments in American courts. Congress did this by amending the Foreign Sovereign Immunity Act, which generally bars claims against foreign governments, to provide that the FSIA does not preempt claims for personal injury or death by the victims and survivors of terrorist acts committed by certified terrorist states. Thus, lawless nations no longer are able to hide their terrorist acts behind the rules of international law that they otherwise flaunt.

It has come to our attention, however, that a particular phrase in this law puts at risk, for a small class of intended claimants, the right to be heard in court.

As enacted, the law provides that a claim must be dismissed if ''the claimant or the victim was not a national of the United States'' when the terrorist act occurred. There is substantial concern that this phrase may be interpreted by the courts to require that both the victim and the claimant be U.S. nationals. As a result, several American claimants against Libya for the bombing of Pan Am Flight 103 could be barred from bringing an action because their spouses, who were killed in the attack, were British subjects.

Notably, the amendment to the Foreign Sovereign Immunity Act was not intended by Congress to preclude its application in such circumstances. Rather, all that was intended was that either the victim or the claimant be U.S. a national in order for foreign sovereign immunity not to apply, permitting a claim to go forward.

The legislation we are introducing today corrects this ambiguity, by amending the law to apply foreign sovereign immunity, and thus bar the claim if ''neither the claimant nor the victim was a national of the United States.'' It is only right that we should do this.

Companion legislation, H.R. 1225, has been introduced in the other body by Representatives HYDE and CONYERS, the distinguished chairman and ranking member of the House Judiciary Committee. It is my hope that my colleagues will join us in a bipartisan effort to pass this legislation quickly.

Madam President, I ask unanimous consent that the text of the bill be printed in the RECORD following my remarks.

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

S. 568

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That effective with respect to any cause of action arising, before, on, or after the date of the enactment of this Act, section 1605(a)(7)(B)(ii) of title 28, United States Code, is amended by striking ''the claimant or victim was not'' and inserting ''neither the claimant nor the victim was''.

Mr. D'AMATO. Mr. President, I rise in support of the bill offered by the chairman of the Judiciary Committee that will correct a drafting error in the Antiterrorism and Effective Death Penalty Act of 1996, thereby removing an impediment that would have restricted U.S. victims or their U.S. survivors to sue a country, designated by the Department of State, that sponsored the terrorist act which caused the death.

The Antiterrorism Act contained provisions that limited the jurisdictional immunities of foreign states, particularly those countries that sponsored acts of terrorism. It was intended that a victim of terrorism who is an American national, or their American survivors, would not be barred from filing a claim against a country that sponsored the terrorist act. Unfortunately, as drafted, it was not clear that Congress intended this right of action to be available to victims who are American as well as survivors who are American, even if the victim who perished was not a U.S. citizen.

Countries, designated by the Department of State, that sponsor terrorism should be subject to civil suits by the victim or their surviving families. This right of action should be available whether the victim was American or the survivor was American.

This clarification should allow for the suit of an American citizen whose spouse perished in the destruction of Pan Am 103 over Lockerbie, Scotland, in December 1988.

I thank my colleague for taking up this issue and urge immediate passage so that justice can be achieved for several of the families of Pan Am 103, and all future victims of state-sponsored terrorism.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call.

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

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

## 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 sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## REPORT RELATIVE TO DUTY-FREE TREATMENT—MESSAGE FROM THE PRESIDENT—PM 29

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance.

*To the Congress of the United States:*

The Generalized System of Preferences (GSP) program offers duty-free treatment to specified products that are imported from designated developing countries. The program is authorized by title V of the Trade Act of 1974, as amended.

Pursuant to title V, I have determined that Argentina fails to provide adequate and effective means under its laws for foreign nationals to secure, to exercise, and to enforce exclusive rights in intellectual property. As a result, I have determined to withdraw benefits for 50 percent (approximately $260 million) of Argentina's exports under the GSP program. The products subject to removal include chemicals, certain metals and metal products, a variety of manufactured products, and several agricultural items (raw cane sugar, garlic, fish, milk protein concentrates, and anchovies).

This notice is submitted in accordance with the requirements of title V of the Trade Act of 1974.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *April 11, 1997.*

## MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 12:11 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 bill:

H.R. 785. An act to designate the J. Phil Campbell, Senior, Natural Resources Conservation Center.

The enrolled bill was signed subsequently by the President pro tempore [Mr. THURMOND].

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LUGAR, from the Committee on Agriculture, Nutrition, and Forestry:

Ann Jorgenson, of Iowa, to be a member of the Farm Credit Administration Board, Farm Credit Administration for a term expiring May 21, 2002.

Lowell Lee Junkins, of Iowa, to be a member of the Board of Directors of the Federal Agricultural Mortgage Corporation.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1511. A communication from the Under Secretary of Agriculture for Rural Development, transmitting, pursuant to law, a rule entitled ''Community Facilities Grants'' (RIN0575–AC10) received on April 2, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1512. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, a rule entitled ''Nectarines and Peaches Grown in California'' (FV–96–916–3 IFR) received on April 2, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1513. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, a rule entitled ''Amendments to the Perishable Agricultural Commodities Act'' (RIN0581–AB41) received on March 31, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1514. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, a rule entitled ''Popcorn Promotion, Research, and Consumer Information Order'' (FV–96–709FR) received on March 21, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1515. A communication from the Administrator of the Farm Service Agency, Department of Agriculture, transmitting, pursuant to law, a rule entitled ''Farm Credit'' (RIN0560–AE87) received on March 27, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1516. A communication from the Administrator of the Farm Service Agency, Department of Agriculture, transmitting, pursuant to law, a rule entitled ''Special Combinations for Flue-Cured Tobacco Allotments and Quotas'' (RIN0560–AF14) received on March 31, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1517. A communication from the General Sales manager and Vice President of the Commodity Credit Corporation, Foreign Agricultural Service, Department of Agriculture, transmitting, pursuant to law, a report relative to donations of surplus commodities; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1518. A communication from the Acting Executive Director of the U.S. Commodity Futures Trading Commission, transmitting, pursuant to law, a rule received on April 7, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1519. A communication from the Chairman and Chief Executive Officer of the Farm Credit Administration, transmitting, pursuant to law, a rule entitled ''Disclosure to Shareholders'' (RIN3052–AB62) received on March 25, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC 1520. A communication from the Congressional Review Coordinator of the Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, a rule entitled ''Viruses, Serums, Toxins, and Analogous Products'' received on March 21, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC 1521. A communication from the Chairman and Chief Executive Officer of the Farm Credit Administration, transmitting, pursuant to law, a rule entitled ''Organization and Functions'' (RIN3052–AB61) received on April 8, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC 1522. A communication from the President of the United States, transmitting, pursuant to law, a report relative to telecommunications services for the period June 30, 1996 through December 31, 1996; to the Committee on Foreign Relations.

EC 1523. A communication from the Assistant of Defense (Health Affairs), transmitting, pursuant to law, a report relative to medical care; to the Committee on Armed Services.

EC 1524. A communication from the Executive Director of the Committee for Purchase from People Who Are Blind or Severely Disabled, transmitting, pursuant to law, the report of additions to the Procurement List received on march 28, 1997; to the Committee on Governmental Affairs.

EC 1525. A communication from the General Counsel of the Federal Retirement Thrift Investment Board, transmitting, pursuant to law, a rule relative to death benefits received on March 25, 1997; to the Committee on Governmental Affairs.

EC 1526. A communication from the Director of the U.S. Office of Personnel Management, transmitting, pursuant to law, a rule entitled ''Cost-of-Living Allowances'' (RIN3206–AH07) received on March 25, 1997; to the Committee on Governmental Affairs.

EC 1527. A communication from the Director of the Office of the Secretary of Defense, transmitting, pursuant to law, a rule entitled ''The Air Force Privacy Act Program'' received on March 25, 1997; to the Committee on Governmental Affairs.

EC 1528. A communication from the Director of the U.S. Office of Government Ethics, transmitting, pursuant to law, a rule entitled ''Post-Employment Conflict of Interest Restrictions'' (RIN3209–AA07) received on March 24, 1997; to the Committee on Governmental Affairs.

EC 1529. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the report of the list of General Accounting Office reports and testimony for February 1997; to the Committee on Governmental Affairs.

EC 1530. A communication from the President and Chief Executive Office of the Overseas Private Investment Corporation, transmitting, pursuant to law, the management report for fiscal year 1996; to the Committee on Governmental Affairs.

EC 1531. A communication from the Secretary of the Panama Canal Commission, transmitting, pursuant to law, the report of a rule relative to acquisition (RIN3207–AA30), received on March 26, 1997; to the Committee of Armed Services.

EC 1532. A communication from the Secretary of the Panama Canal Commission, transmitting, a draft of proposed legislation to amend the Panama Canal Act; to the Committee on Armed Services.

EC 1533. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the report of a rule relative to demonstration projects, received on April 3, 1997; to the Committee on Armed Services.

EC 1534. A communication from the Secretary of the Army, transmitting, pursuant to law, a notification relative to program unit costs; to the Committee on Armed Services.

EC 1535. A communication from the Defense Financing and Accounting Service, Department of Defense, transmitting, pursuant to law, a cost comparison study; to the Committee on Armed Services.

EC 1536. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, the report on Parity of Pay for Active and Reserve Component members, to the Committee on Armed Services.

EC 1537. A communication from the Assistant Secretary of Defense, transmitting, pursuant to law, the report on the small business loan program; to the Committee on Armed Services.

EC 1538. A communication from the Assistant Secretary of Defense (for Reserve Affairs), transmitting, pursuant to law, the report on the income insurance program; to the Committee on Armed Services.

EC 1539. A communication from the Assistant Secretary of Defense, (for Force Management Policy), transmitting, pursuant to law, the report on Military Permanent Medical Nondeployables; to the Committee on Armed Services.

EC 1540. A communication from the Assistant Secretary of Defense, transmitting, pursuant to law, the report on health care costs; to the Committee on Armed Services.

EC 1541. A communication from the Under Secretary of Defense (for Industrial Affairs and Installations), transmitting, pursuant to law, a report on Commercial Activities; to the Committee on Armed Services.

EC 1542. A communication from the Director of Defense Procurement, Office of the Under Secretary of Defense, transmitting, pursuant to law, the report of a rule relative to Defense Federal Acquisition Regulation Supplement, received on April 8, 1997; to the Committee on Armed Services.

EC 1543. A communication from the Chief, Programs and Legislative Division, Office of Legislative Liaison, Department of the Air Force, Department of Defense, transmitting, pursuant to law, a cost comparison study relative to Laughlin Air Force Base (AFB), Texas; to the Committee on Armed Services.

EC 1544. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, the report concerning the administration of veterans' preference requirements; to the Committee on Armed Services

EC 1545. A communication from the Secretary of Defense, transmitting, pursuant to

law, the report on the effects of mergers and acquisitions; to the Committee on Armed Services.

EC–1546. A communication from the Assistant Secretary of Defense (for Health Affairs and Reserve Affairs), transmitting jointly, pursuant to law, the report on the means of improving the provision of uniform and consistent medical and dental care to the members of the reserve components serving on active duty; to the Committee on Armed Services.

EC–1547. A communication from the Director of Administration and Management, Office of the Secretary of Defense, transmitting, pursuant to law, the report on printing and duplicating services; to the Committee on Armed Services.

EC–1548. A communication from the Secretary of Defense, transmitting, pursuant to law, the annual report for the National Security Education Program; to the Committee on Armed Services.

EC–1549. A communication from the Secretary of Defense, transmitting, pursuant to law, the report on the Reserve Forces Policy Board for fiscal year; to the Committee on Armed Services.

EC–1550. A communication from the Secretary of Defense, transmitting, pursuant to law, the report on proposed obligations for weapons destruction and non-proliferation in the former Soviet Union; to the Committee on Armed Services.

EC–1551. A communication from the General Counsel of the Department of Department, transmitting, a draft of proposed legislation to authorize a food cost based Basic Allowance for Subsistence for enlisted military personnel; to the Committee on Armed Services.

EC–1552. A communication from the General Counsel of the Department of Department, transmitting, a draft of proposed legislation to permit Service Secretaries to defer the retirement of Chaplains; to the Committee on Armed Services.

EC–1553. A communication from the General Counsel of the Department of Department, transmitting, a draft of proposed legislation that address personnel, procurement, policy and environmental concerns; to the Committee on Armed Services.

## 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. ALLARD:

S. 572. A bill to amend the Internal Revenue Code of 1986 to repeal restrictions on taxpayers having medical savings accounts; to the Committee on Finance.

By Mr. GRASSLEY (for himself, Ms. MOSELEY-BRAUN, and Mr. BURNS):

S. 573. A bill to amend the Internal Revenue Code of 1986 to allow an income tax deduction for student loan interest payments; to the Committee on Finance.

By Mr. ABRAHAM (for himself and Mr. LEVIN):

S. 574. A bill to delay the application of the substantiation requirements to reimbursement arrangements of certain loggers; to the Committee on Finance.

By Mr. DURBIN (for himself, Mr. HAGEL, Mrs. MURRAY, Ms. SNOWE, Mr. HARKIN, Mr. ALLARD, Mr. JOHNSON, Mrs. HUTCHISON, Mr. REID, Mr. SHELBY, Mr. ROBERTS, Mr. BAUCUS, Mr. KERREY, Mr. JEFFORDS, Mr. MACK, Ms. COLLINS, and Mr. BIDEN):

S. 575. A bill to amend the Internal Revenue Code of 1986 to increase the deduction for health insurance costs of self-employed individuals; to the Committee on Finance.

By Mr. LEVIN (for himself and Mr. MCCAIN):

S. 576. A bill to amend the Internal Revenue Code of 1986 to provide that corporate tax benefits from stock option compensation expenses are allowed only to the extent such expenses are included in corporate accounts; to the Committee on Finance.

By Mr. GLENN (for himself and Mr. LIEBERMAN):

S. 577. A bill to increase the efficiency and effectiveness of the Federal Government, and for other purposes; to the Committee on Governmental Affairs.

By Mr. DASCHLE (for himself, Mr. HARKIN, Mr. HATCH, Mr. GRASSLEY, Mr. ABRAHAM, Mr. REID, Mr. INOUYE, Mr. BAUCUS, Mr. CRAIG, Mr. KEMPTHORNE, and Mr. THOMAS):

S. 578. A bill to permit an individual to be treated by a health care practitioner with any method of medical treatment such individual requests, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. ASHCROFT:

S. 579. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for the old-age, survivors, and disability insurance taxes paid by employees and self-employed individuals, and for other purposes; to the Committee on Finance.

By Mr. SMITH of New Hampshire (for himself, Mr. FAIRCLOTH, Mr. GRAMM, Mr. HATCH, and Mr. KYL):

S. 580. A bill to amend the Internal Revenue Code of 1986 to allow individuals to designate that up to 10 percent of their income tax liability be used to reduce the national debt, and to require spending reductions equal to the amounts so designated; to the Committee on Finance.

By Mr. DURBIN (for himself, Mr. LEAHY, Mrs. FEINSTEIN, and Mr. TORRICELLI):

S. 581. A bill to amend section 49 of title 28, United States Code, to limit the periods of service that a judge or justice may serve on the division of the United States Court of Appeals for the District of Columbia to appoint independent counsels, and for other purposes; to the Committee on the Judiciary.

By Mr. BROWNBACK (for himself, Mr. DOMENICI, Mr. ROBERTS, and Mr. BINGAMAN):

S. 582. A bill to deem as timely submitted certain written notices of intent under section 8009(c)(1) of the Elementary and Secondary Education Act of 1965 for school year 1997–1998; to the Committee on Labor and Human Resources.

By Mr. GREGG:

S. 583. A bill to change the date on which individual Federal income tax returns must be filed to the Nation's Tax Freedom Day, the day on which the country's citizens no longer work to pay taxes, and for other purposes; to the Committee on Finance.

By Mr. ABRAHAM:

S. 584. A bill to amend the Internal Revenue Code of 1986 to change the time for filing income tax returns from April 15 to the first Tuesday in November, and for other purposes; to the Committee on Finance.

By Mr. DORGAN (for himself, Mr. DASCHLE, Mr. JOHNSON, and Mr. WELLSTONE):

S. 585. A bill to amend the Internal Revenue Code of 1986 to authorize the Secretary of the Treasury to abate the accrual of interest on income tax underpayments by taxpayers located in Presidentially declared disaster areas if the Secretary extends the time for filing returns and payment of tax for such returns; to the Committee on Finance.

By Mr. MOYNIHAN (for himself, Mr. LAUTENBERG, Mr. LIEBERMAN, Mr. CHAFEE, Mr. SMITH, Mrs. BOXER, Mr. WYDEN, Mr. BYRD, Mr. KENNEDY, Mr. INOUYE, Mr. ROTH, Mr. BIDEN, Mr. LEAHY, Mr. SARBANES, Mr. DODD, Mr. D'AMATO, Mr. SPECTER, Mr. KERRY, Mr. ROCKEFELLER, Ms. MIKULSKI, Mr. JEFFORDS, Mr. AKAKA, Mrs. FEINSTEIN, Mr. GREGG, Ms. MOSELEY-BRAUN, Mrs. MURRAY, Ms. SNOWE, Mr. SANTORUM, Mr. DURBIN, Mr. TORRICELLI, Mr. REED, and Ms. COLLINS):

S. 586. A bill to reauthorize the Intermodal Surface Transportation Efficiency Act of 1991, and for other purposes; to the Committee on Environment and Public Works.

## 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, Mr. WYDEN, Mr. REID, Mr. WELLSTONE, Mr. MURKOWSKI, and Mr. BRYAN):

S. Res. 72. A resolution to allow disabled persons or Senate employees seeking access to the Senate floor the ability to bring what supporting services are necessary for them to execute their official duties; to the Committee on Rules and Administration.

By Mr. LOTT:

S. Res. 73. A resolution to declare the need for tax relief for the American people and condemn the abuses of power and authority committed by the Internal Revenue Service; to the Committee on Finance.

By Mr. DORGAN (for Mr. DASCHLE):

S. Res. 74. A resolution to commend the budget deficit reduction and tax relief for working families that has occurred under the Clinton Administration and to urge the Republican Congressional majority to take up without delay a budget resolution, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1997, as modified by the order of April 11, 1986, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRASSLEY (for himself, Ms. MOSELEY-BRAUN, and Mr. BURNS):

S. 573. A bill to amend the Internal Revenue Code of 1986 to allow an income tax deduction for student loan interest payments; to the Committee on Finance.

### THE LOAN INTEREST FORGIVENESS FOR EDUCATION ACT

Ms. MOSELEY-BRAUN. Mr. President, I am pleased to join my distinguished colleague from Iowa, Senator GRASSLEY, and my colleague from Montana, Senator CONRAD BURNS, in introducing S. 573, the Loan Interest Forgiveness for Education Act, the LIFE Act. One of the major forces driving this bill is our growing concern that parents and students in this country have access to a quality education without amassing enormous student loan bills.

The cost of college has a direct impact on access to college. The more tuition goes up, the more students will be

priced out of their opportunity for the American dream. Our country will suffer the loss of talent and training. We cannot as a nation prepare for the 21st century by making it more difficult for our children to access higher education.

This Congress is working hard to eliminate the Federal deficit. In part, this is because we know that piling on more debt ultimately undermines the ability of the generations that follow us to achieve the American dream, and to do what we have done—live better than our parents. Mr. President, that is why we are introducing this LIFE bill. It will do two things: encourage individuals to go to college, and reduce the cost of a college education. I believe very strongly, Mr. President, that the way to achieve this dream is to ensure that everyone who is in need of financial assistance to attend an institution of higher learning has that opportunity. They should have the opportunity, as we did, to pursue their dreams.

It is absolutely essential that we continue to invest in our most important asset—our children. That is what the Loan Interest Forgiveness for Education Act is all about. The bill will create a deduction for qualified student loan interest including expenses for interest paid on student loans used to pay postsecondary education expenses such as tuition, books, room and board. This bill is similar to provisions contained in both the Republican and Democratic leadership education bills, S. 1 and S. 12, and is also similar to a provision passed by Congress as part of the 1995 Budget Reconciliation Act.

As you may know, President Clinton has proposed a bill to allow a $1,500 tax credit per year for the first 2 years of college or a $10,000 deduction per person per year for qualified college tuition expense. I am glad to see President Clinton focus on investing in education for the middle class because it is truly our only hope of remaining competitive in this global marketplace. However, I believe we should go even further by investing in those working parents too, who would otherwise not be able to send their children to college without loans.

The median income for a family of four as reported by the Joint Committee on Taxation in 1995 was $49,531. If that household income was comprised entirely of wage or salary income and, if that household filed a joint return claiming the standard deduction and four personal exemptions, the household's income tax liability would have been $4,947 and a total payroll tax liability of $7,578 resulting in a total tax liability of $12,525. When considering the tax liability and the limited income of the median household family, a large number of American families will not have the extra income to save $80,000 for two children to go to college.

This legislation will focus on those that do not have parents who can afford to save for college. Those working parents who can barely afford to make ends meet; parents who provide the basics of life such as food, clothing, shelter, and medical insurance for their children but do not make the extra income to save for college. Even if families could afford to save the money to pay for their children's college education, income tax liability of many families is not high enough to benefit from the President's proposal because neither the $10,000 tax deduction nor $1,500 tax credit is refundable.

Students whose parents are unable to pay for college up front are generally the ones who rely more heavily on student loans to pay for college and should be given the same type of tax relief as those that come from families that can afford to finance the costs of a college education from savings. That is why the Loan Interest Forgiveness for Education Act, or the LIFE Act, helps not only to improve the life of students who might not otherwise have the opportunity to attend college, it also helps to improve their life after graduation. These students generally have an enormous burden of debt and the interest costs impair their ability to get started in life after college. New college graduates just beginning their careers all too often have to pay a higher percentage of their income in educational loan bills than they do in rent.

I believe we should encourage individuals who cannot afford to pay for college to realize that education is a wise investment in their future. Although some individuals must incur substantial debt to complete their education, the Government should do their part to make sure that these students will not suffer because of this decision for the next 20 years of their lives.

The Government uses the Tax Code to help American families buy their own homes. It is equally important to use the Tax Code to encourage higher education. It is an investment in our children, our economy and our future. If a child receives a college education, that person is much more likely to be able to afford to purchase a home. The link between educational attainment and earnings is unquestionable. Statistics show that the average earnings of the most educated Americans are 600 percent greater than that of the least educated Americans. The Department of Labor estimates that, by the year 2000, more than half of all new jobs will require an education beyond high school. As we move nearer to the 21st century and into an information-driven economy, the gap between high school and college graduates is growing. A college graduate in 1980 earned 43 percent more per hour than a high school graduate. By 1994, that had increased to 73 percent. When we reduce access to higher education, we reduce access to the American Dream.

Given the fact that many of the people in the young generation are going to be pushed into the ocean of responsibility to pay off our national debt, and pay higher Social Security taxes to support us, the least that we could do, Mr. President, is to provide them with a life-preserver. It is the ethical thing to do and the right thing to do. This life-preserver that I speak of, Mr. President, is education. By supporting this educational initiative we are affording members of this young generation and others a chance to arm themselves with knowledge as well as enhance their income potential. This is very important because most economist agree that education produces substantial spillover, which simply means indirect effects, that will benefit society in general. Examples cited of such positive spillover effects include a more efficient work force, lower unemployment rates, lower welfare costs, and less crime. All of these are issues that concern us greatly. Furthermore, an educated electorate is said to foster a more responsive and effective government. So as you can see this bill is very timely.

This bill comes at a time when the cost of attending an institution of higher learning has increased at a rate higher than inflation. In the 1980's, for example, the cost of a year's tuition at a publicly supported college increased from $635 to $1,454, an increase of almost 130 percent. And a year's tuition at a private college increased from an average of $3,498 to $8,772, an increase of 150 percent. A more recent figure can be found in the state of Illinois where, as of 1994, students at Northern Illinois University and Illinois State University, both public institutions, were paying nearly 96 percent more than the increase in the inflationary rate for that same year. The number of loans borrowed through the main Federal college loan programs rose by nearly 50 percent since 1990, from 4,493,000 in 1990 to 6,672,000 in 1995. Rapid increases in college tuition force today's students to borrow much more than their predecessors did, yet in 1986, the interest deduction for student loans was eliminated.

I am working with the GAO, [Government Accounting Office] to further investigate why college tuition is rising so rapidly, and what the Federal Government can most appropriately do about this problem. One of the arguments against providing up front tax cuts to parents for the costs of education is that tuition costs will increase to take into account the tax benefit given to parents. However, the Loan Interest Forgiveness for Education Act will not increase the cost of tuition because the benefit will be received after individuals have graduated. This bill will improve the life of college graduates while at the same time encouraging them to pay back their student loans.

We must improve the accessibility of education, so that all Americans may receive a higher education, not just the wealthy elite.

It is a critical matter in terms of the opportunities than this generation of

Americans will have to access and maintain the American dream. The fact that Americans depend on people being able to make a living and support themselves, and to reach as high as their talents will take them, should not be hampered in any way by the limitation of availability of educational opportunity because of costs.

I know that I would not be in the Senate today were it not for quality public education and the accessibility of affordable higher education. The Chicago Public Schools gave me a solid foundation, and I was able to attend the University of Illinois and the University of Chicago in spite of the fact of that my parents were working-class people. I am committed to seeing that the students of this generation and those who follow them have even greater opportunities than I have had. I am absolutely determined to ensure that the exploding cost of college does not close the door to opportunity for them. Our generation has an absolute duty to keep the door open, and to preserve and enhance the opportunity for a better life and the American dream for the 21st century.

Certainly this generation should not have to bear a burdensome loan portfolio when they graduate that keeps them from making other optimal economic choices.

So, Mr. President, I introduce this legislation. I send it to the desk, and I encourage my colleagues to consider cosponsorship of it. I hope that by tax day next year we are able to provide those students who are going to college and have taken on loans the opportunity to have some loan forgiveness once they graduate.

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By Mr. ABRAHAM (for himself and Mr. LEVIN):

S. 574. A bill to delay the application of the substantiation requirements to reimbursement arrangements of certain loggers; to the Committee on Finance.

TAX RELIEF FOR MICHIGAN LOGGERS

Mr. ABRAHAM. Mr. President, April 15 is a day that generally is viewed with consternation throughout the Unided States. For many loggers in Michigan's Upper Peninsula, however, tax day is synonymous with bankruptcy. This is because the IRS insists on enforcing a little known, and less understood, tax law affecting loggers in my State.

For nearly three decades, businesses in the timber industry have used an accounting plan that allocated a percentage of loggers' wages as rental for the use of the loggers' chain saws, thereby excluding this portion of their wages from income tax withholding, FICA, and FUTA taxes. This practice was acceptable to the IRS until the Family Support Act of 1988 required that an employee business expense reimbursement not be excluded from an employee's income unless it is paid under an accountable plan. The timber industry's traditional accounting procedure was not an accountable plan.

Unaware of the change in policy, the timber industry continued to use their old accounting plan in violation of the new law. Many small logging operations and loggers have now been assessed penalties and interest by the IRS because of their violation of this obscure law. It should be noted that most of the timber industry was in line with the new policy by tax year 1993 and continues to abide by the correct accounting procedure policies. Nonetheless, some loggers face fines of $20,000 or more. Mr. President, many loggers in Michigan's Upper Peninsula earn less than $20,000 per year.

To add to the frustration, IRS headquarters has stated that each district operation has the authority to decide the effective date of the requirement for accountable plans, and in other States, the IRS has decided to have an effective date for this accounting procedure as it relates to the timber industry of January 1, 1993. The IRS office in Michigan, however, will not agree to the January 1, 1993 date which is being used in other parts of the country. Michigan is the only State in which the IRS will not accept this date.

Mr. President, relief for these loggers is long overdue, and today Senator LEVIN joins with me to introduce legislation that will change the Tax Code and make permissible the qualified logger reimbursement arrangement for loggers in any taxable year prior to January 1, 1993. It will also provide for a refund or credit of any overpayment of tax accrued during these years. This correction is long overdue and I hope for swift adoption during this session of Congress.

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By Mr. DURBIN (for himself, Mr. HAGEL, Mrs. MURRAY, Ms. SNOWE, Mr. HARKIN, Mr. ALLARD, Mr. JOHNSON, Mrs. HUTCHISON, Mr. REID, Mr. SHELBY, Mr. ROBERTS, Mr. BAUCUS, Mr. KERREY, Mr. JEFFORDS, Mr. MACK, Ms. COLLINS, and Mr. BIDEN):

S. 575. A bill to amend the Internal Revenue Code of 1986 to increase the deduction for health insurance costs of self-employed individuals; to the Committee on Finance.

THE HEALTH INSURANCE TAX EQUITY FOR SELF-EMPLOYED ACT

Mr. DURBIN. Mr. President, I will use just 2 or 3 minutes and defer to my colleague. I want to say I am glad he is with me today. It is one of our first bills as new Members of the U.S. Senate and one that is very important, not only to our States but also to the Nation. I think it is extremely fitting that Senator HAGEL and 14 of our colleagues have joined me in introducing a bipartisan bill to provide tax relief for a group of hard-working Americans, namely the self-employed. What we are trying to do with this bill, and I think it is appropriate to discuss it on April 15, is to say that people who are self-employed, small business people, farmers and the like, should enjoy the same tax benefits of deduction for health insurance premiums as corporations. This is only simple fairness.

If I work for a big company, they can literally write off every penny of the cost of my health insurance that they pay. However, if I happen to be a farmer in central Illinois, or a self-employed woman in Chicago working at home at a computer, and I go to buy health insurance, only 40 percent of the premiums could be deducted. That is unfair and it creates a real disadvantage. We should encourage people to take out health insurance. The best way to encourage them to do it is to make it more affordable by providing full deductibility. In my State of Illinois there are over 400,000 people who are self-employed who would benefit from this tax relief. In fact, over 3 million Americans who are self-employed do not have health insurance. That represents 25 percent of the self-employed. That is a high percentage compared to other groups.

So, what Senator HAGEL and I are trying to do with our legislation is to level the playing field, give them all equal treatment and fair treatment. I think this tax relief could be worth $500 or $1,000 for somebody today who could deduct only 40 percent, but in the future could deduct 100 percent under our legislation.

I thank my colleague for joining me in introducing this bill. It is supported not only by the National Federation of Independent Businesses, the National Farm Bureau, the Pork Producers, the Corn Growers and the Farmers Union, but also by the National Association of Women Business Owners. Between 1987 and 1996 the number of women-owned businesses increased by 78 percent, and about 80 percent of these are individual proprietorships.

I think this is an issue whose time has come. I have spoken to many of my colleagues and they believe that is the case, too. I hope we can work as part of any budget agreement to include this provision.

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. 575

*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 ''Health Insurance Tax Equity for Self-Employed Act''.

**SEC. 2. DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS INCREASED.**

(a) IN GENERAL.—Section 162(*l*)(1) of the Internal Revenue Code of 1986 (relating to special rules for health insurance costs of self-employed individuals) is amended to read as follows:

''(1) ALLOWANCE OF DEDUCTION.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section

an amount equal to the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, the taxpayer's spouse, and dependents.''.

(c) EFFECTIVE DATE.—The amendment made by this section applies to taxable years beginning after December 31, 1996.

Mr. HAGEL. Mr. President, I am pleased to join with my distinguished colleague from Illinois, Senator DURBIN, to introduce legislation that will cut taxes and improve access to health insurance for millions of small business owners and farmers across America.

Our legislation—the Health Insurance Tax Equity for Self-Employed Act—is a bill about fairness. Under current law, corporations can deduct from their income tax the full amount of money spent on health care for their employees. But the 10½ million self-employed men and women in America cannot fully deduct what they spend on their own health care. They can deduct a percentage—which is now 40 percent and will increase to 80 percent by 2006—but they cannot deduct the entire cost.

Our bill would immediately eliminate this disadvantage—effective January 1, 1997—and put the self-employed on the same footing with their incorporated competitors. And it would make health insurance more affordable for the 3 million uninsured Americans who are self-employed.

This bill will make a real difference to real people. The high cost of health insurance was the No. 1 problem that small businesses cited in a recent comprehensive study by the National Federation of Independent Businesses [NFIB]. Small business owners often pay 30 percent more for the cost of their health insurance than do larger companies—they pay more, but they can deduct less.

Our bill will make health insurance more affordable for small business owners. That is why it has been endorsed by the National Federation of Independent Businesses.

It also is strongly supported by the National Farm Bureau and by the Nebraska Farm Bureau Federation. Both have sent me letters endorsing this legislation. I ask unanimous consent that the full text of these be submitted for the RECORD.

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

(See exhibit 7.)

Mr. HAGEL. More than 95 percent of farmers and ranchers are self-employed and generally pay the full cost of their insurance coverage themselves. Our bill makes a real difference to them as well.

I am involved in this issue because it is vitally important to my home State of Nebraska. There are 98,000 self-employed people in Nebraska, of whom more than 10,000 are uninsured. These are real numbers. These are real people. This legislation can make a real difference for them—making their health insurance more affordable and their businesses more profitable.

Every State in America has hard-working, self-employed men and women who need the tax relief and health care assistance this bill offers. I hope my colleagues will support this important effort.

EXHIBIT 1

NEBRASKA FARM BUREAU FEDERATION,
*Lincoln, NE, April 10, 1997.*

Hon. CHUCK HAGEL,
*U.S. Senate,*
*Washington, DC.*

DEAR CHUCK: On behalf of Nebraska's largest farm organization, I am writing to offer Nebraska Farm Bureau Federation's strong support for your legislation that would provide a 100 percent tax deduction of health insurance premiums for the self-employed.

Deductibility of health insurance premium costs for self-employed individuals has been a long standing goal of Farm Bureau. More than 95 percent of farmers and ranchers are self-employed and generally pay the full cost of their insurance coverage themselves. In addition, many farm families are forced into a situation where a spouse must get an off-farm job primarily to obtain more affordable health insurance coverage for their family.

The cost of self-employed health insurance, when not purchased as part of a group, can be significant and cause financial hardships for some individuals and farm families. In many cases, farmers and ranchers pay more than $3,000 to $5,000 annually for health insurance. Farmers and ranchers are looking at many avenues to cut skyrocketing health insurance premiums. More farmers have moved to higher deductible policies—quite often in the $2,500 to $5,000 range. In other cases, farmers are opting to go without health insurance altogether.

As you know, current federal tax law allows self-employed people to deduct 30 percent of the cost of their health insurance premiums. That will increase to 80 percent by the year 2006. Current federal tax law also allows corporations to deduct 100 percent of their health insurance premium costs. Members of Nebraska Farm Bureau believe that fairness and equity dictate that Nebraska's self-employed individuals receive the same tax treatment as other employees and employers.

Nebraska Farm Bureau appreciates your work on the introduction of this legislation and we wholeheartedly offer our support to this effort.

Respectively,

BRYCE P. NEIDIG, *President.*

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NATIONAL FEDERATION OF INDEPENDENT BUSINESS,
*Washington, DC, April 10, 1997.*

Hon. CHUCK HAGEL,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR HAGEL: On behalf of the 600,000 small business owners of the National Federation of Independent Business (NFIB), I am writing to express our strong support of your legislation to extend the deduction of health insurance premiums for the self-employed to 100 percent, effective immediately upon date of enactment.

Current law's tax treatment of the health insurance premiums for the self-employed is extremely unfair. The three million self-employed Americans who are presently uninsured should have access to the same 100 percent deduction that CEO's and employees in Fortune 500 companies receive. The Health Insurance Portability and Accountability Act of 1996 gave the self-employed the ability to take a 40-percent deduction in 1997 and gradually phases in a permanent deduction for the self-employed reaching 80 percent in 2006. Enabling the self-employed to take an 100 percent deduction would certainly help us to make health care more affordable for this important group of employers and their employees.

The cost of health insurance is the number one problem that small businesses cited in a 1996 NFIB Education Foundation study. Small Business Problems and Priorities, the most comprehensive study of its kind in the country. Small business owners often pay 30 percent more for the cost of their health insurance than larger companies. In addition, self-employed business owners face the cost that result from having to pay income taxes on the majority of the amount of their health insurance premiums. Instead of penalizing the self-employed in this manner, Congress should be doing all it can to help the self-employed, a group who plays a critical role in our economy.

NFIB appreciates your understanding of this issue and your willingness to introduce this significant piece of legislation.

Sincerely,

DAN DANNER,
*Vice President, Federal Governmental Affairs.*

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By Mr. LEVIN (for himself and Mr. MCCAIN):

S. 576. A bill to amend the Internal Revenue Code of 1986 to provide that corporate tax benefits from stock option compensation expenses are allowed only to the extent such expenses are included in corporate accounts; to the Committee on Finance.

THE ENDING DOUBLE STANDARDS FOR STOCK OPTIONS ACT

Mr. LEVIN. Mr. President, for the past several years, the Wall Street Journal has published a special pullout section of the newspaper with a number of articles on executive pay. Last year's headline read, ''The Great Divide: CEO Pay Keeps Soaring Leaving Everybody Else Further and Further Behind.'' Last week, Business Week magazine featured this cover story on its 47th annual pay survey: ''Executive Pay: It's Out of Control.''

Both publications analyze the pay of top executives at approximately 350 U.S. major corporations. Their analysis shows that the pay of the chief executive officers continues to outpace inflation, other workers' pay, the pay of CEO's in other countries, and company profits.

According to Business Week, for CEO's of the leading 350 companies studied, their average total compensation rose 54 percent last year to about $5.7 million, which came on top of 1995 CEO pay increases of 30 percent. So in 1995 we had the CEO's increasing their pay by 30 percent, last year increases of 54 percent. Blue-collar employees received a 3 percent raise in 1996, and white-collar workers fared only slightly better with a 3.2 percent raise.

So in 1996 the pay of the top executives was 209 times the pay of the factory employee, which is a huge increase. The ratio of executive pay to factory workers' pay in the United States was already two to three times more than the pay ratio in any other country. Suddenly, now we see this going up to a ratio of 209 times the pay of the average factory worker. The last time we had statistics, the ratio of executive pay to factory worker pay was 20 times in Japan and 25 times in Germany. Those statistics are a few years

old but we do not think they have changed that much.

These statistics, the 3.2 percent pay increase that went to the white collar workers and the 3 percent increase in wages and benefits that went to America's blue collar workers, represent a growing problem in America, and represent a gap that is growing. The question is now what? Is this gap going to continue? That is a question more for the market than for government.

There is something that government is currently doing that can change this, and that is right now we permit stock options, which represent the biggest portion of corporate pay, to be taken as a tax deduction for income tax purposes, although it is not shown as an expense on the company's books. There is no other form of executive compensation for which this is true. Every other form of executive compensation, of compensation for anybody, is shown as an expense on the company's books when it is taken as a deduction on income tax.

There is no double standard for any form of compensation in our country, in our Tax Code, except for stock options. If a corporate executive gets stock, that is an expense on the company's books. It is a tax deduction on their income taxes. If there is a bonus based on performance, that is an expense on the company's books, and it is a tax deduction. But when it comes to stock options, the Tax Code right now permits there to be a tax deduction for the company when that stock option is exercised. However, the company does not show that stock option as an expense on its own books. It is a stealth exception. It is a double standard. We should end it.

That is why, today, Senator MCCAIN and I are introducing legislation to end this corporate tax loophole that is fueling the increases in executive pay and is fueling those increases with taxpayer dollars. Again, this loophole allows companies to deduct from their income taxes these multimillion dollar pay expenses that never show up on the company office books as an expense.

A just completed survey of CEO pay at 55 major Fortune 500 corporations by a leading executive compensation publication called Executive Compensation Reports, found that in 1996 stock options averaged about 45 percent of total executive pay. That is up from 40 percent just 1 year ago, and stock options provided more money to the 55 CEO's studied than their base salary or their annual bonus. In fact, for 1996, salary accounted for only 22 percent of CEO compensation while stock options accounted for 45 percent.

These stock options enable a CEO typically to buy company shares at a set price for a period of time, which is usually 10 years. Since stock prices generally rise over time, stock options have become the most lucrative source of executive pay.

Now, again, I do not think anyone is suggesting government ought to determine how much executives get paid. We should not. Stockholders and boards of directors should set that. But we should determine whether or not we want to allow our Tax Code to contain this loophole any longer, where this one form of executive compensation and only this form of compensation is dealt with by a double standard. We permit the company to get the tax deduction when it comes to filing their income tax return, but we do not require the company to show that same expense as an expense on their books, thereby hiding the cost to the company of the stock option cost but still getting a tax deduction.

Now, say, a corporate executive exercises stock options to purchase company stock and makes a profit of $10 million. The company can claim the full $10 million as a business expense and deduct it from the company's tax bill. But when it comes to showing that expense on their books, on their annual report, it is not an expense. It is a footnote, not required to be shown as an expense like other forms of compensation, but rather hidden in a footnote.

This is not an accounting issue. The accounting authorities, the experts, have decided how this should be handled as an accounting matter. This is now a tax loophole issue. The question is whether or not we, on tax day, want to continue a loophole for executives—because that is who we are talking about in approximately 98 percent of the cases. In perhaps 1 or 2 percent of the cases these stock option plans are broadly based and help average employees, and we would not include that in our bill. But in maybe 98 percent of the cases, these are narrowly based stock option plans only going to the top officials of companies.

This bill would end the double standard. It gives a choice. If you want to take it as an expense for tax purposes, deduct this as compensation for tax purposes, that is fine, no restriction. But then you have to show it on your books as an expense also. You do not want to show it on your books as an expense? That is your choice, but then we will not let you take it as an expense on your income taxes and have the rest of the taxpayers of the United States foot the bill.

Stock option pay is either a company expense or it is not. It either lowers company earnings or it does not. Something is clearly out of whack when in the tax law a company can say one thing at tax time and something else to investors at the annual meeting.

This bill that I am introducing with Senator MCCAIN today would end the double standard that allows corporations to treat stock option pay one way on the tax form and the opposite way on the company's books.

I want to emphasize that this bill does not prohibit stock options. It doesn't put a cap on them. It doesn't limit them in any way. It just says, if you want to claim stock option pay as an expense at tax time, you have to treat it as an expense the rest of the year as well.

In summary, the bill would not prohibit stock options. It would not put a cap on them or limit them in any way. It just says, if a company wants to claim stock option pay as an expense at tax time, it has to treat it as an expense the rest of the year as well. Period.

The bill provides one exception to ensure that closing the stock option tax loophole doesn't affect the pay of average workers.

Right now, stock option pay is overwhelmingly executive pay. In 1994, the most extensive stock option review to date, covering 6,000 publicly traded U.S. companies, found that only 1 percent of the companies issued stock options to anyone other than management and 97 percent of the stock options issued went to 15 or fewer individuals per company.

Nevertheless, there are a few companies that issue stock options to all employees and do not disproportionately favor top executives. Our bill would allow companies that provide broad-based plans to continue to claim existing stock option tax benefits, even if they exclude stock option pay expenses from their books. Like FASB, we would encourage but not require these companies to treat these expenses consistently. By making this limited exception, we would ensure that average worker pay would not be affected by closing the stock option loophole. We might even encourage a few more companies to share stock option benefits with average workers.

The bottom line is that the bill that Senator MCCAIN and I are introducing today is not intended to stop the use of stock options. Our bill is aimed only at stopping the manipulation of stock option expenses by those companies that are trying to have it both ways—claiming stock option pay as an expense at tax time, but not when reporting company earnings to Wall Street and the public. It is aimed at ending a stealth tax benefit that is fueling the wage gap, favoring one group of companies over another, and feeding public cynicism about the fairness of the Federal Tax Code.

It would also curtail an expensive tax loophole. The Congressional Budget Office has estimated that eliminating the corporate stock option loophole would save taxpayers $373 million over 7 years and $933 million—almost $1 billion—over 10 years. In this era of fiscal austerity, that's money worth saving.

Mr. President, I ask unanimous consent that the bill Senator MCCAIN and I are introducing be printed in the RECORD, along with a section-by-section analysis of the bill that would end the double standards for stock options.

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

S. 576

*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 ''Ending Double Standards for Stock Options Act''.

**SEC. 2. REQUIREMENTS FOR CONSISTENT TREATMENT OF STOCK OPTIONS BY CORPORATIONS**

(a) CONSISTENT TREATMENT FOR TAX DEDUCTION.—Section 83(h) of the Internal Revenue Code of 1986 (relating to deduction of employer) is amended by adding at the end the following new paragraph:

''(2) SPECIAL RULES FOR PROPERTY TRANSFERRED PURSUANT TO STOCK OPTIONS.—

''(A) IN GENERAL.—In the case of property transferred in connection with a stock option, the deduction otherwise allowable under paragraph (1) shall not exceed the amount the taxpayer has treated as an expense for the purpose of ascertaining income, profit, or loss in a report or statement to shareholders, partners, or other proprietors (or to beneficiaries). In no event shall such deduction be allowed before the taxable year described in paragraph (1).

''(B) EXCEPTION FOR BROAD-BASED OPTION PROGRAMS.—Subparagraph (A) shall not apply to property transferred in connection with a stock option if, at the time the stock option was granted—

''(i) substantially all employees of the corporation issuing such stock option were eligible to receive substantially similar stock options from such corporation,

''(ii) no individual performing services for such corporation received more than 20 percent of the total number of stock options granted by such corporation during the taxable year, and

''(iii) at least 50 percent of the total number of stock options granted by such corporation during such taxable year were issued to employees other than individuals performing executive or management services for such corporation.

''(C) EMPLOYEES COVERED.—For purposes of this paragraph, an employee shall be taken into account only if—

''(i) the employee is a full-time employee, and

''(ii) substantially all of the services performed by the employee for the corporation are performed within the United States.

''(D) SPECIAL RULES FOR CONTROLLED GROUPS.—The Secretary shall prescribe rules for the application of this paragraph in cases where the stock option is granted by a parent or subsidiary corporation (within the meaning of section 424) of the employer corporation.''

(b) CONSISTENT TREATMENT FOR RESEARCH TAX CREDIT.—Section 41(b)(2)(D) of the Internal Revenue Code of 1986 (defining wages for purposes of credit for increasing research expenses) is amended by inserting at the end the following new clause:

''(iv) SPECIAL RULE FOR STOCK OPTIONS AND STOCK-BASED PLANS.—The term 'wages' shall not include any amount of property transferred in connection with a stock option and required to be included in a report or statement under section 83(h)(2) until it is so included, and the portion of such amount which may be treated as wages for a taxable year shall not exceed the amount of the deduction allowed under section 83(h) for such taxable year with respect to such amount.''

(c) CONFORMING AMENDMENTS.—Section 83(h) of the Internal Revenue Code of 1986 is amended by striking ''In the case of'' and inserting:

''(1) IN GENERAL.—In the case of''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property transferred and wages provided on or after the date of enactment of this Act, pursuant to stock options granted on or after such date.

SECTION-BY-SECTION ANALYSIS OF ENDING DOUBLE STANDARDS FOR STOCK OPTIONS ACT

Short Title. Section 1 of the bill provides the short title.

Consistent Treatment. Section 2 of the bill would establish requirements for consistent treatment of stock options by corporations when deducting stock option compensation as a business expense under Section 83(h) or claiming stock option wages to obtain a research tax credit under Section 41.

Tax Deduction. Subsection 2(a) of the bill would amend section 83(h) of the Internal Revenue Code by adding at the end a new paragraph (2) with special rules for corporate tax deductions related to stock options. A new subparagraph 2(A) of Section 83(h) would limit the deduction that a company could claim for stock option compensation to no more than the amount of stock option expense reported by that company in a financial statement to stockholders. The subsection would continue current law by allowing the deduction at the time the stock option beneficiary exercises the option and includes it in personal income.

Average Workers Protected. A new subparagraph 2(B) of Section 83(h) would establish an exception for stock option plans that benefit average workers. To qualify, substantially all full-time, U.S. employees in a company would have to be eligible to receive substantially similar company stock options during the taxable year; no one person could have received more than 20 percent of the stock options issued during the year; and at least 50 percent of the stock options would have had to be issued to non-management employees during the year. A new subparagraph 2(C) would state that only full-time employees performing services in the United States would need to be taken into account in determining eligibility for the exception.

Controlled Groups. A new subparagraph 2(D) of Section 83(h) would authorize the Secretary of the Treasury to issue regulations applying these rules to stock options granted by a parent or subsidiary corporation of the employer corporation.

Tax Credit. Subsection (b) of the bill would amend Section 41 of the Internal Revenue Code to clarify the ''wages'' that may be used in calculating the research tax credit allowable under Section 41. The bill would add a new clause (iv) at the end of Section 41(b)(2)(D) stating that the allowable ''wages'' under Section 41 shall not include stock option compensation, until a company reports that compensation in a financial statement to stockholders, as provided in Section 83(h)(2) (as amended by this bill). The clause would limit the amount of stock option compensation allowed as a deduction under Section 83(h). Stock option wages could be claimed under Section 41 only after a company reported the compensation expense under Section 83(h)(2), as amended by this bill.

Conforming Amendment. Section (c) of the bill would make technical conforming amendments to Section 83(h).

Effective Date. Section (d) of the bill would make the amendments applicable only to stock options granted on or after the date of enactment.

Mr. MCCAIN. Mr. President, I rise today to introduce legislation with my friend and colleague, Senator LEVIN, entitled Ending Double Standards for Stock Options Act. This legislation requires companies to treat stock options for highly paid executives as an expense for bookkeeping purposes if they want to claim this expense as a deduction for tax purposes.

Currently, corporations can hide these multimillion-dollar executive compensation plans from their stockholders or other investors because these plans are not counted as an expense when calculating company earnings. Even the Federal Accounting Standards Board [FASB] recognized that stock options should be treated as an expense for accounting purposes. This month, new accounting disclosure rules issued by FASB require that companies include in their annual reports a footnote disclosing what the company's net earnings would have been if stock option plans were treated as an expense.

An article in the Wall Street Journal, dated January 14, 1997, stated these new rules could reduce some companies' annual earnings by as much as 11 to 32 percent. One might reasonably ask how an arcane accounting rule could have such a large effect on the bottom line of corporations. The answer lies in the growth and value of stock options as a means of executive compensation. These plans now account for about one-fourth of total executive compensation.

We all have heard the reports of executives making multimillion-dollar salaries, while average worker salaries stagnate or fall. Recently, The Washington Post reported that Michael Eisner, the CEO of Disney, was given a stock option package estimated to be worth as much as $771 million over the next 10 years. Why shouldn't the value of this compensation package be included in calculating Disney's earnings? How can stockholders evaluate the true value of executive compensation if the value is just buried in a footnote somewhere in the annual report?

No other type of compensation gets treated as an expense for tax purposes, without also being treated as an expense on the company books. This double standard is exactly the kind of inequitable corporate benefit that makes the American people irate and must be eliminated. If companies do not want to fully disclose on their books how much they are compensating their executives, then they should not be able to claim a tax benefit for it.

This legislation does not require a particular accounting treatment; the accounting decision is left to the company. This legislation simply requires companies to treat stock options the same way for both accounting and tax purposes.

I hope my colleagues will join in cosponsoring this important legislation that will end the double standard for executive stock option compensation.

I ask unanimous consent that the two articles to which I have referred be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Jan. 14, 1997]

AS OPTIONS PROLIFERATE, INVESTORS QUESTION EFFECT ON BOTTOM LINE

(By Laura Jereski)

How much does Microsoft Corp. really earn from its business?

For the fiscal year ended June 30, the Redmond, Wash., software giant said pretax income rose 56% to a record $3.4 billion. But a telltale footnote to its income statement revealed that pretax earnings would have been $2.8 billion—$570 million less—if Microsoft had compensated its employees entirely with cash.

But employees didn't get just cash. Like many companies these days, Microsoft sprinkles stock options liberally among its workers. That makes a big difference in the earnings outlook at Microsoft and elsewhere.

Wall Street and Main Street fervently embrace options as a tonic for much of what ails corporate America. Lucrative for employees, options appear to be cost-free to the employer. Distribute them broadly, the wisdom goes, and employees will pull together, company returns will rocket and shareholders will cheer.

But some investors and critics say the options downpour is muddying companies' earnings pictures. Companies can show investors higher earnings if they slash compensation costs by handing out options. As Byron Wien, Morgan Stanley & Co.'s top stock-market strategist, points out: ''In the short run, people are overstating current earnings because part of employees' compensation is coming in the form of options.''

BET ON GROWTH PROSPECTS

Put another way: Investors may be making a bigger bet on company growth prospects than they realize. If Microsoft's options were treated as an expense, its net income last year would have been about $1.8 billion, or $2.85 a share, instead of $2.2 billion, or $3.43 a share—meaning its $83.75 closing stock price on the Nasdaq Stock Market yesterday would reflect an earning multiple of nearly 30 times last year's earnings instead of about 24 times.

Michael Brown, Microsoft's chief financial officer, scoffs at that notion: ''The Street figures it our pretty fast.''

But disparities will be popping up all over come March when new accounting disclosure rules by the Financial Accounting Standards Board take effect. For the first time, companies will have to include a footnote in their annual reports disclosing what net would have been if options were treated as an expense—something Microsoft and some others are already doing. Murray Akresh, a compensation expert with Coopers & Lybrand, says the earnings difference could be as much as 11% for some companies. By the time the full impact of the new rule is felt at the end of a four-year transition period, the difference could reach 32%.

Companies' true earning power is of particular concern because earnings growth has propelled the stock market's sustained rise. But some money managers say that rise is making options more costly for companies to issue.

''What's really happening is that companies are selling their stock to employees at a discount,'' says Richard Howard, a mutual-fund manager at T. Rowe Price Associates in Baltimore. Often, the companies then turn around and buy stock at the higher market price to hold steady the number of shares outstanding.

''There's a real economic cost when stocks are going up,'' Mr. Howard says. ''That's when options cost the most.''

OPTIONS HAVE VALUE

One measure of that aggregate cost can be seen in stock-buyback programs. In 1996, buybacks totaled $170 billion, according to Securities Data Co., a Newark, N.J., securities-market-data company, up 72% from the previous year's $99 billion. Buyback costs are partly offset by the money companies collect from employees who exercise their options and buy.

Some investors say the costs ought to be reflected in companies' income statements at the time the employees earn the options. ''Stock options have value, so they should be recorded as an expense,'' says Jerry White, president of Grace & White, a New York money-management firm.

And some shareholder activists are rebelling against the amount of options being dispensed. Institutional Shareholders Services, which votes on shareholder issues on behalf of many large investors, votes against about one in five option plans as too generous and expensive. Says ISS research director Jill Lyons: ''A human being has to say, 'This is too much.' ''

ISS focuses on how much shareholder value option plans transfer, rather than how they might affect company earnings. For example, a magnanimous plan adopted two months ago by San Jose, Calif., computer networker Cisco Systems Inc. will set aside 4.75% of Cisco's stock for options annually for three years. Three-fourths of those options will go to employees below the vice-president level.

Most of Wall Street applauds this employee motivator. Analyst Suzanne Harvey at Prudential Securities wrote recently that Cisco has the best employee benefits in the computer industry.

But ISS analyst Caroline Kim warned clients that the option plan would double insiders' stake in Cisco to nearly 23%—twice what employees in comparable companies get—and hand over to employees shareholder value of $3.6 billion during the next three years. Shareholders approved the plan anyway.

Many investors and financial analysts see nothing wrong with companies' generosity with options. In a recent survey of 300 top Wall Street stock analysts, eight of 10 said they would disregard stock options entirely, as long as companies don't have to take a charge for them. ''I think that's accounting mumbo jumbo, as opposed to a value measure that has to do with stock prices,'' says Bruce Lupatkin, head of research at Hambrecht & Quist.

That view prevailed in 1995, after a long and bruising battle over whether such options largess should count against earnings. Hundreds of companies, analysts, venture capitalists, and even congressmen joined forces to defeat accounting rule makers who wanted companies to reflect the actual value of options in their earnings. When the FASB held hearings on the proposal in Silicon Valley—where such options have created thousands of fortunes—they were disrupted by a ''Rally in the Valley'' of the local citizenry, complete with marching bands, balloons and T-shirts stamped ''Stop the FASB.''

MORE WIDESPREAD

FASB opponents argued that companies incur no cash costs in granting options. Further, not all options granted will be exercised since employees leave and stock prices sometimes fall below the option exercise price. The FASB accountants argued that options are valuable because they give employees a long-term right to buy stock at a set price. They lost, which led to the compromise with the footnote disclosure.

Since then, option grants have become more generous and more widespread. Once they were mainly used by small, fast-growing high-technology companies loath to part with precious cash. Today, big companies are enthusiasts, according to a survey of 350 large companies by William M. Mercer Inc., a New York compensation-consulting firm. Annual stock-option grants soared by more than 20% between 1993 and 1995, the firm's work shows.

John McMillin, a food-industry analyst at Prudential Securities, says that means ''the quality of the earnings you are looking at is often not good.'' What's more, some companies offer employees the chance to take raises and pay-related benefits in stock instead of cash, which distorts earnings even more. (That can be a losing bet for the employee if the stock fails to rise above the exercise price.)

One big proponent of options-for-all is General Mills Inc. The Minneapolis cereal and baked-goods company started granting options to all employees in 1993. General Mills had already been offering its top 800 people the opportunity to take raises and some other benefits in options instead of cash.

Mike Davis, General Mills' compensation vice president, says the option programs are ''very attractive for shareholders'' because they cut fixed costs and thereby boost profits, though he can't say by how much. One clue: The company's selling, general and administrative expenses, which include compensation, dropped by $222 million, or 9%, to $2.1 billion, in May 1996, compared with May 1994. For that same period, pretax earnings from continuing operations rose $194 million, or 34%, to $759 million.

Meantime, General Mills' options grants have been steadily ratcheting up. Today, the company distributes almost 3% of its stock to employees annually, buying enough stock to match that distribution. ''They are working hard to keep the shares-outstanding line flat,'' Mr. McMillin of Prudential says. ''That also means that they have to go into the market arbitrarily, as options are exercised, and buy stock back at a higher level.''

Microsoft, to some extent, also uses buybacks to offset option grants, says, Mr. Brown, its chief financial officer. But the buybacks have become so expensive that the company had to invent a new security to help offset the cost. ''The impact of buying back shares has been more extreme for them because the price took off so dramatically,'' says Michael Kwatinetz, a stock analyst who covers the company for Deutsche Morgan Grenfell. Still, Mr. Kwatinetz views the options package overall as ''a strong plus'' for employees.

For a while, Microcsoft was coming out about even, in real money terms. When employees exercise options for, say, $40 a share, they pay Microsoft the exercise price. Microsoft gets a tax deduction for the difference between the exercise price and the market price.

NO SMALL CHANGE

But the gross buyback cost has been rising, to $1.3 billion last year from $348 million in 1994. Employees paid Microsoft about $500 million last year for their stock, and tax savings further reduced the company's out-of-pocket costs. But Microsoft still had to shell out about $300 million.

Compared with the $570 million in options expense, that sounds like Microsoft is getting its money's worth. In fact, the company is actually paying out $400 million in real cash, to offset employee stock options whose cost isn't recognized in its financial statements.

Still, $400 million is no small change, even for a company as flush as Microsoft. So in December, the company sold $1 billion of a newfangled convertible-preferred stock to outside investors that will reduce such costs as long as the stock rises more than 6.88% a year for the next three years. (The preferred stock, which will be redeemed at as high as $102.24 a share, can be exchanged for cash, debt or stock. If Microsoft's stock price falls, the preferred would be redeemed at no less than $79.875 a share.)

Many investors consider the financial impact of the options by focusing on earnings per share on a fully diluted basis, a calculation that assumes that options outstanding

at prices below the current market have been exercised. Tom Stern at Chieftain Capital, a New York money manager, goes one step further. He estimates how much the stock ought to rise, if his earnings estimates are right, and figures out how many more options will be exercised. ''We pay close attention to options,'' he says. ''If you don't, your earnings get diluted.''

Will the required footnote disclosure in companies' annual reports have a big impact? ''That's not chopped liver,'' says Jack Ciesielski, author of the Analyst's Accounting Observer newsletter. ''I don't think investors have any idea how big the options programs are.''

To calculate the cost, many companies will use option-pricing models in wide use on Wall Street that combine the time span of the options with the volatility of each company's stock price. Options in a hightech company tend to be worth more since chances are better the stock will surge.

A few companies have already bit the bullet. Bristol-Myers Squibb Co., the New York pharmaceuticals concern, revealed last year that its options plan would have trimmed 1995 net by a mere $35 million, cutting seven cents a share from per share earnings of $3.58, had options been treated as an expense.

The impact of options can be suprisingly big, however, even if the company hasn't been that generous. At Foster Wheeler Corp., the Clinton, N.J., builder of refineries and power plants, the impact was heightened by a restructuring charge that reduced reported earnings at the same time as its stock took off. The result was that a 1995 grant of only 1.35% of shares outstanding would have slashed the year's earnings by 14%, or $4.1 million.

Tobias Lefkovich, a Smith Barney analyst who follows Foster Wheeler, says nobody noticed. ''Investors are more focused on consistent earnings growth and new orders'' than the option cost, he explains. Nonetheless, Charles Tse, an outside director at Foster Wheeler who serves on the compensation committee, says, ''the whole compensation plan is being reviewed.'' A company spokesman said later that the review wasn't prompted by the stock-option disclosure.

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[From the Washington Post]

DISNEY CHIEF MAY REAP $771 MILLION FROM STOCK OPTIONS

(By Paul Farhi)

By any measure, Michael Eisner the chief executive of the Walt Disney Co., has been one of America's most successful corporate executives. And by any measure, he has been handsomely compensated for it.

Eisner, in fact, could be poised to become one of the most richly rewarded employees in the history of American business. Thanks to a new 10-year pay package that includes generous stock options, the top executive of the entertainment conglomerate could reap nearly $771 million over the next decade, according to estimates by the compensation expert who designed Eisner's new contract. The figure doesn't include Eisner's $750,000-per-year salary or bonuses that could add another $15 million annually.

While Disney argues that Eisner has proved he's worth it, the huge package has raised anew a debate over executive compensation. A group of 22 institutional pension funds that hold Disney stock plans to protest Eisner's contract at Disney's annual meeting in Anaheim, Calif., next week.

They intend to withhold their votes for the five management-backed nominees to Disney's board—including former Senate majority leader George Mitchell and Roy E. Disney, Walt's nephew—and to vote against a resolution that sets the formula for Eisner's annual bonus.

The group, which includes the big public-employee pension funds of California, Louisiana and Wisconsin, also is displeased with the severance package awarded Michael Ovitz, the Hollywood talent agent who served as Disney's president for 14 months. Ovitz, who resigned in December, has received $38.9 million in cash from Disney and options on 3 million shares that have a current paper value of $54 million.

The Washington-based Council of Institutional Investors, which organized the pension fund protest, acknowledges the action is largely symbolic—it is not voting for alternative board candidates. The group's members control about 11.5 million Disney shares—a tiny fraction of the 675 million Disney shares in the public's hands; it's not clear whether the action has wide support among other shareholders.

''We're merely trying to send a message,'' said Alyssa Machold, deputy director of the council. ''We don't want to start burning Mickey Mouse in effigy. But by not voting, we're calling into question the actions of Disney's board,'' which approved the Eisner and Ovitz packages.

The organization says Disney's 16-member board includes 10 directors whose financial ties to the company could compromise their independence. Mitchell's Washington law firm, for example, provides legal services to Disney.

Even before his new pay package was disclosed in January, Eisner was often at the center of the executive-pay controversy. In 1992, he made headlines when he exercised options on shares then worth about $202 million.

According to Disney's records, the 54-year-old executive has reaped $240 million in profits by exercising options and selling stock in his past 12 years as chief executive. As of September, he held stock that would bring an additional $304 million of profit if sold.

His new contract awards him 8 million options. (An option gives its owner the right to buy stock in a company at a particular point in time at a predetermined price; it has value if it permits the buyer to buy stock at a price below the existing market price.)

Assessing the future value of an option is an inexact science because it requires guessing the future price of a stock. Officially, Disney estimates the value of Eisner's new options at $195.4 million over their 10-year life.

Raymond Watson, the Disney board member who directed negotiations on the contract with Eisner, says that is a conservative figure, based on the low end of assumptions about Disney's future performance.

Graef ''Bud'' Crystal, an executive-pay expert whom Disney's board consulted to formulate the contract, said the value of the Eisner deal likely will be much higher. Assuming an 11 percent annual return—Disney's average stock performance for the past 10 years—Crystal calculated Eisner could realize $770.9 million from exercising the options from 2003 to 2006.

Asked about that figure, Watson said, ''I don't dispute it. We looked at it that way and 30 other ways besides.''

But Watson said Eisner's compensation will be worth it if he can help Disney keep up its historical growth. He noted that options only have value if the company's stock keeps appreciating. Indeed, companies award executive options in order to motivate them to keep share value rising.

Under Eisner, Disney has been one of Wall Street's stellar performers. Its revenue has grown from $1.5 billion in 1984 to $18.7 billion in 1996. And its stock has soared during that period—from $3 per share to $75.37½ as of Friday, after adjusting for splits.

Even Crystal, a frequently quoted critic of huge executive pay packages, grudgingly says Disney's board had to offer Eisner his huge new deal. ''The package he got is awesome,'' he said. ''But if Sony had tried to lure him away, they would have offered him Tokyo and thrown in Kyoto as a bonus.''

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By Mr. GLENN (for himself and Mr. LIEBERMAN):

S. 577. A bill to increase the efficiency and effectiveness of the Federal Government, and for other purposes; to the Committee on Governmental Affairs.

THE GOVERNMENT RESTRUCTURING AND REFORM ACT OF 1997

Mr. GLENN. Mr. President, I rise today to introduce the Government Restructuring and Reform Act of 1997, legislation whose objective is to reorganize the executive branch into a form and a structure that is capable of meeting the challenges of the 21st century. The bill is cosponsored by my distinguished colleague from Connecticut, Senator LIEBERMAN.

We are in an era of contraction at the Federal level. Some of this contraction is needed in my opinion, in some areas I don't think it's a good idea. But it is a fact. Many programs are being cut, others have been eliminated or consolidated into block grants to the States. Agencies and departments are being downsized and in some cases eliminated. In the last Congress, the Bureau of Mines, Office of Technology Assessment, Interstate Commerce Commission, and Advisory Commission on Intergovernmental Relations were all terminated. In addition, agency rules and paperwork are being pruned. And Federal employment has been cut by over 250,000 positions in the last 4 years and continues to fall.

These are big and historic changes, spurred on by our efforts to reach a balanced budget and the desire of the American people for a more cost-effective Government.

However, despite the overall downsizing effort, the basic structure of the Federal Government remains unchanged. In fact, the basic structure of the Federal Government has changed little in the last 25 years, despite structural changes in the private sector, the economy, and our society over that same time period. The Federal Government has been the last to follow suit—and that's as it should be in a democracy—but that does not mean it should be immune from change forever. We cannot keep the status quo in the existing executive branch structure while continuing to downsize, cut budgets and programs and reduce personnel levels and also expect these same Federal agencies to perform effectively and maintain adequate levels of service. We'll end up with what I call the hollowing out of Government. We'll have the same agencies and departments in place doing most of the same activities as they do now. But with less money and less people on hand, these activities will be carried out less effectively. We'll have a less costly Federal

Government, but not a more cost-effective one. That is, unless we address reorganization and consolidation of Federal agencies and functions in a comprehensive, well-thought-out way.

Reorganization issues are very difficult, perhaps among the most difficult issues we face in Government. It raises questions that don't have simple, right and wrong answers. Should we have greater centralization of Government functions in less, but larger Cabinet departments? This is the traditional, centralized model of how Government bureaucracy is organized. Or should we decentralize and spread Government functions across many smaller agencies and departments? Such an approach fits what many call the entrepreneurial model of Government organization.

Well, I can think of pros and cons to both approaches. To add to this difficulty, reorganization necessarily involves questions of turf and jurisdiction. Turf battles in this town are as hotly contested as any policy issue. I know this through experience. Several years ago I proposed consolidating the Government's trade and technology functions into one Cabinet department and I faced very stiff opposition. Likewise, turf is just as jealously guarded at the other end of Pennsylvania Avenue. Ask the President's National Performance Review. They proposed integrating the Agency for International Development into the State Department in addition to consolidating the Federal law enforcement agencies only to be faced down by the bureaucracy. So I don't think comprehensive reorganization can be tackled successfully by either the Congress or the executive branch.

That's why I'm in favor of establishing a Government commission to examine executive branch organization. My bill establishes a nine-member, bipartisan Commission to make recommendations to the President and the Congress in 2 years on consolidating, eliminating, and restructuring Federal departments and agencies in order to eliminate unnecessary activities, reduce duplication across programs, and improve management and efficiency. This Commission would be not just any old Commission, producing some big thick study that would wind up largely unread in some recycling bin, or on the dusty shelf of academia. Rather the Commission's recommendations would be submitted to the Congress and have to be considered on a what I call a flexible fast-track basis. They could not perish in committee, as so often occurs with commission reports and recommendations.

There is precedent for such a commission. In fact, the few successful Government reorganization efforts that have taken place have come about because of the work of a commission. Let me give you some background.

The Hoover Commission is probably the most famous Government restructuring commission from recent times. It was formed in 1947 and chaired by former President Hoover. The 12-member commission operated until 1949 and issued 19 reports to the President recommending various changes in the structure of the Federal Government. From these recommendations, President Truman submitted eight reorganization plans to Congress in 1949, of which six became effective. The following year he submitted 27 reorganization plans, 20 of which became effective. Included among these plans were the creation of the General Services Administration, the expansion of the Executive Office of the President, and the creation of a centralized Office of Personnel.

A second Hoover Commission was formed in 1953 and made 314 specific recommendations over the following 2 years, 202 of which were implemented. However, generally this Commission was not considered as successful as the first Hoover Commission, as it engaged itself in more controversial matters of policy rather than solely focus on management and organization as the first commission had done.

Our next restructuring effort of note was put forward by President Nixon's Ash Council, which was in operation from 1969 to 1971. Headed by Roy Ash, chairman of Litton Industries, the Council supplied the President with nine memoranda detailing with specific reorganization and consolidation proposals. The Council recommended the formation of OMB, the EPA, and NOAA from the consolidation of existing programs. These proposals were all implemented. The Council also recommended the creation of several super-Departments, including a Department of Natural Resources, but these proposals ultimately did not pass the Congress.

The next notable Commission came during the Reagan years, the Grace Commission, which was established by Executive order in 1982 and was in operation through 1984. The panel was composed of 161 corporate executives and it issued a massive 47 volume report with nearly 2,500 recommendations. Many of its recommendations were policy-based rather than organizational in nature, hence they generated controversy and polarized debate in the Congress. Still, many of the recommendations were implemented, primarily through executive branch action. And the Commission did call for stronger financial management in the Federal bureaucracy. That's something we have built on in the Committee on Governmental Affairs through enactment of the Chief Financial Officers Act.

More recently, the Committee on Governmental Affairs passed legislation to establish a bipartisan reorganization commission as part of our efforts to make the VA a Cabinet department. That Commission became law, Unfortunately, in order to pass it, we had to place a mechanism to trigger the activation of the Commission through a Presidential certification that the Commission was in the national interest. Unfortunately, that certification was not made, Had it been, perhaps we would have in place today the blueprint for the Government of the 21st century.

Then in the 103d Congress, we reported out a Glenn-Roth-Lieberman Commission bill by a 12 to 1 vote. But we did not move it to the floor because the President's National Performance Review was just getting underway and we wanted to see what it might come up with before establishing the commission.

Finally, last year the committee reported out a version of a government reorganization commission; however, it was tied to legislation dismantling the Commerce Department and thus died. Late in the session, Senator STEVENS developed a substitute retaining the commission but dropping the dismantling provisions, We came close to an agreement and my hope this Congress is that we will reach one.

For a more detailed history of government restructuring commissions I would refer my colleagues to an excellent report prepared by CRS titled ''Reorganizing the Executive Branch in the Twentieth Century: Landmark Commissions.''

I believe that a commission would complement nicely the efforts of the NPR. The Federal work force has been reduced by over 250,000 positions, Federal paperwork and redtape has been simplified, procurement reform has been enacted, and unnecessary field offices at the Department of Agriculture has been closed. These accomplishments are due in significant part to the work and the efforts of the NPR.

However, the NPR has generally not focused on government restricting. In the instances where it has made proposals—I noted two examples earlier in my statement—they have been rebuffed by the bureaucracy, the Congress or both.

Recent congressional efforts have fallen short also, as several of my colleagues learned in advocating the dismantling of four Cabinet departments—HUD, DOE, Commerce, and Education. Those efforts were heavy-handed in my view and would have created more problems then they would have solved.

In closing, I believe an examination of the experience of the private sector in restructuring and downsizing is instructive in differentiating between the right and wrong ways to downsize. A 1993 survey of over 500 U.S. companies by the Wyatt Co. revealed that only 60 percent of the companies actually were able to reduce costs in their restrucuting efforts. Both the Wyatt Survey and a similar one conducted by the American Management Association concluded that successful restructuring efforts must be planned carefully with a clear vision of their goals and objectives, and that proper attention be given to maintaining employee morale

and productivity. Otherwise, the costs of reorganization may outweigh its benefits.

There is a right and a wrong way to reorganize and downsize. I believe that the Commission approach is the right way. I hope my colleagues will support this legislation.

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:

SUMMARY OF THE GOVERNMENT RESTRUCTURING AND REFORM ACT OF 1997

MISSION

To consolidate, eliminate and reorganize Federal government departments, agencies and programs to improve efficiency and effectiveness, streamline operations and eliminate unnecessary duplication. To strengthen management capacity. To propose criteria for government-sponsored corporations. To define new/reorganized agency missions and responsibilities.

MEMBERSHIP

Nine Members (No more than five from any one party). Three Members (including Chair) appointed by the President (Chairman is selected in consultation with the respective Republican and Democratic leaders of the House and Senate). Six Members appointed by the Congress (1 each for each party leader, then 1 by Speaker in concurrence with Sen. Majority Leader and 1 by Sen. Minority Leader in concurrence with House Minority Leader). Appointments made within 90 days of enactment. Six Members must be in agreement for the Commission to approve any recommendation.

REPORTS

President may submit his own recommendations (7/1/98) for the Commission to consider. Commission issues a preliminary (due 12/1/98) and final report (8/1/99) to the President, Congress, and the public. Public hearings must be held and the Commission is subject to FACA. President has 30 days to suggest changes to final report. The final report is forwarded to Congress by 10/1/99.

LEGISLATION

''Flexible'' fast-track process is in place. Commission final report is introduced as one single bill and Committees have 30 legislative days to act or bill is discharged. Bill is then placed on the Senate calender and after 5th legislative day it is in order to proceed to consideration of the bill. Bill can be filibustered or amended (must be relevant). Fast track procedures apply for the House as well. House-Senate conferees then have 20 days to report.

FUNDS/TENURE

$5 M per yr. Sunsets by 10/1/99.

By Mr. DASCHLE (for himself, Mr. HARKIN, Mr. HATCH, Mr. GRASSLEY, Mr. ABRAHAM, Mr. REID, Mr. INOUYE, Mr. BAUCUS, Mr. CRAIG, Mr. KEMPTHORNE, and Mr. THOMAS):

S. 578. A bill to permit an individual to be treated by a health care practitioner with any method of medical treatment such individual requests, and for other purposes; to the Committee on Labor and Human Resources.

THE ACCESS TO MEDICAL TREATMENT ACT

Mr. DASCHLE. Mr. President, today I am introducing the Access to Medical Treatment Act. I am pleased to be joined by Senators HARKIN, HATCH, GRASSLEY, REID, ABRAHAM, INOUYE, BAUCUS, CRAIG, KEMPTHORNE, and THOMAS in this effort to allow greater freedom of choice in the realm of medical treatments.

I was introduced to the alternative medical treatment debate the same way many Americans are: through personal experience. Actually, in my case it was the experience of a personal friend: Berkley Bedell.

Berkley Bedell, as many of you know, is a former Congressman from Iowa's 6th District. He is also—since his battle with Lyme disease several years ago—a tireless advocate for improving access to alternative treatments.

As some may remember, Congressman Bedell was ill with Lyme disease when he left the House at the end of the 100th Congress. Having tried several unsuccessful rounds of conventional treatment consisting of heavy doses of antibiotics over approximately 4 years, he turned to an alternative treatment that he believes cured his disease.

This treatment consisted on its most basic level of nothing more than drinking processed whey from a cow's milk. After about 2 months of taking regular doses of this processed whey, his symptoms disappeared.

Despite Congressman Bedell's amazing recovery, and the fact that this same treatment appeared to be effective in treating other cases of Lyme disease, the treatment can no longer be administered because it has not gone through the FDA approval process.

Congressman Bedell's story—and others I have heard since—have convinced me of two things: first, that our health care system actually discourages the development and use of alternative medical treatments; and second, that this myopic outlook does not serve the best interest of the American people.

As I looked into the potential of alternative therapies, I was struck by what appears to be a deep-seated skepticism of alternative treatments within the medical establishment that may be impeding their use. It is clear to me that the public would benefit by greater debate about the value of alternative medical treatments, and it is to stimulate that debate and ultimately remove barriers to potentially effective treatments that I have reintroduced the Access to Medical Treatment Act.

This legislation would allow individual patients and their physicians to use certain alternative and complementary therapies not approved by the FDA. A companion measure has been introduced in the House by Representative DEFAZIO and 43 of his colleagues.

Mr. President, it has been my experience that efforts to expand access to alternative treatments often produce strong emotional reactions—on both sides of the issue. Sometimes, those reactions are so strong they detract from the merits of the debate.

Therefore, let me clarify the intent of the Access to Medical Treatment Act.

This bill is intended to promote greater access to alternative therapies under the supervision of licensed health practitioners and under carefully circumscribed guidelines. Hopefully, it will stimulate a constructive discussion of how best to achieve this objective.

I appreciate the natural inclination to be wary of uncharted waters, and I am not suggesting that caution be thrown to the wind in the case of alternative therapies. Some have expressed concern that this bill could have the unintended effect of opening the door to unscrupulous entrepreneurs who seek to make profit on the despair of the sick. I don't minimize that concern. How to guard against such an unintended consequence is an issue we will want to examine closely and address.

What I am suggesting, however, is that this concern should not blind us to the benefit and potential of alternative medicine. It is not a reason to shrink from the challenge of expanding access to alternative therapies.

Alternative therapies constitute a legitimate field of endeavor that is an accepted part of medicine taught in at least 22 of the Nation's 125 medical schools, including such prestigious institutions as Harvard, Yale, Columbia, Johns Hopkins, Georgetown, Albert Einstein, Mount Sinai, UCLA, and the University of Maryland.

At the National Institutes of Health's Office of Alternative Medicine, scientists are working to expand our knowledge of alternative therapies and their safe and effective use.

And the State medical licensing boards now have a committee discussing alternative medicine. I encourage that panel to explore how safe access to alternative medicine might be increased.

Additionally, more and more Americans are turning to alternative therapies in those frustrating instances in which conventional treatments seem to be ineffective in combating illness and disease. In 1990 alone, the New England Journal of Medicine found that Americans spent nearly $14 billion on alternative therapies, and made more visits to alternative practitioners than they did to primary care doctors. American consumers are turning to these therapies because they are perceived to be a less expensive and more prevention-based alternative to conventional treatments.

Given the popularity of alternative therapies among the American public, it will be asked why this legislation is necessary. If a particular alternative treatment is effective and desired by patients, then why can't it simply go through the standard FDA approval process?

The answer is that the time and expense currently required to gain FDA approval of a treatment makes it very

difficult for all but large pharmaceutical companies to undertake such an arduous and costly endeavor. The heavy demands and requirements of the FDA approval process, and the time and expense involved in meeting them, serve to limit access to the potentially innovative contributions of individual practitioners, scientists, smaller companies, and others who do not have the financial resources to traverse the painstakingly detailed path to certification.

Thus, the current system has the unfortunate effect of both discouraging the exploration of life-saving treatments and preventing low-cost treatments from gaining access to the market. The Access to Medical Treatment Act attempts to open the door to promising treatments that may not have huge financial backing.

I want to be absolutely clear, however, that this legislation will not dismantle the FDA, undermine its authority or appreciably change current medical practices. It is not meant to attack the FDA or its approval process. It is meant to complement it.

The FDA should—and would under this legislation—remain solely responsible for protecting the health of the Nation from unsafe and impure drugs. The heavy demands and requirements placed upon treatments before they gain FDA approval are important, and I firmly believe that treatments receiving the Federal Government's stamp of approval should be proven safe and effective.

The real question posed by this legislation is whether it is in the public interest to simply forgo the potential benefits of alternative treatments because of economies of scale, or whether, working with the FDA, it makes sense to explore ways to bring such treatments to the marketplace.

Mr. President, the Access to Medical Treatment Act proposes one way to extend freedom of choice to medical consumers under carefully controlled situations. It suggests that individuals—especially those who face life-threatening afflictions for which conventional treatments have proven ineffective—should have the option of trying an alternative treatment, so long as they have been fully informed of the nature of the treatment, potential side effects and any other information necessary to fully meet FDA informed consent requirements. This is a choice that is rightly left to the consumer, and not dictated by the Federal Government.

The bill requires that a treatment be administered by a properly licensed health care practitioner who has personally examined the patient. It requires the practitioner to comply fully with FDA informed consent requirements. And it strictly regulates the circumstances under which claims regarding the efficacy of a treatment can be made.

No advertising claims can be made about the efficacy of a treatment by a manufacturer, distributor, or other seller of the treatment. Claims may be made by the practitioner administering the treatment, but only so long as he or she has not received any financial benefit from the manufacturer, distributor, or other seller of the treatment. No statement made by a practitioner about his or her administration of a treatment may be used by a manufacturer, distributor, or other seller to advance the sale of such treatment.

What this means is that there can be no marketing of any treatment administered under this bill. As such, there should be little incentive for anyone to try to use this bill as a bypass to the process of obtaining FDA approval. Also, because only properly licensed practitioners are able to make any claims at all about the efficacy of a treatment, there should be little room for so-called quack medicine. In short, if an individual or a company wants to earn a profit off their product, they would be wise to go through the standard FDA approval process rather than utilizing this legislation.

In essence, this legislation addresses the fundamental balance between two seemingly irreconcilable interests: the protection of patients from dangerous treatments and those who would advocate unsafe and ineffective medicine—and the preservation of the consumer's freedom to choose alternative therapies.

The complexity of this policy challenge should not discourage us from seeking to solve it. I am convinced that the public good will be served by a serious attempt to reconcile these contradictory interests, and I am hopeful the discussion generated by introduction of this legislation will help point the way to its resolution. I welcome anyone who would like to join me in promoting this important debate to cosponsor this legislation. I also welcome alternative suggestions for accomplishing this objective.

As I mentioned previously, I am sympathetic to the concern about the need to protect patients against unscrupulous practitioners. Individuals are often at their most vulnerable when they are in desperate need of medical treatment. That is why it is absolutely critical that a proposal of this nature include strong protections to ensure that patients are not subject to charlatans who would prey on their misfortunate and fears for personal gain. The Access to Medical Treatment Act contains such protections.

Mr. President, this legislation represents an honest attempt to focus serious attention on the value of alternative treatments and overcome current obstacles to their safe development and utilization. If there is a better way to make alternative therapies available to people safely, let's find that way. But let's continue this discussion and get the job done.

I ask unanimous consent that the text of the Access to Medical Treatment Act be printed in the RECORD.

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

S. 578

*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 ''Access to Medical Treatment Act''.

**SEC. 2. DEFINITIONS.**

In this Act:

(1) ADVERTISING CLAIMS.—The term ''advertising claims'' means any representations made or suggested by statement, word, design, device, sound, or any combination thereof with respect to a medical treatment.

(2) DANGER.—The term ''danger'' means any negative reaction that—

(A) causes serious harm;

(B) occurred as a result of a method of medical treatment;

(C) would not otherwise have occurred; and

(D) is more serious than reactions experienced with routinely used medical treatments for the same medical condition or conditions.

(3) DEVICE.—The term ''device'' has the same meaning given such term in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)).

(4) DRUG.—The term ''drug'' has the same meaning given such term in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)).

(5) FOOD.—The term ''food''—

(A) has the same meaning given such term in section 201(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(f)); and

(B) includes a dietary supplement as defined in section 201(ff) of such Act.

(6) HEALTH CARE PRACTITIONER.—The term ''health care practitioner'' means a physician or another person who is legally authorized to provide health professional services in the State in which the services are provided.

(7) LABEL.—The term ''label'' has the same meaning given such term in section 201(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(k)).

(8) LABELING.—The term ''labeling'' has the same meaning given such term in section 201(m) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(m)).

(9) LEGAL REPRESENTATIVE.—The term ''legal representative'' means a parent or an individual who qualifies as a legal guardian under State law.

(10) MEDICAL TREATMENT.—The term ''medical treatment'' means any food, drug, device, or procedure that is used and intended as a cure, mitigation, treatment, or prevention of disease.

(11) SELLER.—The term ''seller'' means a person, company, or organization that receives payment related to a medical treatment of a patient of a health practitioner, except that this term does not apply to a health care practitioner who receives payment from an individual or representative of such individual for the administration of a medical treatment to such individual.

**SEC. 3. ACCESS TO MEDICAL TREATMENT.**

(a) IN GENERAL.—Notwithstanding any other provision of law, and except as provided in subsection (b), an individual shall have the right to be treated by a health care practitioner with any medical treatment (including a medical treatment that is not approved, certified, or licensed by the Secretary of Health and Human Services) that such individual desires or the legal representative of such individual authorizes if—

(1) such practitioner has personally examined such individual and agrees to treat such individual; and

(2) the administration of such treatment does not violate licensing laws.

(b) MEDICAL TREATMENT REQUIREMENTS.—A health care practitioner may provide any medical treatment to an individual described in subsection (a) if—

(1) there is no reasonable basis to conclude that the medical treatment itself, when used as directed, poses an unreasonable and significant risk of danger to such individual;

(2) in the case of an individual whose treatment is the administration of a food, drug, or device that has to be approved, certified, or licensed by the Secretary of Health and Human Services, but has not been approved, certified, or licensed by the Secretary of Health and Human Services—

(A) such individual has been informed in writing that such food, drug, or device has not yet been approved, certified, or licensed by the Secretary of Health and Human Services for use as a medical treatment of the medical condition of such individual; and

(B) prior to the administration of such treatment, the practitioner has provided the patient a written statement that states the following:

''WARNING: This food, drug, or device has not been declared to be safe and effective by the Federal Government and any individual who uses such food, drug, or device, does so at his or her own risk.'';

(3) such individual has been informed in writing of the nature of the medical treatment, including—

(A) the contents and methods of such treatment;

(B) the anticipated benefits of such treatment;

(C) any reasonably foreseeable side effects that may result from such treatment;

(D) the results of past applications of such treatment by the health care practitioner and others; and

(E) any other information necessary to fully meet the requirements for informed consent of human subjects prescribed by regulations issued by the Food and Drug Administration;

(4) except as provided in subsection (c), there have been no advertising claims made with respect to the efficacy of the medical treatment by the practitioner;

(5) the label or labeling of a food, drug, or device that is a medical treatment is not false or misleading; and

(6) such individual—

(A) has been provided a written statement that such individual has been fully informed with respect to the information described in paragraphs (1) through (4);

(B) desires such treatment; and

(C) signs such statement.

(c) CLAIM EXCEPTIONS.—

(1) REPORTING BY A PRACTITIONER.—Subsection (b)(4) shall not apply to an accurate and truthful reporting by a health care practitioner of the results of the practitioner's administration of a medical treatment in recognized journals, at seminars, conventions, or similar meetings, or to others, so long as the reporting practitioner has no direct or indirect financial interest in the reporting of the material and has received no financial benefits of any kind from the manufacturer, distributor, or other seller for such reporting. Such reporting may not be used by a manufacturer, distributor, or other seller to advance the sale of such treatment.

(2) STATEMENTS BY A PRACTITIONER TO A PATIENT.—Subsection (b)(4) shall not apply to any statement made in person by a health care practitioner to an individual patient or an individual prospective patient.

(3) DIETARY SUPPLEMENTS STATEMENTS.—Subsection (b)(4) shall not apply to statements or claims permitted under sections 403B and 403(r)(6) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343–2 and 343(r)(6)).

**SEC. 4. REPORTING OF A DANGEROUS MEDICAL TREATMENT.**

(a) HEALTH CARE PRACTITIONER.—If a health care practitioner, after administering a medical treatment, discovers that the treatment itself was a danger to the individual receiving such treatment, the practitioner shall immediately report to the Secretary of Health and Human Services the nature of such treatment, the results of such treatment, the complete protocol of such treatment, and the source from which such treatment or any part thereof was obtained.

(b) SECRETARY.—Upon confirmation that a medical treatment has proven dangerous to an individual, the Secretary of Health and Human Services shall properly disseminate information with respect to the danger of the medical treatment.

**SEC. 5. REPORTING OF A BENEFICIAL MEDICAL TREATMENT.**

If a health care practitioner, after administering a medical treatment that is not a conventional medical treatment for a life-threatening medical condition or conditions, discovers that such medical treatment has positive effects on such condition or conditions that are significantly greater than the positive effects that are expected from a conventional medical treatment for the same condition or conditions, the practitioner shall immediately make a reporting, which is accurate and truthful, to the Office of Alternative Medicine of—

(1) the nature of such medical treatment (which is not a conventional medical treatment);

(2) the results of such treatment; and

(3) the protocol of such treatment.

**SEC. 6. TRANSPORTATION AND PRODUCTION OF FOOD, DRUGS, DEVICES, AND OTHER EQUIPMENT.**

Notwithstanding any other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 201 et seq.), a person may—

(1) introduce or deliver into interstate commerce a food, drug, device, or any other equipment; and

(2) produce a food, drug, device, or any other equipment,

solely for use in accordance with this Act if there have been no advertising claims by the manufacturer, distributor, or seller.

**SEC. 7. VIOLATION OF THE CONTROLLED SUBSTANCES ACT.**

A health care practitioner, manufacturer, distributor, or other seller may not violate any provision of the Controlled Substances Act (21 U.S.C. 801 et seq.) in the provision of medical treatment in accordance with this Act.

**SEC. 8. PENALTY.**

A health care practitioner who knowingly violates any provisions under this Act shall not be covered by the protections under this Act and shall be subject to all other applicable laws and regulations.

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By Mr. ASHCROFT:

S. 579. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for the old-age, survivors, and disability insurance taxes paid by employees and self-employed individuals, and for other purposes; to the Committee on Finance.

THE WORKING AMERICANS WAGE RESTORATION ACT

Mr. ASHCROFT. Mr. President, it has been said that America is a city on a hill, a special example for the rest of the world to observe—a place of hope, a place of opportunity—what America is and ought to be. But it might be said that if we are a city, we are in need of urban renewal. We need to restart our engine, to regenerate the potential for growth, for the development of opportunity in this culture.

Economic growth has been the idea, it has been the mechanism whereby America could find a special place of opportunity, where America could be that particular country that said:

> Give me your tired, your poor, your huddled masses, yearning to breathe free, the wretched refuse of your teeming shore. Send these, the homeless tempest tossed, to me.

With what the writer of that great poem inscribed on the Statue of Liberty, America could proudly proclaim, ''I lift my lamp beside the golden door.''

America has been a place of opportunity because it has been a place of growth, with an understanding that we could always grow our way through problems. Growth has been that marvelous key toward providing some new hope for individuals. Individuals from anywhere and everywhere at all times in our history have provided a part of the stream of a growing America, a set of opportunities that is the envy of the world. Yet what is happening and has happened to our growth? What has happened to our culture? Working families are being stressed. They get up early. They work hard. They sacrifice time with each other and with their children, and they seem to have less and less to show for it. They are squeezed not just financially but as families.

What is the reason? Why is that we as a culture find ourselves laboring under this weight rather than soaring with the opportunity characteristic of our heritage?

I think we have a tax load that is weighing down individuals in this culture, and it is a major one. It is simple. It is not hard to understand. The most recent issue of Baron's magazine, which is a magazine that monitors business activity and government and families and opportunity, spells out the tremendous tax load—heavier at this moment in history than at any other time in the history of America. It is interesting to note that we were able to spend our way out of the Great Depression with lower tax rates than we now have. We were able to make the world safe for democracy or to work toward making it in the First World War. We were able to defeat the onerous and terrible power of Nazi Germany in the Second World War with lower tax rates than we have now.

Big government is taking so much of the working wages of Americans that Americans no longer have the resources to spend on themselves that they need.

The family budget in 1955, for example, was 27.7 percent in total taxes. Now the total taxes of the average American family is well over 38 percent. And you are well aware of the fact that we spend more on taxes than

we do on food, clothing, and shelter combined. We need to take a look at what we are spending and how we are deploying it, to see what has happened to what we thought were our wage increases. We have had a lot of wage increases, but we end up with less and less. It turns out that the wage increase for America has been stolen by the Government. If we had the kind of income that we have now and we were paying 27.7 in total taxes like we were in 1955, we would have had real wage increases.

Mr. President, today is April 15. It is tax day. Yet most Americans do not realize that we are forced to pay a double tax. We pay income tax on the Social Security taxes that are deducted from our check, on those taxes which are pulled out before we ever see our check. We pay income taxes on that tax. That is particularly unfortunate. We are double taxed. Money that we never see, money that goes to Government, we pay a second tax to Government on that money. It does not make sense.

Interestingly enough, this is not a tax that hits American businesses the same way. As you will recall, half of the Social Security tax is paid by citizens; half is paid by corporations or the employers. The citizen who pays the tax pays a double tax—not only pays the Social Security tax but then has an income tax on that same money that is required to be taken out of his remaining funds. The business that pays Social Security taxes gets to deduct from its other taxes what it has paid in Social Security taxes, or gets to deduct from its taxable income what it has paid in Social Security taxes.

So the business community gets fair treatment of a single tax while the working individual has a double tax situation there, and it is time to end that kind of arbitrary, unreasonable, unequal, discriminatory approach to the worker and to provide parity with the reasonable expectation that is demanded from the employer and the corporation. If this is deductible to the employers and to corporations and to businesses, the payment of those taxes should also be deductible to individuals in our culture.

The ordinary citizen, the worker, cannot though, and it is time that we lift the American worker at least to tax parity and to tax equality, a position that they should share with the corporate community and the business community.

For those who are fond of saying that every tax break is a tax break for the rich, it is time to think again. This is not a proposal that is designed to help people who make millions and millions of dollars. Social Security taxes are only levied on the first $65,000 of income. If we provide a deduction for those Social Security taxes which are paid, the person who makes $65,000 in income does not have any smaller deduction or any smaller benefit than the person who makes $650,000 in income or the person who makes $65 million in income. The tax benefit is the same once you reach the $65,000 level.

So this is a tax benefit that is not focused on the rich. It is not any more valuable to the very rich than it is to the middle class. The truth is this is the middle-class tax cut that is fair. It provides for people who work, that they will not be double taxed on their work. Social Security taxes are the only tax in America levied on work. Income taxes are levied on earned income or unearned income, but Social Security taxes are levied on work. How ironic that in America we would have a double tax on work. We ought to be standing for a proposition, instead of double taxing work, at least give it equality with other income that would not be double taxed. We would give Americans an opportunity to retain some of that for which they had worked so they could spend it themselves.

There would be a significant improvement in the setting for the average two-income family in America. The average two-earner family pays about $1,227 more in income taxes because they cannot deduct from their income tax the taxes they have already paid to Social Security. If we allow them to deduct those, that means that $1,227 that is paid in income taxes would be available for individuals to have to meet their family needs. This is not just a way of saying that people will be able to spend the money. It is saying that people will be able to spend this money on themselves rather than have Government spend this money on more Government programs. I think most Americans understand that they would be better off deciding what they need most and how best to meet those needs than expecting Government to spend the money for them.

The thrust of the matter is that this $1,227 per year for the average two-income family would be a welcome relief from a tax load which is higher than it has ever been before in the history of this country.

I had the privilege of being Governor in my State for two terms before I came here, and I know what jobs mean and how important jobs are. What is interesting to note is that if we were to implement this tax measure of relief for the American people, the scholars estimate it would mean 900,000 new jobs in this country. Nine hundred thousand new jobs would provide a real spurt of growth for this Nation and would help us reacquire the sense of dynamic that America has had historically and that our heritage contains. Nine hundred thousand new jobs would be an average of about 18,000 jobs per State. I know that 18,000 jobs is equivalent to at least 3 car plants, new car plants, in a State. That would mean growth. That would mean opportunity. It would build for the future of this great country. I think we need to remind ourselves on a consistent basis when we tax people it is not a question of whether or not the money will be spent; it is a question of whether Government will spend the money or people will spend the money. I believe people can decide best.

The passage of this act would affect the take-home pay of 77 million Americans who would have more resources to devote to meet the needs of their families, and it would be a measure of providing equity and fairness so that they would not be double taxed and neither would they be taxed unequally and in a discriminatory way as compared to the taxes which are levied on the corporate community.

Mr. President, so often we say that bigger Government is required because some think that families will not do what they ought to do. I believe we have come to a juncture where Government has made it impossible for families to do what they need to do. Families want to share. They want to be involved in their communities. They want to be involved in reaching out to other people. When Government takes such a big portion of your income, when you have to work 3 hours every day to pay your taxes and you struggle through the rest of your day to meet your own needs, it does not leave much opportunity for sharing.

The purpose of Government is related to growth. It is related to the growth of people, not the growth of Government. If we are to perpetuate a system where the only thing that can grow is Government, we have made a mistake. We would have destroyed the genius of America and repudiated our rich history of being able to grow our way through any challenge. It is time for us, the United States of America, the city on the Hill, again to be a city of hope and opportunity. It is time for us to provide a basis upon which the American worker and the American economy can grow. We can do that by ceasing the practice of double taxing work. We must stop double taxing working Americans.

The bill, which I now send to the desk, is cosponsored by Senators CRAIG, SHELBY, COCHRAN, HAGEL, and HATCH. It would end the double taxation that American workers pay on Social Security taxes, because income taxes are levied on those amounts which are deducted as payroll taxes, known as Social Security taxes.

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. 579

*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 ''Working Americans Wage Restoration Act''.

**SEC. 2. DEDUCTION FOR OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE TAXES OF EMPLOYEES AND SELF-EMPLOYED INDIVIDUALS.**

(a) TAXES OF EMPLOYEES.—

(1) DEDUCTION ALLOWED IN ARRIVING AT ADJUSTED GROSS INCOME.—Section 62(a) of the Internal Revenue Code of 1986 (defining adjusted gross income) is amended by inserting after paragraph (16) the following new paragraph:

''(17) EMPLOYEES' OASDI TAXES.—The deduction allowed by section 164(g).''

(2) DETERMINATION OF DEDUCTION.—Section 164 of such Code (relating to deduction for taxes) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) EMPLOYEES' OASDI TAXES.—

''(1) IN GENERAL.—In the case of an individual, in addition to the taxes described in subsection (a), there shall be allowed as a deduction for the taxable year an amount equal to the sum of—

''(A) the taxes imposed by section 3101(a) for the taxable year, and

''(B) the taxes imposed by section 3201(a) for the taxable year but only to the extent attributable to the percentage in effect under section 3101(a).

''(2) SPECIAL RULE FOR CERTAIN AGREEMENTS.—For purposes of paragraph (1), taxes imposed by section 3101(a) shall include amounts equivalent to such taxes imposed with respect to remuneration covered by—

''(A) an agreement under section 218 of the Social Security Act, or

''(B) an agreement under section 3121(l) (relating to agreements entered into by American employers with respect to foreign affiliates).

''(3) COORDINATION WITH SPECIAL REFUND OF SOCIAL SECURITY TAXES.—Taxes shall not be taken into account under paragraph (1) to the extent the taxpayer is entitled to a special refund of such taxes under section 6413(c).

''(4) COORDINATION WITH EARNED INCOME CREDIT.—No deduction shall be allowed under paragraph (1) for any taxable year if the individual elects to claim the earned income credit under section 32 for the taxable year.''

(3) CONFORMING AMENDMENT.—The next to last sentence of section 275(a) of such Code is amended by inserting ''or 164(g)'' after ''164(f)''.

(b) DEDUCTION FOR SELF-EMPLOYED INDIVIDUALS.—

(1) IN GENERAL.—Paragraph (1) of section 164(f) of the Internal Revenue Code of 1986 (relating to deduction for one-half of self-employment taxes) is amended to read as follows:

''(1) IN GENERAL.—In the case of an individual, in addition to the taxes described in subsection (a), there shall be allowed as a deduction for the taxable year an amount equal to the sum of—

''(A) the taxes imposed by section 1401(a) for such taxable year, plus

''(B) 50 percent of the taxes imposed by section 1401(b) for such taxable year.

In the case of an individual who elects to claim the earned income credit under section 32 for the taxable year, only 50 percent of the taxes described in subparagraph (A) shall be taken into account.''

(2) CONFORMING AMENDMENTS.—

(A) Section 32(a)(1) of such Code is amended by inserting ''who elects the application of this section'' after ''eligible individual''.

(B) The heading for section 164(f) of such Code is amended by striking ''ONE-HALF'' and inserting ''PORTION''.

(C) Section 1402(a)(12) of such Code is amended—

(i) by striking ''one-half'' the first place it appears and inserting ''portion'', and

(ii) by striking subparagraph (B) and inserting:

''(B) a percentage equal to the sum for such year of the rate of tax under section 1401(a) and one-half of the rate of tax under section 1401(b);''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

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By Mr. SMITH of New Hampshire (for himself, Mr. FAIRCLOTH, Mr. GRAMM, Mr. HATCH and Mr. KYL):

S. 580. A bill to amend the Internal Revenue Code of 1986 to allow individuals to designate that up to 10 percent of their income tax liability be used to reduce the national debt, and to require spending reductions equal to the amounts so designated; to the Committee on Finance.

THE TAXPAYER DEBT BUY-DOWN ACT OF 1997

Mr. SMITH, Mr. President, today I am introducing legislation to create an active role for ''We the People'' in the fiscal matters of the Federal Government.

I am joined by my colleagues, Senators FAIRCLOTH, GRAMM, HATCH, and KYL, who are original cosponsors of this measure.

WHY WE NEED THE TAXPAYER DEBT BUY-DOWN: THE PRESIDENT AND CONGRESS HAVE NOT STEPPED UP TO THE PLATE

On February 6, President Clinton submitted his fifth unbalanced budget.

Then, on March 4, the Senate failed by one vote to approve the balanced budget constitutional amendment (BBCA).

During the debate on the balanced budget constitutional amendment, the president and his congressional allies decried the constitutional change as too permanent, and argued that Congress could impose fiscal self-discipline.

In response to these claims, today I am reintroducing the Taxpayer Debt Buy-Down Act. This legislation not only answers appeals for statutory restrictions, but also takes the balanced budget debate to the people.

If the President and Congress cannot agree, the American people should decide.

I first introduced the bill in 1992, and it was endorsed by President George Bush.

More than one-third of the Senate voted for my plan which I offered as an amendment to the tax bill of 1992.

I feel the time has come again to empower the taxpayers to tell Congress how much spending they want cut in order to balance the budget and buy down the debt.

For example; in 1996, individual income tax revenue totaled over $650 billion.

So if every taxpayer checked off the maximum designation of 10-percent, Congress would have to come up with roughly $65 billion in spending cuts.

Admittedly, this level of participation is highly unlikely initially.

A more reasonable estimate would be that the total taxpayer check-off would amount to about 3-percent of all individual tax revenue in the first few years.

Under this scenario, Congress would only have to find less than $20 billion in spending reductions.

Considering the danger posed by our growing national debt, who could oppose $20 billion in spending cuts.

The American people will be able to tell us if we are on the right track, or if they want more deficit and debt reduction.

I challenge my colleagues to support their claims that they support a balanced budget. Ask the taxpayers.

THE PROCESS WOULD BE SIMPLE

First, by checking off a box on their April 1040 tax forms, taxpayers would designate up to 10 percent of their income tax liability, what they owe, for the purpose of deficit and debt reduction. Once the deficit is eliminated, designated cuts would buy down the debt.

Second, the following October, the Treasury Department would calculate the amount demanded by the taxpayers. Congress would then have until the end of the next fiscal year to cut Federal spending in any area to meet this target.

Third, if Congress failed to make the necessary cuts, an automatic across-the-board sequester of all Government accounts, with some necessary exemptions, would be triggered at the end of the session. This sequester would ensure compliance with the taxpayer-mandated spending reductions. However, I would hope this would not occur if Congress listens to the mandate of the taxpayers.

Fourth, furthermore, to harmonize this grassroots effort with congressional efforts to balance the budget, the check-off will initially mandate spending cuts and debt retirement only over and above the savings that Congress otherwise enacts. For example, if Congress passes legislation that implements savings of $50 billion in fiscal year 1999, and the check-off for that year totals $60 billion, only an additional $10 billion would be cut under this bill.

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By Mr. DURBIN (for himself, Mr. LEAHY, Mrs. FEINSTEIN and Mr. TORRICELLI):

S. 581. A bill to amend section 49 of title 28, United States Code, to limit the periods of service that a judge or justice may serve on the division of the United States Court of Appeals for the District of Columbia to appoint independent counsels, and for other purposes; to the Committee on the Judiciary.

INDEPENDENT COUNSEL LEGISLATION

Mr. DURBIN. Mr. President, I rise today to introduce, with Senators LEAHY, FEINSTEIN and TORRICELLI, legislation dealing with the three-judge panel that appoints independent counsels.

In the last few days, we have heard a flurry of speeches about the appointment of an independent counsel and about the grasp that the Attorney General has on her job. Recently some Members of Congress have suggested that we should open an investigation on the Attorney General because of her

decision not to seek the appointment of an independent counsel.

This is a new high in the efforts to politicize the independent counsel statute and a new low in bullying tactics.

And, Mr. President, these tactics have worked insofar as their goal was to politicize this issue. Many Americans now view this statute as just another political football. Here in Congress, we toss about calls for an independent counsel. We threaten to minutely examine every act of the Attorney General in her efforts to carry out her duties under the statute.

Meanwhile, one of the most important institutions to the operation of the independent counsel statute goes unexamined. The three-judge panel that appoints and oversees the independent counsels wields enormous power. And it has tainted itself through close connections to partisan politics and through the appointment of special counsels who are likewise partisans.

This panel seems to operate free of any genuine scrutiny. It plays one of the most important roles in the administration of the statute. And it is the most in need of some oversight.

The last time an independent counsel was appointed, we all saw just how embroiled that three-judge panel is in partisan politics. The head of that panel, the Republican-appointed David Sentelle, had lunch with two Republican Senators just a few weeks before he appointed an independent counsel who was a Republican Justice Department official and who had just recently publicly contemplated running for the Senate as a Republican. As a result of this incident, five former presidents of the American Bar Association issued a letter rebuking Judge Sentelle for his actions.

A recent article in the Legal Times noted:

> In fact, with the appointment of independent counsel[s] handled by a highly secretive three-judge panel, named by the chief judge of the United States, it could be argued that one partisan system has simply been supplanted by another.

Let me explain what the panel currently does and how that contributes to the failings of the statute.

The first flaw in the statute is in the appointment terms of the judges who sit on this special panel. Currently, three judges are appointed to the panel by the Chief Justice of the United States. The judges are appointed to the division for 2-year terms.

But David Sentelle is now serving his third 2-year term. Judge John D. Butzner, Jr., is in the middle of his fourth 2-year term. And Judge Peter T. Fay is in the midst of his second 2-year term.

In short, some judges are becoming entrenched in the independent counsel process.

A second flaw in the judges' panel is in its consistent failure to issue any rules of procedure and practice. In 1994, when we reauthorized the act, Congress called on the panel to promulgate rules of procedure for practice before it, clarify available avenues of appellate review, and undertake to catalog and preserve independent counsel reports and make public versions accessible upon request.

They have not done so. Only recently, the panel issued some draft rules of procedure dealing with attorney fee applications, but in 3 years they do seem to have not otherwise complied with Congress's request.

This special division is like a magician's hat: independent counsels emerge from it. But we do not know how. Are there any criteria used by the panel to appoint an independent counsel? Does the panel make any effort to assure that the person it appoints is actually independent? How does someone get this job—a job with a virtually unlimited budget and a stunning array of powers?

We do not know because the Court will not tell us, even though we asked them to 3 years ago.

We need to do a few things about this panel. The legislation I introduce today is intended to remove any taint of partisan politics from this panel. It requires that judges on the panel serve no more than two, 2-year terms. This will ensure that no one judge gets entrenched in appointing independent counsels. And it assures that the division does not get politicized. In addition, it is consistent with current law. Why have 2-year terms if the judges just stay on as long as they want? The 2-year term was clearly inserted with the view that judges would not stay on the division forever.

In addition to limiting judges on the panel to 4 years, the measure I introduce requires that the division promulgate the very rules that we asked them to issue 3 years ago.

The special division should not be a mysterious black box. People who practice before it should know the rules. Attorney fee applications are the most common things the Division has to deal with, but this provision also requires that the Special Division have rules governing the appointment of an independent counsel. We should know what criteria and what procedure they use to assure that the independent counsel is indeed independent and qualified.

Mr. President, I hope we can all agree that this measure is vitally needed. It is simply aimed at improving the operation of the independent counsel statute not tearing it down. It's goal is to take some partisan politics out of the system and to put a little more independence back into the statute.

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. 581

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

**SECTION 1. LIMITATION ON PERIODS OF SERVICE THAT A JUDGE MAY SERVE ON THE DIVISION TO APPOINT INDEPENDENT COUNSELS.**

(a) LIMITATION ON SERVICE.—

(1) IN GENERAL.—Section 49 of title 28, United States Code, is amended by adding at the end the following:

''(g)(1) Notwithstanding subsections (a) through (f) and subject to paragraphs (2) and (3) of this subsection, no judge or justice may serve more than 2 two-year periods assigned to the division to appoint independent counsels under this section.

''(2) For purposes of paragraph (1), service in filling a vacancy on the division of—

''(A) less than 1 year shall not apply; and

''(B) 1 year or more shall be considered service for the full two-year period.

''(3) A judge of the United States Court of Appeals for the District of Columbia who has served 2 two-year periods on the division may be assigned to serve an additional two-year period, if—

''(A) every other judge of such Court otherwise eligible for such assignment has served 2 two-year periods in such assignment; and

''(B) the period of time since such judge last served in such assignment is not less than the period of time any other judge of such Court (who is otherwise eligible to serve) last served in such assignment.''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of enactment of this Act and shall apply to any judge or justice serving on such date on the division to appoint independent counsels of the United States Court of Appeals for the District of Columbia.

(b) ADMINISTRATION OF DIVISION BY THE CIRCUIT JUDICIAL COUNCIL.—

(1) IN GENERAL.—Section 332 of title 28, United States Code (including subsection (d) of such section relating to making all necessary and appropriate orders for the effective and expeditious administration of justice), shall apply with respect to the administration of the division of the United States Court of Appeals for the District of Columbia to appoint independent counsels by the Circuit Judicial Council for the District of Columbia.

(2) RULES.—No later than 6 months after the date of enactment of this Act, the Circuit Judicial Council for the District of Columbia shall promulgate rules to—

(A) govern practice and procedures before the division to appoint independent counsels;

(B) govern the procedure for the appointment of an independent counsel by the division;

(C) clarify procedures for judicial appellate review of actions of the division; and

(D) catalog and preserve independent counsel reports and make public versions available upon request.

Mr. LEAHY. Mr. President, the whole purpose of the independent counsel law—to get politics out of the process of investigating politically potent matters—has been severely undercut recently by partisan efforts to bully the Attorney General into appointing an independent counsel to investigate fundraising activities in the 1996 Presidential campaign. In fact, some Republicans in Congress have threatened that if Janet Reno refuses to do what they want, she will be investigated and her job will be at stake.

This marks a new low in the politicization of the independent counsel process. These threats demean our system of justice and, I fear, undermines public confidence in all branches of government.

Continued politicization of the independent counsel process will be the death knell for this law. The American people already have legitimate questions about how much independent counsels cost, how long they take, and how this law is working. By last count, independent counsels have cost taxpayers a total of over $125 million. Whitewater counsel Ken Starr alone has already spent over $22 million. We still have an independent counsel investigating matters from the Reagan administration.

Suspicions about the role of partisan politics in the selection of so-called independent counsels are already strong. A Reagan-appointed Chief Justice, who served in the Nixon administration, appointed a staunchly Republican judge to the selection panel that, after meeting in secret, appointed partisan Republican Kenneth Starr to investigate Whitewater.

If the results of independent counsel investigations cannot be trusted because they are tainted by partisan politics, we will not be able to justify the costs of this law.

That is why I am commending Senator DURBIN for his work on this bill. It takes important steps to begin restoring public confidence in the process by which independent counsels are selected. Specifically, the bill sets term limits for the three judges who serve on the Special Division of the D.C. Circuit division that appoints the independent counsel. Under current law, these judges serve for 2-year terms. However, all of them are on at least their second 2-year term. The legislation would prohibit a judge, including the current panel, from serving more than 2-year terms.

In addition, the bill would allow sunshine on the selection of independent counsels and the results of independent counsel investigations. What criteria does the Special Division use to select independent counsels? Do they look for trial experience, prosecutorial experience or political experience? The bill places the Special Division that selects independent counsels under the authority of the Circuit Judicial Council and requires that the Council promulgate within 6 months rules of practice for the Division. These rules would specify the procedure for selection of an independent counsel. This is important so everyone will know what qualifications the Special Division uses to evaluate candidates. Public procedures should also open up the process so that appropriate candidates know how to apply for independent counsel positions when openings occur. This is too important a process to be decided by political cronies over lunch.

The bill would also require that the Court catalog and preserve independent counsel reports and make public versions available upon request.

This bill is not a cure-all for the problems we have seen with the independent counsel law. But this is a good start.

Mr. President, the whole purpose of the independent counsel law—to get politics out of the process of investigating politically potent matters—has been severely undercut recently by partisan efforts to bully the Attorney General into appointing an independent counsel to investigate fundraising activities in the 1996 Presidential campaign. In statement after statement by otherwise responsible Members of Congress, they tell her how she should use here discretion and how she should make up her mind, before she even has an opportunity to do so. Some Republicans in Congress have threatened that if Janet Reno refuses to do what they want, she will be investigated and her job will be at stake.

Basically, the American people were asked last night to make this choice: Would they let the Speaker of the House, Mr. GINGRICH, determine what the ethics rules should be, or would they rather allow the Attorney General of the United States, Janet Reno to follow the law and investigate whether crimes have occurred?

Frankly, I am very confident in allowing Attorney General Reno to proceed. She has done a pretty darn good job so far. She calls them as she sees them and has been a very straightforward Attorney General.

I hope that everybody, whether in this body or the other body, will stop trying to substitute their ethical standards and political judgment as to what should be done and allow the Attorney General, who sticks to a very strong ethical standard, to follow and enforce the law. I believe the statements seeking to intimidate the Attorney General mark a new low in the politicization of the independent counsel process.

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By Mr. GREGG:

S. 583. A bill to change the date on which individual Federal income tax returns must be filed to the Nation's Tax Freedom Day, the day on which the country's citizens no longer work to pay taxes, and for other purposes; to the Committee on Finance.

TAX FILING ON TAX FREEDOM DAY ACT OF 1997

Mr. GREGG. Mr. President, this past weekend we had a weekend of firsts. Tiger Woods became the youngest PGA player to ever win the Masters and in doing so broke the all-time scoring record of 270 and established the largest margin of victory—12 shots—in the tournament's 61-year history.

On April 14, 1997, the Tax Foundation announced another first, Tax Freedom Day this year will be on May 9.

What is Tax Freedom Day? Tax Freedom Day is the day when the average American stops working for the Government and starts working for themselves. This year's record date for Tax Freedom Day of May 9 is 2 days after last year's record of May 7 and up significantly since the Clinton administration took office in 1993.

This year the average American will have to work a total of 128 days to pay his or her tax bill. That equates to 2 hours 49 minutes of each working day laboring to pay taxes. That's hard time any way you slice it.

Over the years, April 15 has metamorphosized from being a trip to the dentist's office to being a major root canal without the novocaine.

I rise today to introduce legislation that will change the date on which individuals file their Federal income tax returns from April 15 to May 9, Tax Freedom Day.

While this legislation does little to bring about a change in the amount of money paid by the average American wage earner, I believe that issue would be helped greatly with the enactment of a balanced budget with tax relief. It does ensure that your taxes won't be due until you free yourself from crushing Federal taxes.

I ask unanimous consent that a copy of the bill be placed in the RECORD.

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

S. 583

*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 ''Tax Filing On Tax Freedom Day Act of 1997''.

**SEC. 2. TAX FILING ON TAX FREEDOM DAY.**

(a) IN GENERAL.—Each year, in time to be included in the instruction and information booklets that accompany the year's individual income tax returns, the Secretary of the Treasury (in this Act referred to as the ''Secretary'') shall determine the year's Tax Freedom Day pursuant to subsection (d).

(b) DUE DATE FOR TAXES.—Notwithstanding any other provision of law, Federal individual income tax returns for each year shall be due on the date of the Tax Freedom Day in the subsequent year (rather than April 15th).

(c) INFORMATION PROVIDED.—The Secretary shall include in the instruction and information booklets a prominent section that provides the following information with respect to the Tax Freedom Day:

(1) An explanation of Tax Freedom Day and what it signifies.

(2) A statement that Congress provided for Federal individual income tax returns to be due on Tax Freedom Day to emphasize how long the average citizen works to pay government taxes.

(3) During leap years, a note that the year's Tax Freedom Day appears one calendar day earlier than normal.

(4) A chart showing how the Tax Freedom Day's date has changed over time.

(5) Information on the State and Federal components of the total tax burden, and how the Tax Freedom Day would differ on a State-by-State basis.

(d) DETERMINATION OF TAX FREEDOM DAY.—Each year, the Secretary shall determine the Tax Freedom Day as follows:

(1) TAX FOUNDATION.—By contacting and receiving the date from the Tax Foundation (which has been determining and publishing a Tax Freedom Day since 1973), in time to meet the informational requirements of subsection (c), as long as the Tax Foundation maintains its—

(A) status as a non-profit, non-partisan research and public education organization;

(B) consistent method of analysis with respect to determining Tax Freedom Day (unless a change results in a demonstrably much more accurate determination); and

(C) trademark on Tax Freedom Day.

(2) REQUIREMENTS NOT MET.—If the Tax Foundation—

(A) fails to maintain any of the requirements described in paragraph (1), or

(B) does not provide such information to the Secretary in a timely manner after the Secretary's request for the information,

then the Secretary shall determine the year's Tax Freedom Day in accordance with paragraph (3).

(3) DETERMINATION BY THE SECRETARY.—If either subparagraph (A) or (B) of paragraph (2) are met, then the Secretary shall determine the year's Tax Freedom Day—

(A) by assuming that income is earned evenly throughout the year and that individuals initially devote all of their earnings to paying incomes taxes;

(B) by calculating an effective tax rate for the nation, by dividing the per capita income tax burden (including Federal, State and local taxes) by per capita income (using the net national product, a component of the national income product accounts, as compiled annually by the Bureau of Economic Analysis of the Department of Commerce);

(C) by multiplying the effective tax rate determined in subparagraph (B) by the number of days in the year; and

(D) by ensuring that a consistent methodology is utilized from year-to-year, and altering the existing methodology only if the new methodology is demonstrably much more accurate.

The resultant total shall signify the number of days the average citizen devotes to paying taxes, and the corresponding calendar day shall be the Tax Freedom Day.

**SEC. 3. EFFECTIVE DATE AND SECRETARIAL SUBMISSION.**

(a) EFFECTIVE DATE.—This Act shall take effect for taxable years beginning after December 31, 1997.

(b) SECRETARIAL SUBMISSION.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to the appropriate committees of the Congress a legislative proposal providing for such technical and conforming amendments in the law as are required by the provisions of this Act.

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By Mr. ABRAHAM:

S. 584. A bill to amend the Internal Revenue Code of 1986 to change the time for filing income tax returns from April 15 to the first Tuesday in November, and for other purposes; to the Committee on Finance.

THE TAXATION ACCOUNTABILITY ACT

Mr. ABRAHAM. Mr. President, we made several reforms during the last Congress intended to put Members of this body in closer touch with the American people. Among those reforms were provisions applying to Members of Congress the same laws that apply to private businesses and citizens.

Today I am introducing legislation that I believe will further strengthen the ties between Members and their constituents. In particular, Mr. President, I am concerned that, where, according to a USA Today poll from this March, 70 percent of the American people believe that they need a tax cut, many in Congress still refuse to give it to them.

I am convinced, Mr. President, that some Members continue to oppose any limits on Federal tax funds because they are out of touch with the American people. That is why I am introducing the Taxation Accountability Act to tie the act of voting more closely with the act of taxpaying.

Too many Members believe that the American people are not, and do not believe themselves to be, over-taxed. This is wrong, Mr. President, and we must put an end to this mistaken and dangerous belief. How? By making it possible for Americans to more effectively act on their convictions regarding proper levels of taxation. By moving tax day, now April 15, to coincide with election day.

To begin with, Mr. President, most Americans are not even fully aware of the percentage of their income the government takes from them in the form of taxes. According to the National Taxpayer's Union, the average American family now pays almost 40 percent of its income in State, local, and Federal taxes. That is an all-time high.

Yet, with almost 40 percent of their income going to taxes, mothers and fathers in America still are not going to the polls. Despite the huge investment they are making, voluntarily or involuntarily, in government in this country, this last Presidential election showed the lowest turnout in our history. Americans are not exercising their right to decide who shall represent them in deciding how that government shall be run—what it shall do and at what expense.

Why are Americans so apathetic in the face of such staggering tax rates, Mr. President? Simple, most Americans simply do not know how high their taxes really are.

Two years ago a Readers Digest poll asked Americans, ''What is the highest percentage of income that is fair for a family of four making $200,000 to pay in all taxes?'' The median response, regardless of whether the respondent was rich or poor, black or white, was 25 percent.

This estimate among Americans, that 25 percent is the limit of fair taxation, is borne out by a grassroots research poll conducted last March. That poll found that a majority of Americans would favor a constitutional amendment to prohibit Federal, State, and local taxes from taking ''a combined total of more than 25 percent of anyone's income in taxes.''

Yet the Tax Foundation tells us that a dual-income family today pays an average of 38.4 percent of its income in taxes to State, local, and Federal governments.

Why is it, Mr. President, that Americans, are not aware of so vital a figure as the percentage of their income that is taken away by the government in taxes?

One reason is the significant extent to which the taxes they pay are hidden. Taxes on businesses eventually are paid by families. So are sales taxes. Taxes on the average loaf of bread equal 31 percent of the total cost. Taxes also represent 43 percent of the cost of a hotel room, 54 percent of the cost of a gallon of gas and 40 percent of the cost of an airline ticket.

Another, and perhaps the most significant way taxes are hidden is withholding. Many taxpayers do not realize how much the government is taking from them because it takes their money before they ever see it. Only when they fill out their tax forms do most Americans have a chance to see the full enormity of the tax burden they bear. And then they have 7 months to cool off before election day rolls around.

Combined, these factors keep Americans from realizing the extent of their tax burden, and acting on that realization. Information is crucial to effective voting. And just as crucial, in my view, is information that is timely. Only if people know the extent of their tax burden, and are made aware of it at a time when they can do something about it, will they act. Only if Americans are aware of what is at stake on election day will they vote on election day. And only if they vote, expressing their opinions on crucial issues like taxation, can they hold Members of Congress responsible for their actions.

Mr. President, we are not likely to do away with withholding or repeal Federal taxes on bread and butter. But we can highlight the importance of voting by tieing the process of tax-filing more closely to the process of voting.

To achieve this, Mr. President, I am proposing legislation that would move tax day, the day tax forms must be mailed to the Internal Revenue Service, to the first Tuesday after the first Monday in November—election day. In this way our citizens will have fresh in their minds the substantive importance of voting at the same time they are to exercise their right to vote. Voter participation will increase as effective information increases, and thus so will the accountability of elected officials, as was intended by our Founders.

There will be no cost to the Treasury because this bill moves the fiscal year into accord with the calendar year at the same time that it moves tax day. But there will be a significant impact on our form of government. Members of Congress will be put in closer touch with the people, to the vast improvement of democracy.

I urge my colleagues to support this legislation as we attempt to foster responsible voter conduct and responsible government.

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By Mr. DORGAN (for himself, Mr. DASCHLE, Mr. JOHNSON, and Mr. WELLSTONE):

S. 585. A bill to amend the Internal Revenue Code of 1986 to authorize the Secretary of the Treasury to abate the accrual of interest on income tax underpayments by taxpayers located in Presidentially declared disaster areas if the Secretary extends the time for filing returns and payment of tax for such returns; to the Committee on Finance.

INCOME TAX RELIEF LEGISLATION

Mr. DORGAN. Mr. President, today I'm joined by Senators DASCHLE,

WELLSTONE, and JOHNSON in introducing legislation to provide much-needed income tax relief for North and South Dakotans and others pummeled by the severe blizzards and flooding this spring in the Upper Midwest. This legislation builds upon the good work started by the Internal Revenue Service [IRS] last week.

About a week ago, the Internal Revenue Service announced that taxpayers living in counties recently declared a disaster area by the President will be able to delay filing their Federal income tax returns until May 30, 1997, without facing a late filing or payment penalty. Clearly this is significant relief for those who may be prevented from filing their tax returns by the April 15, 1997 due date because of the recent blizzard and flooding in our part of the country.

In its announcement, however, the IRS stated that it did not have the authority to waive any interest charges accruing on delayed payments made between April 15, 1997 and May 30, 1997. It makes no sense to impose interest charges for payments occurring after the original due date, when the IRS itself says—and I think properly so—that it will extend the time for filing income tax returns and payments by taxpayers located in a Presidentially-declared disaster area. In my opinion, the IRS's action properly suggests that income tax return filing and payments made before the new date should not be treated as late. It is just that simple, and our legislation reflects this point.

Specifically, our legislation requires the IRS to abate the assessment of interest on underpayment by taxpayers in Presidentially-declared disaster areas if the IRS acts to extend the period of time for filing income tax returns and paying income tax by taxpayers in such areas. The legislation would apply to all Presidentially-declared disasters announced after December 31, 1996.

Once again, the IRS wisely and promptly granted an extension for North Dakotans and others to file their income tax returns due to flood-and snow-related emergencies without facing late filing and payment penalties. But the IRS has been prevented from doing more by statute. Our legislation remedies this problem in the case of IRS extensions due to Presidential disaster declarations.

We intend to advance this proposal at the first available opportunity in the U.S. Senate. We urge our colleagues to support this important initiative to provide income tax relief for those affected by this year's weather-related disasters and for those living in disaster areas in the future.

Mr. DASCHLE. Mr. President, I would like to commend Senator DORGAN on the introduction of legislation authorizing the Internal Revenue Service to waive interest on late payments of taxes in Presidentially-declared disaster areas. The IRS currently has authority to waive penalties for late tax filings following natural disasters. Last week, it did so in the Dakotas and part of Minnesota in response to the severe flooding in the region. However, the IRS does not now have parallel authority for waiving interest in these circumstances.

A number of South Dakotans have raised questions about the disparate treatment of penalties and interest. If taxpayers deserve more time to file and pay their taxes due to a natural disaster, why should they be charged 9 percent interest, a rate many would consider punitive, on these same taxes? Senator DORGAN's bill would address this apparent anomaly in our tax laws and help numerous flood victims who are too busy securing their homes, businesses, and communities to file on time. Some of these people have been physically prevented from obtaining tax forms by the rising flood waters.

For this reason, I am pleased to cosponsor Senator DORGAN's legislation, and I thank him for his leadership on this pressing matter.

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By Mr. MOYNIHAN (for himself, Mr. LAUTENBERG, Mr. LIEBERMAN, Mr. CHAFEE, Mr. SMITH of New Hampshire, Mrs. BOXER, Mr. WYDEN, Mr. BYRD, Mr. KENNEDY, Mr. INOUYE, Mr. ROTH, Mr. BIDEN, Mr. LEAHY, Mr. SARBANES, Mr. DODD, Mr. D'AMATO, Mr. SPECTER, Mr. KERRY, Mr. ROCKEFELLER, Ms. MIKULSKI, Mr. JEFFORDS, Mr. AKAKA, Mrs. FEINSTEIN, Mr. GREGG, Ms. MOSELEY-BRAUN, Mrs. MURRAY, Ms. SNOWE, Mr. SANTORUM, Mr. DURBIN, Mr. TORRICELLI, Mr. REED, and Ms. COLLINS):

S. 586. A bill to reauthorize the Intermodal Surface Transportation Efficiency Act of 1991, and for other purposes; to the Committee on Environment and Public Works.

THE ISTEA REAUTHORIZATION ACT OF 1997

Mr. MOYNIHAN. I rise with Senators LAUTENBERG and LIEBERMAN and a distinguished group of my colleagues today to introduce the ISTEA Reauthorization Act of 1997. This bill is designed to reauthorize, with some modifications and improvements, the Intermodal Surface Transportation Efficiency Act of 1991. ISTEA is an innovative law that addresses the fundamental imbalance in national transportation investment, and in so doing, serves to promote intermodalism, improve mobility and access to jobs, protect the environment, empower local communities, and enhance transportation safety.

ISTEA spurred the Federal Government and the States to invest their transportation dollars in whatever modes were most efficient for moving people and goods and to solicit the input of local communities in planning those investments. The result was a dramatic increase in investment in maintenance and rehabilitation of existing roads and bridges, in mass transit, and in creative approaches to our transportation needs, from bicycle and pedestrian paths to ferry boats.

When I introduced the original ISTEA legislation in 1991, I had only four Senate cosponsors—Quentin Burdick of North Dakota, Steve Symms of Idaho, JOHN CHAFEE of Rhode Island, and FRANK LAUTENBERG of New Jersey. The bill I introduce today has broad bipartisan and grassroots support, with 31 Senate cosponsors from across the country joining me. We have learned a lot over the last 6 years.

In 1991, my House counterpart Robert A. Roe of New Jersey, then chairman of the Public Works Committee, and I had hoped to develop a Federal highway bill that would mark the end of the era of interstate highway construction. That era had brought the nationwide, multilane, limited access highway system, as first envisioned at the General Motors Futurama exhibit at the 1939 World's Fair, and then advanced in 1944 by President Roosevelt. The New York State Thruway was the system's first segment. In fact, the civil engineer who built it, Bertram Tallamy, left Albany in 1956 to start up the national program in Washington with funding from a dedicated tax proposed by President Eisenhower and approved by Congress that year.

But by 1991 the interstate system was essentially done and Chairman Roe and I confronted the question, ''What now?''

We developed three principles for the first highway bill to mark the post-interstate era. First, the primary objective was to improve efficiency of the transportation system we already had. Second, the time had come to turn the initiative in transportation matters back to the States and cities. Third, transit was to be an option for cities.

I am proud to say we achieved our three principles and more.

The Interstate Highway System left a big mark on American cities, where the majority of the funds were spent. I wrote in *The Reporter* in 1960:

> It is not true, as is sometimes alleged, that the sponsors of the interstate program ignored the consequences it would have in the cities. Nor did they simply acquiesce in them. They exulted in them . . . This rhapsody startled many of those who have been concerned with the future of the American city. To undertake a vast program of urban highway construction with no thought for other forms of transportation seemed lunatic.

The results often were. American cities were cruelly split, their character and geography changed forever, with interstate highways running through once-thriving working class neighborhoods from Newark to Detroit to Miami. Homes and jobs were dispersed to the outlying suburbs and beyond. The wreckage was something to see. Some cities have used ISTEA funds to try to repair the damage where they could, using funds for transit—even bike and pedestrian paths—instead of more road building. Or with plans such as Boston's Central Artery, a project

that will reunite some of that city's most historic and colorful neighborhoods, separated for almost 40 years by an elevated highway.

Today, I ask that we continue to build upon our success with ISTEA, changing it only as needed. The bill we introduce today retains the basic structure of ISTEA, which distributes funds primarily on needs balanced with such factors as historical shares, but updates outmoded formulas and streamlines the equity adjustment programs. The ISTEA Reauthorization Act of 1997 also increases flexibility for States by allowing them to use some of their transportation funding to support Amtrak. This is the first step this year in meeting our commitment to address Amtrak's long-term funding needs.

The ISTEA Reauthorization Act of 1997 reauthorizes all the program categories of the original legislation—the National Highway System, the Interstate Maintenance Program, the Highway Bridge Rehabilitation and Replacement Program, the Congestion Mitigation and Air Quality Improvement Program, the Surface Transportation Program, the Interstate Highway Reimbursement Program, and the Transportation Enhancements Program—at a total funding level of $26 billion, which can be fully supported by the Highway Trust Fund.

While the ISTEA Reauthorization Act increases funding for all the program categories, I want to mention three programs in more detail. The bill strengthens the Congestion Mitigation and Air Quality Improvement Program, funding it at $2 billion annually, with a portion of the authorized amount to be distributed on the basis of population residing in fine particulate non-attainment areas. The CMAQ program, which has allowed States and municipalities to find creative solutions to improving air quality and reducing traffic congestion, has been an ISTEA success story, resulting in impressive improvement in U.S. air quality over the last few years.

The bill also increases funding for the Highway Bridge Rehabilitation and Replacement Program to $3.75 billion per year. The success of the Bridge Program is dramatic—in four years, there has been a 15 percent drop in deficient bridges—from 111,200 in 1990 to 94,800 in 1994. I believe broad consensus exists to strengthen this important program that has already done so much to preserve our existing bridge infrastructure.

Finally, the ISTEA Reauthorization Act fully funds the Interstate Highway Reimbursement Program at $2 billion per year. The Federal-Aid Highway Act of 1956 provided for the Federal Government to fund the construction of the Interstate Highway System with a Federal-State share of 90–10. At that time a number of States had, at their own expense, already constructed a total of 10,859 miles of highways that later became part of the Interstate System.

As a result, Congress tasked the Bureau of Public Roads with determining the cost of reimbursing States for those segments, and the Bureau arrived at a figure of $5 billion in 1957 dollars. ISTEA used that figure, adjusted to $30 billion in 1991 dollars, and established a 15-year repayment schedule. The ISTEA Reauthorization Act retains this program, which is a matter of basic equity and provides urgently needed funds for those highways that are the oldest and among the most heavily used portions of the Interstate System.

These programs are essentially, but I do hope that as Congress considers reauthorization of ISTEA, we can ask the question once again, ''What now?''

Congress must focus on increasing the U.S. investment in transportation infrastructure. The United States has watched our European and Asian competitors finance and build innovative transportation infrastructure that is the envy of the world. As the budget process gets underway this year, we will need innovative financing ideas to leverage scarce Federal dollars and address our chronic multi-billion dollar underinvestment in U.S. roads, bridges, rails, ports, and transit systems.

We must also search for new technologies and innovations—like Magnetic-Levitation trains [maglev] and Intelligent Transportation Systems [ITS]—to solve our congestion and air quality problems without pouring ever more concrete. The railroad represents an early 19th century technology, the automobile an early 20th century technology; we need new modes of transportation for the next century.

Today, maglev trains run in Bremen, but not in New York, where the maglev concept was first conceived in 1960 by a young Brookhaven scientist, James Powell, as he sat mired in traffic on the Bronx-Whitestone Bridge. In truth, today most of the meager Federal transportation research and development resources are going for improvements in existing highways, and not into other modes such as rail and transit, where I suspect we can achieve much greater economic and environmental returns.

As we determine the course for this bill, I also wish to address the so-called donor State issue. To distribute Federal transportation funds primarily upon the ability of each State to collect fuel taxes, as advocated by representatives of the donor States, would run counter to whole concept of federalism, which is based on collecting national resources to address national needs. When California has an earthquake, or Florida has a hurricane, or the Mississippi River floods its banks, the entire Nation addresses these needs, without considering whether the needed funds were raised in the affected States. Every other Federal program—from crop supports to water reclamation projects to airport improvement grants—distributes funds on the basis of need.

For example, in response to the Savings & Loan crisis, the Resolution Trust Corp. was formed to help bail out depositors, but each State did not contribute according to the amount of dollars lost in that State. If such an approach had been taken, Texas alone would have faced costs of over $26 billion, while the cost to New York would have been only $3 billion. Under our Federal system, which allocates national resources to meet national needs, the taxpayers of New York shouldered a significant portion of Texas's burden. The cosponsors of the ISTEA Reauthorization Act, most of them from donor States in the larger scheme of the balance of Federal payments, reject the idea that gasoline taxes should be distributed according to where they are collected.

Furthermore, some of the highway bill proposals put forth this year, which distribute up to 60 percent of transportation funding on the basis of where the gas taxes were collected, thwart our national environmental efforts. These bills reward States with high gas consumption, and punish States that conserve fuel and invest in mass transit. Under these proposals, a State that invests in a new bus or rail line, or in other improvements that reduce traffic congestion and improve air quality, would receive less transportation money as gas consumption falls.

As a Nation we have made clean air and reduced dependence on foreign oil two major priorities—these bills threaten to undo the progress we have made. In 1944, the United States exported oil. In 1956, we imported only 11.5 percent of consumption. Today, we import nearly 50 percent of the oil we consume. It could be said that the biggest single effect of the Interstate Highway System has been in the field of American foreign policy. We are a nation that absolutely must have foreign oil, and must shape our defense and foreign policies accordingly. We must strive to keep that dependency to a minimum. The sponsors of the ISTEA Reauthorization Act of 1997 are committed to that goal.

We are also committed to working with other Members, including our distinguished colleagues on the Transportation and Infrastructure Subcommittee, Senators WARNER and BAUCUS, who have both put forth their own proposals for reauthorizing ISTEA. Each coalition's bill reflects, to a greater or lesser extent, the interests of its own member States and regions, and I am confident that all will ultimately contribute to a transportation bill that best serves the Nation.

I ask unanimous consent that the text of the ISTEA Reauthorization Act of 1997 legislation be printed in the RECORD.

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

S. 586

*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 ''ISTEA Reauthorization Act of 1997''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Authorization of appropriations.
Sec. 4. National Highway System.
Sec. 5. Congestion mitigation and air quality improvement program.
Sec. 6. Surface transportation program.
Sec. 7. Bridge program.
Sec. 8. Minimum allocation.
Sec. 9. Reimbursement program.
Sec. 10. Apportionment adjustments.
Sec. 11. Research programs.
Sec. 12. Scenic byways program.
Sec. 13. Ferry boats and terminals.
Sec. 14. National recreational trails program.
Sec. 15. Transportation and land use initiative.
Sec. 16. Appalachian development highway system.

**SEC. 2. FINDINGS.**

Congress finds that—

(1) the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240) (referred to in this section as ''ISTEA'') was the result of a bipartisan and multiregional consensus to change transportation policy by giving States and localities more flexibility in spending Federal funds while still pursuing important national goals;

(2) the Federal Government has an important role to play in helping to fund transportation improvements and ensuring that a national focus remains on national goals such as mobility, connectivity and integrity of the transportation system, safety, research, air quality, global and national economic competitiveness, and improved quality of life;

(3) this role as funding partner and policymaker—

(A) should nurture State and local flexibility in using funds to solve problems creatively; and

(B) should relieve the States of burdensome regulation and review procedures that slow down project implementation without adding value;

(4)(A) the economic health of the United States and of the metropolitan and rural areas in the United States depends on—

(i) a strong transit program funded above fiscal year 1997 levels; and

(ii) dedicated support for intercity passenger rail; and

(B) this Act should be accompanied by companion legislation to provide for the needs described in subparagraph (A);

(5) the funding programs authorized by ISTEA were visionary and will continue to influence transportation into the future;

(6) the partnerships between the Federal Government and State and local governments, and between the public and private sectors, that were reaffirmed and strengthened by ISTEA are helping to improve transportation investment and transportation policy choices; and

(7) it is in the interest of the United States as a whole to—

(A) reauthorize ISTEA in 1997 with refinements but without significant changes, and without eliminating current funding categories;

(B) authorize the maximum feasible level of funding for ISTEA programs;

(C) allocate these funds among the States based primarily on need, with adjustments to be considered to reflect—

(i) system usage;

(ii) system extent; and

(iii) historic distribution patterns;

(D) preserve and strengthen the partnerships among the Federal Government, State governments, local governments, and the private sector;

(E) minimize prescriptive Federal regulation that is unnecessary and eliminate regulatory duplication between the Federal Government and State governments;

(F) increase flexibility to address intermodal projects; and

(G) provide a separate adequately funded transit program.

**SEC. 3. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—For the purpose of carrying out title 23, United States Code, the following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) NATIONAL HIGHWAY SYSTEM.—For the National Highway System under section 103 of title 23, United States Code, $5,600,000,000 for each of fiscal years 1998 through 2003.

(2) INTERSTATE MAINTENANCE PROGRAM.—For the Interstate maintenance program under section 119 of that title $5,250,000,000 for each of fiscal years 1998 through 2003.

(3) SURFACE TRANSPORTATION PROGRAM.—For the surface transportation program under section 133 of that title $5,250,000,000 for each of fiscal years 1998 through 2003.

(4) BRIDGE PROGRAM.—For the highway bridge replacement and rehabilitation program under section 144 of that title $3,750,000,000 for each of fiscal years 1998 through 2003.

(5) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—For the congestion mitigation and air quality improvement program under section 149 of that title $2,000,000,000 for each of fiscal years 1998 through 2003.

(6) MINIMUM ALLOCATION.—For the minimum allocation program under section 157 of that title $830,000,000 for each of fiscal years 1998 through 2003. Such sums shall not be subject to subsection (a) or (f) of section 104 of title 23, United States Code.

(7) APPORTIONMENT ADJUSTMENTS.—For apportionment adjustments under section 10 $470,000,000 for each of fiscal years 1998 through 2003. Such sums shall not be subject to subsection (a) or (f) of section 104 of title 23, United States Code.

(8) INTERSTATE REIMBURSEMENT PROGRAM.—For reimbursement for segments of the Interstate System constructed without Federal assistance under section 160 of that title $2,050,000,000 for each of fiscal years 1998 through 2003.

(9) FEDERAL LANDS HIGHWAYS PROGRAM.—

(A) INDIAN RESERVATION ROADS.—For Indian reservation roads under section 204 of that title $210,000,000 for each of fiscal years 1998 through 2003.

(B) PUBLIC LANDS HIGHWAYS.—For public lands highways under section 204 of that title $215,000,000 for each of fiscal years 1998 through 2003.

(C) PARKWAYS AND PARK ROADS.—For parkways and park roads under section 204 of that title $100,000,000 for each of fiscal years 1998 through 2003.

(10) FHWA HIGHWAY SAFETY PROGRAMS.—For carrying out section 402 of that title by the Federal Highway Administration $25,000,000 for each of fiscal years 1998 through 2003.

(11) FHWA HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.—For carrying out section 403 of that title by the Federal Highway Administration $10,000,000 for each of fiscal years 1998 through 2003.

(b) LIMITATION ON OBLIGATIONS.—Notwithstanding any other provision of law, any limitation on obligations established for any of fiscal years 1998 through 2003 for funds apportioned or allocated from the Highway Trust Fund (other than the Mass Transit Account) shall apply equally to all such apportionments and allocations, except that no such limitation shall apply to any allocation made under section 125 of title 23, United States Code, for emergency relief.

**SEC. 4. NATIONAL HIGHWAY SYSTEM.**

(a) IN GENERAL.—Section 104(b) of title 23, United States Code, is amended by striking paragraph (1) and inserting the following:

''(1) NATIONAL HIGHWAY SYSTEM.—For the National Highway System, 1 percent to the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands and the remaining 99 percent apportioned as follows:

''(A) ⅓ of the remaining apportionments in the ratio that—

''(i) the total vehicle miles traveled on public highways in each State; bears to

''(ii) the total vehicle miles traveled on public highways in all States;

''(B) ⅓ of the remaining apportionments in the ratio that—

''(i) the total lane miles of public highways in each State; bears to

''(ii) the total lane miles of public highways in all States; and

''(C) ⅓ of the remaining apportionments in equal amounts to each State.''.

(b) SET ASIDE FOR 4R PROJECTS.—Section 118(c)(2)(A) of title 23, United States Code, is amended in the first sentence—

(1) by striking ''1996, and'' and inserting ''1996,''; and

(2) by inserting after ''1997'' the following: '', and $100,000,000 for each of fiscal years 1998 through 2003''.

**SEC. 5. CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.**

(a) ADJUSTMENT FOR NEW NONATTAINMENT AREAS.—

(1) REPORT.—Not later than April 1, 2000, the Secretary of Transportation, in consultation with the Administrator of the Environmental Protection Agency, shall—

(A) prepare a report containing recommended adjustments to the formula used to apportion funds for the congestion mitigation and air quality improvement program under section 149 of title 23, United States Code, and the amount apportioned for the program, to reflect changes, since the enactment of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240), in—

(i) national ambient air quality standards under the Clean Air Act (42 U.S.C. 7401 et seq.); and

(ii) the emission control requirements that result from the standards; and

(B) submit the report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(2) ADOPTION OF NEW FORMULA AND APPORTIONMENTS.—

(A) EFFECT OF FAILURE TO ADOPT.—Notwithstanding any other provision of law, if, by September 30, 2000, the recommendations contained in the report described in paragraph (1) have not been enacted into law, as proposed in the report or as amended by Congress, the Secretary of Transportation shall withhold 10 percent of the apportionments otherwise required to be made under title 23, United States Code, on October 1, 2000.

(B) EFFECT OF LATER ADOPTION.—The Secretary shall apportion the amount withheld under subparagraph (A) upon the enactment of a law described in subparagraph (A).

(b) PARTICULATE MATTER.—Section 104(b)(2) of title 23, United States Code, is amended—

(1) by redesignating subparagraphs (A) through (E) as clauses (i) through (v), respectively, and indenting appropriately;

(2) by striking ''For the congestion mitigation and air quality improvement program,

in the ratio which'' and inserting the following:

''(A) IN GENERAL.—For the congestion mitigation and air quality improvement program in accordance with subparagraphs (B) and (C).

''(B) WEIGHTED NONATTAINMENT AREA POPULATION.—The Secretary shall apportion 90 percent of the remainder of the sums authorized to be appropriated for expenditure on the program in the ratio that'';

(3) in subparagraph (B) (as so designated)—

(A) by striking ''such subpart.'' in clause (v) and all that follows through ''the area was'' and inserting the following: ''such subpart.

If the area was''; and

(B) in the sentence beginning with ''If the area'', by striking ''paragraph'' and inserting ''subparagraph'';

(4) by striking the sentence beginning with ''Notwithstanding any provision'' and inserting the following:

''(C) PARTICULATE MATTER.—The Secretary shall apportion 10 percent of the remainder of the sums authorized to be appropriated for expenditure on the program in the ratio that—

''(i) the population of all areas that are nonattainment under the Clean Air Act (42 U.S.C. 7401 et seq.) for particulate matter with an aerodynamic diameter smaller than or equal to 10 micrometers (known as 'PM–10') in each State; bears to

''(ii) the population of all such areas in all States.'';

(5) in the next-to-last sentence, by striking ''Notwithstanding'' and inserting the following:

''(D) MINIMUM APPORTIONMENT.—Notwithstanding''; and

(6) in the last sentence, by striking ''The Secretary'' and inserting the following:

''(E) DETERMINATION OF POPULATION.—In determining population for the purpose of this paragraph, the Secretary''.

(c) INCREASED FLEXIBILITY.—The first sentence of section 149(b) of title 23, United States Code, is amended—

(1) in paragraph (3), by striking ''or'' at the end;

(2) in paragraph (4), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(5) if the project or program will have air quality benefits and consists of—

''(A) construction, reconstruction, or rehabilitation of, or operational improvements for, intercity rail passenger facilities (including facilities owned by the National Railroad Passenger Corporation);

''(B) operation of intercity rail passenger trains; or

''(C) acquisition or remanufacture of rolling stock for intercity rail passenger service; except that not more than 50 percent of the funds apportioned to a State for a fiscal year under section 104(b)(2) may be obligated for operations.''.

**SEC. 6. SURFACE TRANSPORTATION PROGRAM.**

(a) APPORTIONMENT FORMULA.—Section 104(b) of title 23, United States Code, is amended by striking paragraph (3) and inserting the following:

''(3) SURFACE TRANSPORTATION PROGRAM.—

''(A) IN GENERAL.—For the surface transportation program, in the ratio that—

''(i) the total lane miles of public highways in each State multiplied by the relative intensity of use of public highways in the State; bears to

''(ii) the sum of—

''(I) the total lane miles of public highways in each State; multiplied by

''(II) the relative intensity of use of public highways in the State.

''(B) DETERMINATION OF RELATIVE INTENSITY OF USE.—For the purpose of subparagraph (A), the relative intensity of use of public highways in a State shall be determined by dividing—

''(i) the vehicle miles traveled on public highways in the State per lane mile of public highways in the State during the latest 1-year-period for which data are available; by

''(ii) the vehicle miles traveled on public highways in all States per lane mile of public highways in all States during that period.

''(C) MINIMUM APPORTIONMENT.—Notwithstanding any other provision of this paragraph, for each fiscal year, each State shall receive an apportionment under this paragraph of not less than ½ of 1 percent of all funds apportioned under this paragraph for the fiscal year.''.

(b) INCREASED FLEXIBILITY.—Section 133(b) of title 23, United States Code, is amended by adding at the end the following:

''(12) Construction, reconstruction, and rehabilitation of, and operational improvements for, intercity rail passenger facilities (including facilities owned by the National Railroad Passenger Corporation), operation of intercity rail passenger trains, and acquisition or remanufacture of rolling stock for intercity rail passenger service, except that not more than 50 percent of the funds apportioned to a State for a fiscal year under section 104(b)(3) may be obligated for operations.''.

(c) ALLOCATION OF OBLIGATION AUTHORITY.—Section 133(f) of title 23, United States Code, is amended by striking ''6-fiscal year period 1992 through 1997'' and inserting ''6-fiscal-year period 1998 through 2003''.

**SEC. 7. BRIDGE PROGRAM.**

(a) MINIMUM APPORTIONMENT.—Section 144(e) of title 23, United States Code, is amended in the fifth sentence by striking ''0.25'' and inserting ''0.5''.

(b) AUTHORIZATIONS FOR DISCRETIONARY PROGRAM.—Section 144(g) of title 23, United States Code, is by striking paragraph (1) and inserting the following:

''(1) DISCRETIONARY BRIDGE PROGRAM.—

''(A) IN GENERAL.—For each of fiscal years 1998 through 2003, of the amounts authorized to be appropriated to carry out this section, all but $100,000,000 in the case of each such fiscal year shall be apportioned as provided in subsection (e).

''(B) RESERVED AMOUNT.—For each of fiscal years 1998 through 2003, of the $100,000,000 referred to in subparagraph (A)—

''(i) $90,000,000 shall be allocated at the discretion of the Secretary on the same date and in the same manner as funds apportioned under subsection (e); and

''(ii) $10,000,000 shall be allocated by the Secretary in accordance with section 1039 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 144 note; 105 Stat. 1990).''.

(c) CONFORMING AMENDMENT.—Section 1039(e) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 144 note; 105 Stat. 1991) is amended by striking ''1992, 1993,'' and all that follows and inserting the following: ''1998 through 2003, $1,500,000 shall be available to the Secretary to carry out subsections (a) and (b), and $8,500,000 shall be available to the Secretary to carry out subsection (c). Such sums shall remain available until expended.''.

**SEC. 8. MINIMUM ALLOCATION.**

Section 157 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (4), 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,''; and

(B) by adding at the end the following:

''(5) FISCAL YEAR 1998 AND THEREAFTER.—

''(A) DETERMINATION OF AMOUNTS.—In fiscal year 1998 and each fiscal year thereafter on October 1, or as soon as practicable thereafter, the Secretary shall determine what amount of funds would be required to ensure that a State's percentage of the total apportionments in each such fiscal year and allocations for the prior fiscal year for—

''(i) the National Highway System under section 103;

''(ii) the Interstate maintenance program under section 119;

''(iii) the surface transportation program under section 133;

''(iv) the bridge program under section 144;

''(v) the congestion mitigation and air quality improvement program under section 149;

''(vi) grants for safety belts and motorcycle helmets under section 153;

''(vii) the Interstate reimbursement program under section 160; and

''(viii) the scenic byways program under section 1047 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 101 note; 105 Stat. 1996);

is not less than 90 percent of the percentage that the population of the State is of the population of the United States.

''(B) APPORTIONMENT.—After determining the amounts of funds under subparagraph (A), the Secretary shall apportion the funds authorized to carry out this section to each State in the ratio that the amount determined for the State under subparagraph (A) bears to the total amount determined for all States under subparagraph (A).'';

(2) in subsection (b), by striking the last 2 sentences and inserting the following: ''Funds apportioned under this section shall be subject to any limitation on obligations established for Federal-aid highways and highway safety construction programs.''; and

(3) by striking subsection (e) and inserting the following:

''(e) DEFINITION OF STATE.—Notwithstanding any other provision of this title, in this section, the term 'State' means each of the 50 States.''.

**SEC. 9. REIMBURSEMENT PROGRAM.**

Section 160 of title 23, United States Code, is amended—

(1) in subsection (a), by striking ''The Secretary shall allocate to the States in each of fiscal years 1996 and 1997'' and inserting ''For any fiscal year for which funds are authorized to carry out this section, the Secretary shall allocate to the States''; and

(2) in subsection (b), by striking ''each of fiscal years 1996 and 1997'' and inserting ''each fiscal year described in subsection (a)''.

**SEC. 10. APPORTIONMENT ADJUSTMENTS.**

(a) DEFINITION OF STATE.—In this section, the term ''State'' means each of the 50 States.

(b) DENSITY ADJUSTMENT.—

(1) IN GENERAL.—Subject to subsection (d), in the case of any State eligible for a density adjustment under paragraph (3), the amount of funds apportioned to the State for the surface transportation program under section 133 of title 23, United States Code, for each of fiscal years 1998 through 2003—

(A) shall be increased as necessary to ensure that the percentage obtained by dividing—

(i) the total apportionments to the State for the fiscal year for Federal-aid highways and highway safety construction programs; by

(ii) the total of all apportionments to all States for the fiscal year for Federal-aid highways and highway safety construction programs;

is not less than the minimum percentage for the State determined under paragraph (2); and

(B) shall be increased as necessary to ensure that the State receives an increased apportionment under subparagraph (A) of not less than $5,000,000.

(2) MINIMUM PERCENTAGE.—The minimum percentage referred to in paragraph (1)(A) for a State shall be equal to the State's percentage of the total apportionments and allocations during fiscal years 1992 through 1997 under title 23, United States Code, the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240), and the National Highway System Designation Act of 1995 (Public Law 104–59), excluding apportionments and allocations made for—

(A) Interstate construction under section 104(b)(5)(A);

(B) emergency relief under section 125;

(C) the Federal lands highways program under section 204;

(D) donor State bonus amounts under section 1013(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 157 note; 105 Stat. 1940);

(E) Kansas projects under section 1014(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 1942);

(F) hold harmless adjustments under section 1015(a) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 104 note; 105 Stat. 1943);

(G) 90 percent of payment adjustments under section 1015(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 104 note; 105 Stat. 1944); and

(H) demonstration projects under the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240).

(3) ELIGIBLE STATES.—A State shall be eligible for a density adjustment under this subsection if the State—

(A) has a population density of less than 20 persons per square mile or more than 450 persons per square mile; or

(B) is an island State completely separated from the continental United States by water.

(c) MINIMUM APPORTIONMENT ADJUSTMENT.—Subject to subsection (d), the amount of funds apportioned to a State for the surface transportation program under section 133 for each of fiscal years 1998 through 2003 shall be increased as necessary to ensure that—

(1) the sum of—

(A) the total apportionments to the State for the fiscal year; and

(B) the total allocations, authorized by this Act, to the State for the previous fiscal year;

for Federal-aid highways and highway safety construction programs (excluding apportionments and allocations for emergency relief under section 125 and for Federal lands highways under section 204); is not less than

(2)(A) ½ of 1 percent of the sum of—

(i) the total of all apportionments described in paragraph (1) to all States for the fiscal year; and

(ii) the total of all allocations described in paragraph (1) to all States for the previous fiscal year; or

(B) 90 percent of the total of all apportionments described in paragraph (1) to the State for fiscal year 1997.

(d) LIMITATION ON APPORTIONMENT ADJUSTMENTS.—If the amounts authorized to be appropriated for apportionment adjustments under this section for a fiscal year are insufficient to fund the increased apportionments required by subsections (b) and (c) for the fiscal year, the increased apportionment for each State shall be reduced proportionately.

**SEC. 11. RESEARCH PROGRAMS.**

(a) STRATEGIC HIGHWAY RESEARCH PROGRAM.—Section 307(b)(2)(B) of title 23, United States Code, is amended by striking ''1994, 1995, 1996 and 1997'' and inserting ''1994 through 2003''.

(b) APPLIED RESEARCH PROGRAM.—Section 307(e)(13) of title 23, United States Code, is amended in the first sentence by striking ''1993, 1994, 1995, 1996, and 1997'' and inserting ''1993 through 2003''.

(c) INTELLIGENT TRANSPORTATION SYSTEMS.—Section 6058 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 307 note; 105 Stat. 2191) is amended—

(1) in subsection (a), by striking ''1997'' and inserting ''2003''; and

(2) in subsection (b), by striking ''1997'' and inserting ''2003''.

**SEC. 12. SCENIC BYWAYS PROGRAM.**

Section 1047(d) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 101 note; 105 Stat. 1996) is amended by striking ''1995, 1996, and 1997'' and inserting ''1995 through 2003''.

**SEC. 13. FERRY BOATS AND TERMINALS.**

Section 1064(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 129 note; 105 Stat. 2005) is amended by striking ''fiscal year 1997'' and inserting ''each of fiscal years 1997 through 2003''.

**SEC. 14. NATIONAL RECREATIONAL TRAILS PROGRAM.**

Section 1302(d)(3) of the Intermodal Surface Transportation Efficiency Act of 1991 (16 U.S.C. 1261(d)(3)) is amended by striking ''shall not exceed'' and all that follows and inserting ''shall not exceed $30,000,000 for each of fiscal years 1992 through 2003.''.

**SEC. 15. TRANSPORTATION AND LAND USE INITIATIVE.**

(a) IN GENERAL.—Chapter 3 of title 23, United States Code, is amended by inserting after section 307 the following:

**''§ 307A. Transportation and land use initiative**

''(a) ESTABLISHMENT.—The Secretary shall establish a comprehensive initiative to investigate, understand, and, in cooperation with appropriate State, regional, and local authorities, address the relationships between transportation and land use.

''(b) TRANSPORTATION AND LAND USE RESEARCH.—

''(1) IN GENERAL.—The Secretary, in cooperation with appropriate Federal, State, regional, and local agencies and experts, including States and other entities eligible for assistance under subsection (d), shall develop and carry out a comprehensive research program to investigate and understand the relationships between transportation, land use, and the environment.

''(2) FUNDING.—For each of fiscal years 1998 through 2003, of the sum deducted by the Secretary under section 104(a), not less than $1,000,000 shall be made available to carry out this subsection.

''(c) TRANSPORTATION AND LAND USE PLANNING GRANTS.—

''(1) APPLICATIONS.—The Secretary shall solicit applications for transportation and land use planning grants under this subsection from State, regional, and local agencies, individually or in the form of consortia, to plan, develop, implement, and monitor strategies to integrate transportation and land use plans and practices.

''(2) PURPOSES.—The purposes of grants under this subsection shall be—

''(A) to support initiatives to reduce the need for costly future highway investments;

''(B) to provide access to jobs, services, recreational and educational opportunities, and centers of trade, in a cost-effective and efficient manner;

''(C) to otherwise improve the efficiency of the transportation system; and

''(D) to avoid, minimize, or mitigate the environmental impacts of transportation projects.

''(3) PREFERENCES.—In selecting recipients of grants under this subsection, the Secretary shall give preference to applicants that—

''(A) are agencies that have significant responsibilities for transportation and land use; and

''(B) submit applications that—

''(i) demonstrate a commitment to public involvement; and

''(ii) demonstrate a meaningful commitment of non-Federal resources to support the efforts of the project team.

''(4) NUMBER.—For each fiscal year, the Secretary shall make not more than 5 grants under this subsection.

''(5) MAXIMUM AMOUNT.—A grant made under this subsection for a fiscal year shall be in an amount not greater than $1,000,000.

''(d) TRANSPORTATION AND LAND USE POLICY GRANTS.—

''(1) IN GENERAL.—The Secretary may make transportation and land use policy grants to State agencies, metropolitan planning organizations, and local governments to—

''(A) recognize significant progress in integrating transportation and land use plans and programs; and

''(B) further aid in the implementation of the programs.

''(2) PREFERENCES.—In selecting recipients of grants under this subsection, the Secretary shall give preference to applicants that—

''(A) have instituted transportation processes, plans, and programs that—

''(i) are coordinated with adopted State land use policies; and

''(ii) are intended to reduce the need for costly future highway investments through adopted State land use policies;

''(B) have instituted other policies to promote the integration of land use and transportation, such as—

''(i) 'green corridors' programs that limit access to major highway corridors to areas targeted for efficient and compact development;

''(ii) urban growth boundaries to guide metropolitan expansion;

''(iii) State spending policies that target funds to areas targeted for growth; and

''(iv) other such programs or policies as determined by the Secretary; and

''(C) have adopted land use policies that include a mechanism for assessing and avoiding, minimizing, or mitigating potential impacts of transportation development activities on the environment.

''(3) USE OF GRANT FUNDS.—Grants made under this subsection shall be available for obligation for—

''(A) any project eligible for funding under this title or title 49; and

''(B) any other activity relating to transportation and land use that the Secretary determines appropriate, including purchase of land or development easements and activities that are necessary to implement—

''(i) transit-oriented development plans;

''(ii) traffic calming measures; or

''(iii) any other coordinated transportation and land use policy.

''(4) MINIMUM AMOUNT.—A grant made under this subsection for a fiscal year shall be in an amount not less than $10,000,000.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account)—

''(1) to carry out subsection (c) $3,000,000 for each of fiscal years 1998 through 2003; and

''(2) to carry out subsection (d) $50,000,000 for each of fiscal years 1998 through 2003.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code, is amended by inserting after the item relating to section 307 the following:

''307A. Transportation and land use initiative.''.

**SEC. 16. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM.**

(a) AUTHORIZATION.—

(1) IN GENERAL.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for construction of the Appalachian development highway system authorized by section 201 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) $425,000,000 for each of fiscal years 1998 through 2003.

(2) TRANSFER AND ADMINISTRATION OF FUNDS.—The Secretary of Transportation shall transfer the funds made available by paragraph (1) to the Appalachian Regional Commission, which shall be responsible for the administration of the funds.

(b) FEDERAL SHARE.—The Federal share under this section shall be 80 percent.

(c) DELEGATION TO STATES.—Subject to title 23, United States Code, the Secretary of Transportation shall delegate responsibility for completion of construction of each segment of the Appalachian development highway system under this section to the State in which the segment is located, upon request of the State.

(d) ADVANCE CONSTRUCTION.—The Secretary of Transportation may make available amounts authorized by this section in the manner described in section 115(a) of title 23, United States Code.

(e) CONTRACT AUTHORITY.—Funds authorized by this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that—

(1) the Federal share of the cost of any construction under this section shall be determined in accordance with subsection (b); and

(2) the funds shall remain available until expended.

(f) OTHER STATE FUNDS.—Funds made available to a State under this section shall not be considered in determining the apportionments and allocations that any State shall be entitled to receive, under title 23, United States Code, and other law, of amounts in the Highway Trust Fund.

Mrs. BOXER. Mr. President, it is an honor for me to join today with four of the giants of the first ISTEA—Senators MOYNIHAN, CHAFEE, LAUTENBERG, and LIEBERMAN to support the ISTEA Reauthorization Act, the reauthorization of the 1991 Intermodal Surface Transportation Efficiency Act. Their vision of how we should shape transportation in this country in the postinterstate era is why we are here today to carry that vision into the next century.

The economic power of California and this Nation can only be unleashed if we invest in the means to get our workers to their jobs and our exports into international trade. This legislation not only will accomplish that vital goal but it will do so without leaving our environment in worst shape for generations to come.

At this time, Senator MOYNIHAN's bill best meets the goals that I have set for rewriting our surface transportation law. It is the best approach for California, which contributes more in Federal gas taxes than any other State. While this legislation is not what I will expect in a final bill, it is the best horse for California out of the starting gate.

I look forward to working with colleagues in committee to add provisions important to my State, including adding my legislation to provide Federal investment in border infrastructure to relieve border choke points resulting from increased trade. Senator MOYNIHAN knows this is a key issue for the border States.

Let me tell you briefly why this bill is the best for California right now:

First and foremost, this bill recognizes the responsibility that transportation bears to environmental protection by preserving the Congestion Mitigation and Air Quality Program. Nearly 26 million of California's 33 million residents live in an area that fails to meet one or more of the EPA's air quality standards. CMAQ must be preserved as a separate program targeted to those areas that need alternative transportation choices.

The bill also anticipates the adoption of new standards that will increase CMAQ funding for new nonattainment areas while protecting the funding levels of current areas. In addition, the bill preserves funding for areas that are in maintenance status, a measure that I authored in the 1995 National Highway System Designation Act to help these areas continue their path toward improved air quality.

Second, the bill uses up to date factors such as actual vehicle use and current population estimates in determining the highway funding categories. Those factors help raise California's share of funding. I will continue to work with my colleagues in the committee for a fairer share of the transportation funds for California, but this is a good start.

Third, the bill continues the Bridge Rehabilitation and Repair Program. In 1994, after the Northridge disaster, my colleagues here supported my bill that permitted this program to fund seismic retrofit projects without needing some other kind of repair first. This program is unique in that it permits such funding for local bridges.

Last, but not least, this bill carries the torch for the basic framework of ISTEA. I have heard from my local governments north to south in California that ISTEA works. Some change, yes. But the basic integrity of this law is sound. I agree with them, and I am proud to join the ''ISTEA works team.''

Mr. LAUTENBERG. Mr. President, I am pleased to join with Senator PATRICK MOYNIHAN, Senator JOSEPH LIEBERMAN, and 32 other Senators to introduce the ISTEA Reauthorization Act of 1997. This bill recognizes the success of the 1991 law, the Intermodal Surface Transportation Efficiency Act, by reauthorizing it with no major changes.

Mr. President, 17 Governors endorsed a statement of principles for the next surface transportation law that strongly affirmed ISTEA's goals and effectiveness in ensuring a sound national transportation infrastructure. Included in those goals were these statements: Maintain the course set by ISTEA; reauthorize ISTEA with simplification and refinement but without significant changes; allocate funds to states primarily based on needs; retain the Federal Government's role as a key transportation partner to help fund highway, bridge, and transit projects and to assure that a national focus remains on mobility, connectivity, uniformity, integrity, safety, and research. Their message was, plain and simple, ISTEA works.

Over the past few months, many others, from coast to coast, have sounded that message. Some are in the transportation business, others, such as mayors, county officials, and environmentalists are not. The drumbeat has sounded, that ISTEA works.

I strongly support that message. ISTEA was bold and innovative, and changed the way we think and make decisions about transportation. It brought the public into the process. It requires sound planning. It promotes energy efficient transportation, research and development. It strengthens safety.

It recognizes that the goal of a transportation system is how best to move goods and people, efficiently and effectively.

Mr. President, ISTEA has worked across this Nation, as witnessed by the 32 cosponsors from 17 States. ISTEA has also worked for my home State of New Jersey. ISTEA could not have had a better laboratory than New Jersey. New Jersey is a corridor State, linking commerce and travel to the Northeast and the rest of the country. New Jersey has the highest vehicle density of any State in the United States. Thousands of heavy duty trucks, only half of which are not registered in New Jersey, use New Jersey's roads.

It is a commuter State, heavily reliant on mass transit. New Jersey's transportation infrastructure is heavily used and is significantly older than many other State's. We as a State have had to be creative in finding ways to maintain the condition of the infrastructure, while improving mobility and promoting sound planning.

Improving mobility reduces congestion, which in turn, improves air quality and makes our highways safer. This means that our time is not spent in long commutes to work or stuck in traffic. We need to remember why sensible transportation funding and planning is important. It's not to satisfy some special interest. It's to remember that sound transportation systems help cope with growing communities—our neighborhoods. Sound transportation systems help to improve mobility to transport freight and promote domestic and international commerce, making our economy more efficient and creating jobs—our businesses. Sound transportation systems help to improve air quality and protect the environment—our personal health. In short, transportation can, and should, help develop liveable communities and create a better way of life.

Mr. President, ISTEA was the first step toward this goal. The ISTEA Reauthorization Act of 1997 is the next logical step to launch our Nation's transportation system into the 21st century.

The bill we are introducing today recognizes that current levels of transportation investment fall short of needs, so it increases authorized transportation funding over 6 years and continues the emphasis on preservation and maintenance of transportation systems.

The bill continues to support the scientifically proven link between transportation and air quality by bolstering the Congestion Mitigation and Air Quality Program.

The bill supports allocating transportation funds based on need, by continuing the bridge program without any changes.

The bill increases flexibility by making Amtrak eligible for certain highway funds, and maintains the flexibility for transit.

And, the bill recognizes special needs of States with both low and high density populations, by providing additional funding.

Mr. President, I would also like to comment on the effort to revise our national highway program to ensure that each State receives allocations based on a certain percentage of its gas tax contributions to the highway trust fund—the donor-donee issue. This is the wrong way to think about transportation funding. It is in the national interest to have a Federal transportation policy with national goals. That's how we promote interstate and international commerce, further economic productivity, protect the environment, and ensure safety. That's why decisions to allocate Federal transportation funding should be based on need, not on a State's contribution to the highway trust fund. We do not allocate airport improvement program funds based on the amount of ticket tax that is collected in each State. No Federal programs work that way.

However, if we choose to approach the issue in that context, then we must first recognize each State's return on the Federal dollar for all Federal programs. New Jersey receives only 68 cents of return on the Federal dollar—second to last, just ahead of Connecticut. New Jerseyans collectively contribute $15 billion more in Federal payments than they receive—that's more than $1,800 per resident.

Mr. President, if we were to adopt an across-the-board rule to require 95 percent return on Federal dollars, consider what would happen if we apply that test to other programs. New Jersey would then receive $169 million more for agriculture subsidies, $2.1 billion more of defense spending, and about $55 million more for child and family health services funding.

Mr. President, national transportation funding should continue to be allocated based on national goals and State needs like other Federal programs.

Mr. President, ISTEA has worked for our cities, our counties, our environment, and for economic development. Let us build on the success of the past and not turn the clock back on transportation progress.

Mr. LEAHY. Mr. President, 6 years ago, thanks to the leadership of Senators MOYNIHAN and C0HAFEE, this Nation made a fundamental change in the way that it allocates public investment in transportation. That change was based on the premises that local people understand local needs, that funding should be flexible, and that transportation should contribute to meeting national environmental and public health goals.

I made a commitment to myself and to Vermonters that I would only sponsor legislation that embodies those three premises. Today I announce that I am proud to be an original cosponsor of the ISTEA Reauthorization Act of 1997, and I look forward to doing whatever I can to ensure that this progressive legislation makes it through the Senate and into law.

This bill maintains and enhances our transportation commitments in ways that will benefit Vermonters. I fought hard to include the provision that will allow the State of Vermont the flexibility to use Federal funds for Amtrak service. Our small State has two successful Amtrak trains, both of which operate because of the leadership shown by Governor Dean and the legislature. If this provision passes it will mean that Amtrak service in Vermont can be maintained and possibly even expanded.

This bill also protects transportation flexibility that has been so popular in Vermont. It maintains the recreational trails and scenic byways programs, and allows States to continue to use funds for bicycle transportation and pedestrian walkways. I will continue to fight for these programs in the coming months.

Finally, this bill will bring more resources to Vermont. Out small State lies on a major north-south truck route. Much of this traffic passes through Vermont without stopping for fuel. Consequently, our roads get a lot of the wear and tear that goes along with commerce, without the accompanying gas tax receipts. This legislation provides Vermont with a major boost in highway funding, so that we can better maintain and repair our existing roads.

In closing, Mr. President, I urge my colleagues who have not yet done so to join me and the bipartisan group of 32 other Senators who have committed themselves to the ISTEA reauthorization bill of 1997.

Mr. LIEBERMAN. Mr. President, I'm delighted to join with Senator MOYNIHAN and Senators LAUTENBERG, CHAFEE, DODD, and numerous other colleagues to introduce the Intermodal Surface Transportation Efficiency Reauthorization Act of 1997.

As a member of the Environment and Public Works Committee, I was proud to have worked hard with Senator MOYNIHAN and others to craft ISTEA in 1991. Without a doubt, ISTEA was the most significant and innovative transportation legislation of a generation. It recognized that our Nation is now reaching a maturing system of transportation. With our Interstate system built, ISTEA moved us to also focus on maintenance, intermodalism, efficiency, funding flexibility, and environmental protection.

So often today we hear complaints about laws and programs that don't work. ISTEA is a law that has worked and is working—very well. It's one area where we don't need to reinvent government—we did that in 1991 when we adopted ISTEA. That's why Governors, mayors, county officials, guilders unions, environmental groups, planners, businessmen and women, and others are telling us to reauthorize the law with minimal change. That was the resounding message I heard in Connecticut at a forum yesterday from a broad range of interests.

Let me spend a few minutes reviewing why ISTEA is so important.

In a very unique way, ISTEA combines this country's long-standing commitment to our national priorities—a national system of transportation central to our economic growth and our commitment to protecting and enhancing our environment—with a new emphasis on responding to local conditions, priorities, and interests and involving the public in this decisionmaking process.

The statement of policy that introduces ISTEA reminds us that the economic health of the country depends on access to an efficient transportation system. It reads as follows:

> It is the policy of the United States to develop a national intermodal transportation system that is economically efficient and environmentally sound, provides the foundation for the nation to compete in the global economy and will move people and goods in an efficient manner.

ISTEA's commitment to a national transportation system includes dedicated sources of funding to preserve, restore, and rehabilitate our Interstate highways and bridges. In many areas of the country, like my own, our infrastructure is older and densely traveled. We need dedicated sources of funding for these programs to help ensure an efficient transportation system for our entire Nation.

Second, ISTEA recognized that there is an inextricable link between transportation and the quality of our environment, particularly our air quality. Automobiles are a large contributor to our smog, carbon monoxide, and particulate matter pollution. As Americans drive more and more miles, the pollution control gains from cleaner cars get wiped out.

The Congestion Mitigation and Air Quality Improvement Program is one of the most innovative programs created under ISTEA. It is providing $1

billion per year for projects to reduce air pollution. These funds are being used to help States restore air quality to healthy levels. This program is the opposite of the so-called unfunded mandates—it provides Federal funds to help meet the requirements of the Clean Air Act. In Connecticut where our air quality is so bad, this program provides an important source of funding to help us move toward clean air. Stamford, Greenwich, and Norwalk, for example, made innovative use of these funds. Our bill would substantially increase funding for this program.

While recognizing these national priorities, ISTEA also makes nearly one-half of all funds available for State and local decisionmaking. The transportation needs of Connecticut are different from the needs of Montana, and this program allows each area to decide what's right for them, again, within the context of protecting a national transportation system. And for the first time, it allowed local decisionmakers to spend funds on either highways or transit. This leveling of the playing field between transit and highways is very important for many areas of the country, including my own.

ISTEA also created a popular program known as Transportation Enhancements which provides a small amount of funding to mitigate some of the negative effects transportation has caused for our local communities. I heard yesterday at a forum in Connecticut how funds were used from this program to restore a recreational and open space corridor along the abandoned right of way of the former Farmington Canal and the Boston and Main Railroad. This project was selected as one of the Nation's 25 best enhancement projects. We've also used funds from this program to help restore some of our coastal wetlands, to protect and enhance the landscape of our famous Merritt Parkway and for the restoration of the Route 8 and Route 15 interchanges.

We should also not forget the important process changes made by ISTEA. The law gave local decisionmakers and the public a much greater role in making the transportation decisions that so affect their communities. In Connecticut, mayors and other local elected officials strongly support this approach. In fact, I heard from mayors at a forum yesterday that ISTEA's planning provisions have led to greater cooperation between central cities and their suburban neighbors on a wide variety of issues—extending beyond transportation.

Unfortunately, despite ISTEA's record of achievement, our efforts to reauthorize it will not be easy. ISTEA is under attack. A significant number of Senators already support proposals which would eliminate many of the fundamental bases of ISTEA, including much of our commitment to a national transportation system. Instead, these proposals would turn much of the program into essentially a block grant, where I'm concerned our national priorities for our transportation system would be lost. The funds would be distributed based on how much money each State is contributing to the Highway Trust Fund in gasoline taxes rather than looking to the Nation's infrastructure needs and also focusing funding on those systems that require preservation and enhancement. In short, these proposals would largely abandon the Federal role in transportation which is so essential to support national economic growth, global competitiveness, and the quality of life in our communities.

I congratulate my friend and colleague Senator MOYNIHAN and his staff for their outstanding work in putting this bill together. I look forward to working with him and my other colleagues as we move through this process.

Mr. KENNEDY. Mr. President, I join in commending Senator MOYNIHAN and the other bipartisan sponsors for their leadership on this important issue. The stakes are very high. The strength of our economy is directly tied to the quality of our transportation. This is no time to turn back the clock on ISTEA and its well-balanced commitment to seven key points: Highways; public transit; environmental protection; bikeways, recreational trails, and historic preservation; computerized traffic management; safety; and a strong voice for local communities in the allocation of funds.

In all of these areas, ISTEA has worked well and deserves to be continued.

This is our reply to the STEP 21 coalition and the Western coalition. Their proposals are blatant schemes to gerrymander the funding formula against our States and undermine other key aspects of ISTEA, and they're not acceptable.

They say their States should get back from the Treasury in ISTEA funds what they pay into the Treasury in gas tax revenues. But that kind of tunnel vision is distorting this debate. It's wrong to focus narrowly just on transportation spending versus gas tax revenues. The only fair comparison is between overall Federal spending that goes into a State, and the overall Federal tax revenues that come from that State.

By that standard, our States are donor States. We send more to Washington than we get back in return. The States complaining the loudest about not getting their fair share of Federal transportation dollars are huge net winners in the overall picture. They get back far more in Federal spending than they pay into the Treasury. And they're trying to grab even more through ISTEA. I say, they should keep their hands out of the ISTEA cookie jar.

We have enormous transportation needs in our States, and those needs deserve strong Federal support. Working together, we intend to do all we can to chart a fair transportation course for the coming years. I look forward to that challenge and to our successful efforts together.

Ms. MOSELEY-BRAUN. Mr. President, I am honored to join my colleague from New York, Senator MOYNIHAN, and Senator LAUTENBERG, Senator LIEBERMAN, and many others today to introduce the ISTEA Reauthorization Act of 1997. This law builds on the success of the last 6 years of ISTEA, and will guide more than $175 billion in Federal highway spending over the next 6 years.

Few laws we enact this year will have as much of an immediate and significant affect on our economy than the ISTEA reauthorization bill. The transportation industry employs 12 million people, consumes 20 percent of total household spending, and accounts for 11 percent of our Nation's total economic activity. Highways are the most important component of our transportation infrastructure, and their use is growing. Between 1984 and 1994, U.S. motor vehicle travel increased 37.5 percent.

Over the past 6 years, the Intermodal Surface Transportation and Efficiency Act has provided the basis for a strong Federal-State-local partnership to help the Nation meet its transportation needs. It has directed $157 billion into highways, mass transit, and related transportation priorities nationwide. It is one of the most successful intergovernmental partnerships in American history. Under ISTEA, we completed the system of Interstate and Defense Highways begun by President Eisenhower 40 years ago, defined the National Highway System that will help prioritize highway improvements for decades to come, and coordinated planning among different transportation modes.

ISTEA has improved the capacity and overall condition of our transportation infrastructure. According to the U.S. Department of Transportation, our highways and bridges are in better shape than they were a few years ago. Our environment is in better condition too, thanks to ISTEA innovations like the congestion mitigation and air quality and transportation enhancement programs.

Despite our success, we continue to face enormous challenges over the next 6 years to maintain and improve our highways and bridges. Over this time, it will cost an estimated $148.5 billion just to maintain the current physical conditions of our highways. Every year, we must renew 100,000 miles of highways in order to maintain current pavement conditions.

My own State of Illinois will need several billion dollars to repair aging roads and bridges. According to some estimates, nearly 43 percent of Illinois roads need repair, and almost one-fourth of Illinois bridges are in substandard condition. Every year, Illinois motorists pay an estimated $1 billion

in vehicle wear and tear and other expenses associated with poor road conditions.

In Chicago, the transportation hub of the Nation, the traffic flow on some of the major arterial highways has increased seven-fold since they were built in the 1950's and 1960's. According to a recent study, Chicago is the fifth most congested city in the Nation. The typical Chicago-area driver wastes 34 hours every year sitting still in traffic jams, and pays $470 a year in lost time and wasted fuel.

In order to meet the transportation infrastructure needs of Illinois and the Nation, the Federal Government must continue to play a lead role in the ongoing partnership to improve America's highways. If there were ever a legislative case in point for the saying, ''If it's not broken, don't fix it,'' ISTEA is it.

The ISTEA Reauthorization Act of 1997 is a simple bill. It builds on the success of the last 6 years. It does not represent a set of major policy changes. It provides a significant increase in funding over ISTEA levels, updates some of the funding formulas, and increases flexibility for States, all within the constructs defined by ISTEA. I hope the Environment and Public Works Committee will use this bill as the basis for its deliberations on ISTEA reauthorization, and I urge all of my colleagues to join us in sponsoring this important legislation.

I want to point out that this legislation does not reauthorize the mass transit half of ISTEA. That job falls on the Banking Committee. I look forward to working with my colleagues on the committee and with others who have a strong interest in transit to ensure the next 6 years of transit policy also mirror the successful framework of transit policy defined by ISTEA.

As we head into the 21st century, we must continue to maintain and improve America's transportation infrastructure. In the global economy, one of the things that makes our products competitive is our ability to move freight across the country cheaply and efficiently. The ISTEA Reauthorization Act of 1997 will accomplish that goal by continuing the success of ISTEA into the next 6 years.

## ADDITIONAL COSPONSORS

S. 1

At the request of Mr. COVERDELL, the name of the Senator from Utah [Mr. BENNETT] was added as a cosponsor of S. 1, a bill to provide for safe and affordable schools.

S. 25

At the request of Mr. FEINGOLD, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 25, a bill to reform the financing of Federal elections.

S. 66

At the request of Mr. HATCH, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of S. 66, a bill to amend the Internal Revenue Code of 1986 to encourage capital formation through reductions in taxes on capital gains, and for other purposes.

S. 181

At the request of Mr. GRASSLEY, the name of the Senator from Maine [Ms. COLLINS] was added as a cosponsor of S. 181, a bill to amend the Internal Revenue Code of 1986 to provide that installment sales of certain farmers not be treated as a preference item for purposes of the alternative minimum tax.

S. 194

At the request of Mr. CHAFEE, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 194, a bill to amend the Internal Revenue Code of 1986 to make permanent the section 170(e)(5) rules pertaining to gifts of publicly-traded stock to certain private foundations and for other purposes.

S. 255

At the request of Mr. MCCAIN, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 255, a bill to amend the Communications Act of 1934 to provide for the reallocation and auction of a portion of the electromagnetic spectrum to enhance law enforcement and public safety telecommunications, and for other purposes.

S. 261

At the request of Mr. DOMENICI, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 261, a bill to provide for a biennial budget process and a biennial appropriations process and to enhance oversight and the performance of the Federal Government.

S. 365

At the request of Mr. COVERDELL, the names of the Senator from Texas [Mr. GRAMM], the Senator from Colorado [Mr. ALLARD], the Senator from Missouri [Mr. ASHCROFT], the Senator from Washington [Mr. GORTON], the Senator from Ohio [Mr. DEWINE], and the Senator from Idaho [Mr. CRAIG] were added as cosponsors of S. 365, a bill to amend the Internal Revenue Code of 1986 to provide for increased accountability by Internal Revenue Service agents and other Federal Government officials in tax collection practices and procedures, and for other purposes.

S. 377

At the request of Mr. BURNS, the name of the Senator from Wyoming [Mr. ENZI] was added as a cosponsor of S. 377, a bill to promote electronic commerce by facilitating the use of strong encryption, and for other purposes.

S. 387

At the request of Mr. HATCH, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 387, a bill to amend the Internal Revenue Code of 1986 to provide equity to exports of software.

S. 404

At the request of Mr. BOND, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 404, a bill to modify the budget process to provide for separate budget treatment of the dedicated tax revenues deposited in the Highway Trust Fund.

S. 492

At the request of Mr. SARBANES, the names of the Senator from Kentucky [Mr. FORD] and the Senator from Massachusetts [Mr. KENNEDY] were added as cosponsors of S. 492, a bill to amend certain provisions of title 5, United States Code, in order to ensure equality between Federal firefighters and other employees in the civil service and other public sector firefighters, and for other purposes.

S. 494

At the request of Mr. KYL, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 494, a bill to combat the overutilization of prison health care services and control rising prisoner health care costs.

S. 521

At the request of Mr. COVERDELL, the names of the Senator from Missouri [Mr. ASHCROFT], the Senator from North Carolina [Mr. FAIRCLOTH], and the Senator from Ohio [Mr. DEWINE] were added as cosponsors of S. 521, a bill to amend the Internal Revenue Code of 1986 to impose civil and criminal penalties for the unauthorized access of tax returns and tax return information by Federal employees and other persons, and for other purposes.

S. 522

At the request of Mr. D'AMATO, his name was added as a cosponsor of S. 522, a bill to amend the Internal Revenue Code of 1986 to impose civil and criminal penalties for the unauthorized access of tax returns and tax return information by Federal employees and other persons, and for other purposes.

At the request of Mr. BRYAN, his name was added as a cosponsor of S. 522, supra.

At the request of Mr. COVERDELL, the names of the Senator from Texas [Mr. GRAMM], the Senator from Florida [Mr. MACK], the Senator from Colorado [Mr. ALLARD], the Senator from Missouri [Mr. ASHCROFT], the Senator from North Carolina [Mr. FAIRCLOTH], the Senator from Ohio [Mr. DEWINE], the Senator from Colorado [Mr. CAMPBELL], the Senator from Idaho [Mr. CRAIG], the Senator from Wisconsin [Mr. KOHL], and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of S. 522, supra.

S. 525

At the request of Mr. KENNEDY, the name of the Senator from Oregon [Mr. WYDEN] was added as a cosponsor of S. 525, a bill to amend the Public Health Service Act to provide access to health care insurance coverage for children.

S. 526

At the request of Mr. KENNEDY, the name of the Senator from Oregon [Mr. WYDEN] was added as a cosponsor of S.

526, a bill to amend the Internal Revenue Code of 1986 to increase the excise taxes on tobacco products for the purpose of offsetting the Federal budgetary costs associated with the Child Health Insurance and Lower Deficit Act.

S. 528

At the request of Mr. CAMPBELL, the name of the Senator from North Carolina [Mr. FAIRCLOTH] was added as a cosponsor of S. 528, a bill to require the display of the POW/MIA flag on various occasions and in various locations.

S. 529

At the request of Mr. GRASSLEY, the names of the Senator from Arkansas [Mr. HUTCHINSON], the Senator from Colorado [Mr. ALLARD], and the Senator from Kansas [Mr. ROBERTS] were added as cosponsors of S. 529, a bill to amend the Internal Revenue Code of 1986 to exclude certain farm rental income from net earnings from self-employment if the taxpayer enters into a lease agreement relating to such income.

SENATE JOINT RESOLUTION 6

At the request of Mr. KYL, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of Senate Joint Resolution 6, a joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims.

SENATE JOINT RESOLUTION 11

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of Senate Joint Resolution 11, a joint resolution commemorating ''Juneteenth Independence Day,'' June 19, 1865, the day on which slavery finally came to an end in the United States.

SENATE RESOLUTION 70

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of Senate Resolution 70, a resolution expressing the sense of the Senate regarding equal pay for equal work.

## SENATE RESOLUTION 72—RELATIVE TO SENATE FLOOR ACCESS

Mr. LOTT (for himself, Mr. WYDEN, Mr. REID, Mr. WELLSTONE, Mr. MURKOWSKI, and Mr. BRYAN) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 72

*Resolved,* That an individual with a disability who has or is granted the privilege of the Senate floor may bring such supporting services on the Senate floor, which the Senate Sergeant At Arms determines are necessary and appropriate to assist such disabled individuals in discharging the official duties of his or her position until the Committee on Rules and Administration has the opportunity to fully consider a permanent rules change.

## SENATE RESOLUTION 73—TO DECLARE THE NEED FOR TAX RELIEF

Mr. LOTT submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 73

**SECTION 1. FINDINGS.**

The Senate finds that:

(1) The total tax burden on the American family in 1996 was 30.4%, the highest level in history;

(2) In 1996, one in every three dollars earned in America was paid over in taxes to the federal government;

(3) The Congressional Budget Office estimates that in 1997 the federal government will take $1.5 trillion from taxpayers; the highest amount ever;

(4) The President's Office of Management and Budget estimates that in 1997, the federal government will take $673 billion from working families, the highest level in history;

(5) President Clinton proposed, and the then-Democrat-controlled Congress enacted, a $241 billion tax increase on the American people in 1993—the largest in history.

(6) The American family today pays 38.4% of its income in federal, state and local taxes, the highest burden in history.

(7) The date on which the American family is free from taxes and begins to keep what it earns is the latest ever—May 7.

(8) 56% of all tax returns reporting capital gains came from taxpayers with total incomes below $50,000;

(9) Since 1993, the economy has had below average growth—2.5% versus 3.2% in the previous ten years—and productivity has increased at below-average-rates—0.3% versus 1.5% in the previous ten years.

(10) The estate tax can be as high as 55%, which is an unjustifiable and confiscatory level of taxation that penalizes work, thrift and entrepreneurship.

(11) For three decades, despite spending over 3 billion dollars of taxpayer money, the IRS has failed to create a successfully functioning computer system.

(12) The IRS investigated 1,515 employees for unauthorized snooping in taxpayer files, yet of those employees only 23 were fired;

(13) The IRS has serious security problems which jeopardize its ability to process taxes, and puts taxpayer information at risk of being misused, changed or destroyed;

(14) It is estimated that $200 billion each year is lost to fraud and non-payment of taxes, which the IRS is incapable of finding and collecting.

**SEC. 2. SENSE OF THE SENATE.**

It is the Sense of the Senate that:

(1) In 1997, Congress should provide tax relief for the American people, particularly for families with children, and should cut the capital gains tax, reduce the estate tax burden, and begin moving toward a fairer, simpler tax system.

(2) The President should send a detailed plan to Congress by August 1, 1997, addressing the problems with the IRS and proposing an action plan to resolve these problems.

(3) In 1997, Congress should pass legislation that imposes criminal penalties for unauthorized snooping in taxpayer files by IRS employees.

## SENATE RESOLUTION 74—RELATIVE TO BUDGET DEFICIT REDUCTION AND TAX RELIEF

Mr. DORGAN (for Mr. DASCHLE) submitted the following resolution; which was referred to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, as modified by the order of April 11, 1986, with instructions that if one committee reports, the other committee has 30 days to report or be discharged:

S. RES. 74

Whereas the United States economy continues to expand at a brisk pace after 6 consecutive years of economic growth;

Whereas unemployment and inflation continue to remain at the lowest combined rate in 30 years;

Whereas median family income is experiencing its fastest growth since the 1960s;

Whereas taxes as a percentage of gross domestic product are lower in the United States, at 31.7 percent, than in any of the Group of Seven industrialized countries, the average for which is 36.5 percent;

Whereas according to the Congressional Budget Office, Federal taxes as a share of national income are 19.4 percent, the same level as in 1969, and are projected to fall to 18.8 percent in 2002, not including any tax cuts which Congress may yet enact this year;

Whereas according to the Congressional Budget Office, the total Federal effective tax rate, including income, payroll, and excise taxes, for a family making $40,000 per year averages 19 percent, of which only 6 percent is attributable to individual income taxes, the lowest of any of the major industrialized countries;

Whereas the Center on Budget and Policy Priorities has calculated that the typical American generates the income necessary to pay his or her annual Federal personal income tax by January 20th of each year;

Whereas strong economic growth, low inflation and unemployment, and declining tax burdens on typical American families have been achieved at the same time that the Federal budget deficit has been reduced by nearly two-thirds;

Whereas every Republican Senator voted against the Omnibus Budget Reconciliation Act of 1993, which cut the deficit by 63 percent, lowered interest rates, stimulated job creation, and boosted gains in personal income;

Whereas the 1993 budget legislation cut taxes on 15,000,000 workers and their families (40,000,000 Americans) and made 90 percent of small businesses eligible for corporate tax reductions;

Whereas President Clinton has submitted to Congress a budget proposal that would further reduce taxes on working families, including tax credits and deductions designed to make post-secondary education and training more affordable;

Whereas the Congressional Budget Office has certified that the President's budget proposal would eliminate the fiscal deficit by 2002, achieving the first budgetary surplus in the United States since 1969;

Whereas the principal budget legislation offered in the 105th Congress by the Republican majority would make it more difficult to balance the budget by extending $526,000,000,000 of tax cuts over the next 10 years, more than an estimated three-quarters of which would benefit the best-off 20 percent of taxpayers rather than middle class working families;

Whereas as many Americans rush to submit their income tax returns to the Internal Revenue Service by April 15, Congress is poised to miss its own April 15 deadline to pass a budget resolution because the Republican majority in the 105th Congress has emphasized symbolic political gestures in connection with the Federal budget rather than the bipartisan construction of legislation to eliminate the deficit; and

Whereas the continuing failure by the Republican majority to advance a budget resolution has the effect of withholding from middle-class Americans the tax cuts proposed for them by the President, undermining progress toward a balanced budget, and

denying the economy the benefit of the lower long-term interest rates that a balanced budget would promote: Now, therefore, be it

*Resolved*, That it is the sense of the Senate that the Republican majority should take up without delay a budget resolution that balances the budget by 2002, targets its tax-relief on working and middle class families to the same degree as the President's budget proposal, and protects important domestic priorities such as medicare, medicaid, education, and the environment.

## AMENDMENTS SUBMITTED

## THE TAXPAYER PRIVACY PROTECTION ACT

### COVERDELL (AND OTHERS) AMENDMENT NO. 45

Mr. LOTT (for Mr. COVERDELL, for himself, Mr. GLENN, Mr. ROTH, Mr. MOYNIHAN, Mr. MACK, Mr. KERRY, Mr. KOHL, and Mr. D'AMATO) proposed an amendment to the bill (S. 522) to amend the Internal Revenue Code of 1986 to impose civil and criminal penalties for the unauthorized access of tax returns and tax return information by Federal employees and other persons, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Taxpayer Browsing Protection Act''.

**SEC. 2. PENALTY FOR UNAUTHORIZED INSPECTION OF TAX RETURNS OR TAX RETURN INFORMATION.**

(a) IN GENERAL.—Part I of subchapter A of chapter 75 of the Internal Revenue Code of 1986 (relating to crimes, other offenses, and forfeitures) is amended by adding after section 7213 the following new section:

**''SEC. 7213A. UNAUTHORIZED INSPECTION OF RETURNS OR RETURN INFORMATION.**

''(a) PROHIBITIONS.—

''(1) FEDERAL EMPLOYEES AND OTHER PERSONS.—It shall be unlawful for—

''(A) any officer or employee of the United States, or

''(B) any person described in section 6103(n) or an officer or employee of any such person, willfully to inspect, except as authorized in this title, any return or return information.

''(2) STATE AND OTHER EMPLOYEES.—It shall be unlawful for any person (not described in paragraph (1)) willfully to inspect, except as authorized in this title, any return or return information acquired by such person or another person under a provision of section 6103 referred to in section 7213(a)(2).

''(b) PENALTY.—

''(1) IN GENERAL.—Any violation of subsection (a) shall be punishable upon conviction by a fine in any amount not exceeding $1,000, or imprisonment of not more than 1 year, or both, together with the costs of prosecution.

''(2) FEDERAL OFFICERS OR EMPLOYEES.—An officer or employee of the United States who is convicted of any violation of subsection (a) shall, in addition to any other punishment, be dismissed from office or discharged from employment.

''(c) DEFINITIONS.—For purposes of this section, the terms 'inspect', 'return', and 'return information' have the respective meanings given such terms by section 6103(b).''

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (2) of section 7213(a) of such Code is amended by inserting ''(5),'' after ''(m)(2), (4),''.

(2) The table of sections for part I of subchapter A of chapter 75 of such Code is amended by inserting after the item relating to section 7213 the following new item:

''Sec. 7213A. Unauthorized inspection of returns or return information.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to violations occurring on and after the date of the enactment of this Act.

**SEC. 3. CIVIL DAMAGES FOR UNAUTHORIZED INSPECTION OF RETURNS AND RETURN INFORMATION; NOTIFICATION OF UNLAWFUL INSPECTION OR DISCLOSURE.**

(a) CIVIL DAMAGES FOR UNAUTHORIZED INSPECTION.—Subsection (a) of section 7431 of the Internal Revenue Code of 1986 is amended—

(1) by striking ''DISCLOSURE'' in the headings for paragraphs (1) and (2) and inserting ''INSPECTION OR DISCLOSURE'', and

(2) by striking ''discloses'' in paragraphs (1) and (2) and inserting ''inspects or discloses''.

(b) NOTIFICATION OF UNLAWFUL INSPECTION OR DISCLOSURE.—Section 7431 of such Code is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and by inserting after subsection (d) the following new subsection:

''(e) NOTIFICATION OF UNLAWFUL INSPECTION AND DISCLOSURE.—If any person is criminally charged by indictment or information with inspection or disclosure of a taxpayer's return or return information in violation of—

''(1) paragraph (1) or (2) of section 7213(a),

''(2) section 7213A(a), or

''(3) subparagraph (B) of section 1030(a)(2) of title 18, United States Code, the Secretary shall notify such taxpayers as soon as practicable of such inspection or disclosure.''

(c) NO DAMAGES FOR INSPECTION REQUESTED BY TAXPAYER.—Subsection (b) of section 7431 of such Code is amended to read as follows:

''(b) EXCEPTIONS.—No liability shall arise under this section with respect to any inspection or disclosure—

''(1) which results from a good faith, but erroneous, interpretation of section 6103, or

''(2) which is requested by the taxpayer.''

(d) CONFORMING AMENDMENTS.—

(1) Subsections (c)(1)(A), (c)(1)(B)(i), and (d) of section 7431 of such Code as each amended by inserting ''inspection or'' before ''disclosure''.

(2) Clause (ii) of section 7431(c)(1)(B) of such Code is amended by striking ''willful disclosure or a disclosure'' and inserting ''willful inspection or disclosure or an inspection or disclosure.''

(3) Subsection (f) of section 7431 of such Code, as redesignated by subsection (b), is amended to read as follows:

''(f) DEFINITIONS.—For purposes of this section, the terms 'inspect', 'inspection', 'return', and 'return information' have the respective meaning given such terms by section 6103(b).''

(4) The section heading for section 7431 of such Code is amended by inserting ''**INSPECTION OR**'' before ''**DISCLOSURE**''.

(5) The table of sections for subchapter B of chapter 76 of such Code is amended by inserting ''inspection or'' before ''disclosure'' in the item relating to section 7431.

(6) Paragraph (2) of section 7431(g) of such Code, as redesignated by subsection (b), is amended by striking ''any use'' and inserting'' any inspection or use''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to inspections and disclosures occurring on and after the date of the enactment of this Act.

**SEC. 4.**

(a) IN GENERAL.—Section 1306(c)(1) of the National Food Insurance Act of 1968 (42 U.S.C. 4013(c)(1)) is amended by striking ''30'' and inserting ''15''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be construed to have taken effect on January 1, 1997, and shall expire June 30, 1997.

## NOTICES OF HEARINGS

SUBCOMMITTEE ON IMMIGRATION

Mr. HATCH. Mr. President, there will be a hearing held by the Subcommittee on Immigration, Senate Committee on the Judiciary, on Tuesday, April 15, 1997, at 10:30 a.m., in room 226, Senate Dirksen Building, on immigrant entrepreneurs, job creation, and the American dream.

SUBCOMMITTEE ON EMPLOYMENT AND TRAINING

Mr. JEFFORDS. Mr. President, I would like to announce for information of the Senate and the public that a hearing of the Subcommittee on Employment and Training, Senate Committee on Labor and Human Resources, will be held on Thursday, April 17, 1997, 9:30 a.m., in SD–430 of the Senate Dirksen Building. The subject of the hearing is innovations in youth training. For further information, please call the committee, 202/224–5375.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. JEFFORDS. Mr. President, I would like to announce for information of the Senate and the public that a hearing of the Senate Committee on Labor and Human Resources will be held on Friday, April 18, 1997, 9:30 a.m., in SD–430 of the Senate Dirksen Building. The subject of the hearing is improving the health status of children. For further information, please call the committee, 202/224–5375.

COMMITTEE ON ENERGY AND NATURAL RESOURCES, SUBCOMMITTEE ON NATIONAL PARKS, HISTORIC PRESERVATION, AND RECREATION

Mr. THOMAS. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on National Parks, Historic Preservation, and Recreation of the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, May 1, 1997, 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 receive testimony on S. 457, a bill to authorize the Bureau of Land Management to manage the Grand Staircase-Escalante National Monument.

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 National Parks, Historic Preservation, and Recreation, Committee on Energy and Natural Resources, U.S. Senate, 304 Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information, please contact Jim O'Toole of the subcommittee staff at (202) 224–5161.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President. I would like to announce for the benefit of Members and the public that the Committee on Energy and Natural Resources has scheduled a hearing to receive testimony on S. 430, the New Mexico Statehood and Enabling Act Amendments of 1997.

The hearing will take place on Monday, May 5, 1995, at 2:30 p.m. in room SD–366 of the Dirksen Senate Office Building.

Those wishing to testify or submit written statements for the record should contact James Beirne, senior counsel to the committee at (202) 224–2564 or Betty Nevitt, staff assistant, at (202) 224–0765 or write the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510.

## NOTICE OF WORKSHOPS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public, the workshops which have been scheduled before the Committee on Energy and Natural Resources to exchange ideas and information on the issue of competitive change in the electric power industry.

The first workshop will take place on Thursday, May 8, beginning at 9:30 a.m. in room 216 of the Hart Senate Office Building. The topic of discussion will be the effects of competition on fuel use and types of generation.

The second workshop will take place on Thursday, May 22, beginning at 9:30 a.m. in room 216 of the Hart Building. The topic of discussion will be the financial implications of restructuring.

The third workshop will take place on Thursday, June 12, beginning at 9:30 a.m. in room 216 of the Hart Senate Office Building. The topic of discussion will be the benefits and risks of restructuring to consumers and communities. Participation is by invitation. For further information please write to the Senate Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510, attn: Shawn Taylor.

## AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, April 15, 1997, at 2 p.m. to hold a hearing.

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

COMMITTEE ON RULES AND ADMINISTRATION

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Tuesday, April 15, 1997 beginning at 9:30 a.m. to receive testimony from Senator MARY L. LANDRIEU, Louis ''Woody'' Jenkins, and/or their counsels in connection with a contested U.S. Senate election held in Louisiana in November 1996.

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

SUBCOMMITTEE ON ACQUISITION AND TECHNOLOGY

Mr. LOTT. Mr. President, I ask unanimous consent that the Subcommittee on Acquisition and Technology of the Committee on Armed Services be authorized to meet at 2 p.m. on Tuesday, April 15, 1997, in open session, to receive testimony on the trends in the industrial and technology base supporting national defense in review of S. 450, the National Defense Authorization Act for Fiscal Years 1998 and 1999.

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

SUBCOMMITTEE ON EAST ASIAN AND PACIFIC AFFAIRS

Mr. LOTT. Mr. President, I ask unanimous consent that the Subcommittee on East Asian and Pacific Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, April 15, 1997, at 10 a.m. to hold a hearing.

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

SUBCOMMITTEE ON EMPLOYMENT AND TRAINING

Mr. LOTT. Mr. President, I ask unanimous consent that the Subcommittee on Employment and Training of the Committee on Labor and Human Resources be authorized to hold a hearing on innovations in adult training during the session of the Senate on Tuesday, April 15, 1997, at 9:30 a.m.

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

SUBCOMMITTEE ON READINESS

Mr. LOTT. Mr. President, I ask unanimous consent that the Subcommittee on Readiness of the Committee on Armed Services be authorized to meet at 2 p.m. on Tuesday, April 15, 1997 in open session, to receive testimony regarding environmental and military construction issues in review of S. 450, the National Defense authorization bill for fiscal years 1998 and 1999, and S. 451, the military construction authorization bill for fiscal year 1998.

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

## ADDITIONAL STATEMENTS

### THE IRS AND TAXPAYERS AT RISK

● Mr. THOMPSON. Mr. President, on the final day for taxpayers to file their tax returns, I think it is appropriate for Congress and the American people to assess how well the Internal Revenue Service [IRS] is doing managing the collection of 1.4 trillion taxpayer dollars. Unfortunately, the answer is not very well. The Committee on Governmental Affairs held a hearing last week on the IRS programs on the General Accounting Office's [GAO] high risk list which identifies those Federal programs most vulnerable to waste, fraud, abuse, and mismanagement. To the taxpayer's dismay, the IRS made the list six times. IRS programs have been consistently on GAO's high risk list since its inception in 1990 and GAO has issued over 200 reports in the past 5 years critical of the problems at IRS.

The problems at IRS are considerable. For example:

IRS still can't pass an audit—something that the private sector has been doing since the 1930's and State governments since the 1980's. Because IRS' financial statements are so poor, it is likely the entire Government will not be able to pass its first congressionally required audit of its financial statements this fall. Shouldn't IRS live up to the same accounting standards it imposes on the taxpayer?

For three decades IRS has been attempting to overhaul its outdated 1960's era computer systems. In its third unsuccessful attempt at modernization, IRS has spent over $3 billion, with very little to show for it. This has become a case study in how not to buy computers.

In the area of tax collections, GAO finds that IRS has no real basis for determining how much it is owed or, in any comprehensive sense, by whom. This is important because every dollar owed which is not collected due to inaccurate filing or ineffective collection comes out of the pocket of every honest taxpayer.

Despite an IRS pledge to have zero-tolerance for snooping by IRS personnel through taxpayer's files, GAO finds that the practice continues. Only one IRS computer system has a very limited ability to detect snooping. As for the rest of IRS systems and paper files there are few controls to protect sensitive taxpayer records from this invasion of privacy.

All of IRS' computers are at risk of not operating properly on January 1, 2000, because of the antiquated computers' inability to deal with the year 2000 date change. In less than 1,000 days, the collection of revenue and the entire tax processing system will be in jeopardy.

It is estimated that $200 billion is lost each year to fraud and nonpayment of taxes. While IRS caught $131 million in fraudulent returns in 1995, GAO lists filing fraud as a high risk area and it is uncertain how many fraudulent returns slip through the system.

But these concerns are even surpassed by new ones raised by GAO in January in a confidential report on IRS security weaknesses which is now being released in very restricted form. IRS has very serious physical and information security problems which jeopardize its ability to function and puts taxpayer data at risk of being improperly used, changed, or destroyed. It should concern us all that GAO's findings of IRS' vulnerability to security

threats are of such great concern that most of the original report can not be made public.

What is at stake here? The confidence of the taxpayer is at stake. Tax laws must be fairly enforced at the least possible cost and personal intrusion and IRS must meet the standards it expects the taxpayer to meet.

Our credibility as the steward of the money we ask the taxpayer to contribute is at stake. Each dollar the Government collects is a dollar someone else has earned. It is our obligation to make the best use of that dollar, and not waste a cent of it.

Finally, at stake is the very ability of government to perform its necessary responsibilities and functions. Without taxpayer confidence that we are collecting money fairly and wisely, our system of government is crippled.

Taxation in this country has a long and tumultuous history. We are a nation founded on a tax revolt and are continuously renewed by a healthy skepticism toward all forms of taxation. It is important to remember that it is only with the American people's consent that the IRS exists in the first place.

As a nation we collect taxes to pay for the responsibilities we have assigned to our Government. Right over the entrance to the IRS are the words of Oliver Wendell Holmes: ''Taxes are the price we pay for a civilized society.'' But, recognizing the need to fund government responsibilities does not imply that we should continue with business as usual at the IRS. If an agency fails in its fundamental mission, or fails to keep its promises to Congress and the American people, we need to be prepared to make fundamental changes. I, for one, favor greatly simplifying the Tax Code. A simpler code, fairly administered, will help to restore the taxpayers' faith in the system. It will also make the system more manageable.

In the meantime, it is imperative for IRS to improve its operations. It is outrageous that IRS programs put on GAO's high-risk list remain there year-after-year. GAO testified before the Governmental Affairs Committee in June of 1991 and described key areas in which IRS needed to improve its operations. Six years later, we heard virtually the same message in the same areas from GAO. What has IRS been doing in the last 6 years? What has been done to correct systemic management problems at IRS?

Fortunately, the forces for change may now be coming into place. Congress has used its power of the purse to express its dissatisfaction with IRS' computer modernization. A new Commission to Restructure the IRS has been formed to address how the Nation collects taxes and the administration has announced a new plan for reform at IRS. The Deputy Secretary of Treasury Lawrence Summers, testified before the Governmental Affairs Committee last Thursday on this plan. The administration's recognition of many of the problems it faces is a good first step. However, it is unclear how establishing new layers of bureaucracy will improve the situation at IRS. We also need to understand how giving IRS greater personnel and budgetary flexibilities would enable it to better manage its programs and finances.

It is necessary for Congress and the administration to work together to reform the IRS. As for the next step, the Congress needs more details on the administration's IRS reform proposals. I plan to work with my colleagues to ensure that a detailed plan is sent to Congress as soon as possible to address the IRS' high risk problems. This reform plan should be linked to IRS' GPRA strategic plan and should include specific performance measures that will successfully address IRS' high-risk areas.

Congress is also taking up today legislation on criminalizing the snooping by IRS employees of confidential taxpayer data. This is an issue with a longstanding history at the Governmental Affairs Committee. The issue was first brought to light during financial audits under the Chief Financial Officers Act. In 1994, it was thought that IRS would address this issue in a comprehensive manner. At last week's hearing, GAO found that snooping was still a significant problem. All of us are greatly disturbed about reports of lax security and the unauthorized browsing by IRS employees of taxpayer information. This invasion of privacy is a breech of public trust and only further lowers the faith of the taxpayer in the fairness of the system.

I want to work with the administration and other congressional committees to implement lasting solutions to identified management problems at IRS and reduce the risks to the taxpayers. Most of these problems have existed for years. I recognize that this administration, and previous ones, have tried to solve them. But, time is growing short. The confidence of our citizens is low and the risks are high.●

## JACKIE ROBINSON

● Mr. CLELAND. Mr. President, I rise today to pay tribute to Jackie Robinson, a true American hero. Born in Cairo, GA and raised by a single mother in Pasadena, CA, Jackie Robinson integrated major league baseball 50 years ago today. It was not an easy task. He faced outright prejudice from fans, other teams, as well as his own teammates. He was cursed and spit upon. It is hard to imagine how one man could endure such circumstances. But, he persevered and paved the way for young blacks who had long dreamed of wearing a major league baseball uniform. His courageous actions forced all Americans to face the issue of integration, and he helped to jump start the civil rights movement.

Jackie Robinson was deservedly elected to the Hall of Fame in 1962, his first year of eligibility. He had a career batting average of .311 with the Dodgers; won the 1949 batting title with a .342; was selected as National League MVP in 1949; and named National League Rookie of the Year in 1947.

As my dear friend, Hank Aaron, wrote in an op-ed piece which ran in the New York Times on Sunday, April 13, 1997, ''Jackie showed me and my generation what we could do, he also showed us how to do it. By watching him, we knew that we would have to swallow an awful lot of pride to make it in the big leagues.'' Jackie Robinson and Hank Aaron not only made it in the big leagues, but they also succeeded with their lives.

Mr. President, I ask that the entire text of Hank Aaron's op-ed that appeared in the New York Times on April 13, 1997, be printed in the RECORD.

The material follows:

[From the New York Times, Apr. 13, 1997]

WHEN BASEBALL MATTERED

(By Hank Aaron)

ATLANTA.—Jackie Robinson meant everything to me.

Before I was a teen-ager, I was telling my father that I was going to be a ballplayer, and he was telling me, ''Ain't no colored ballplayers.'' Then Jackie broke into the Brooklyn Dodgers lineup in 1947, and Daddy never said that again. When the Dodgers played an exhibition game in Mobile, Ala., on their way north the next spring, Daddy even came to the game with me. A black man in a major-league uniform: that was something my father had to see for himself.

Jackie not only showed me and my generation what we could do, he also showed us how to do it. By watching him, we knew that we would have to swallow an awful lot of pride to make it in the big leagues. We knew of the hatred and cruelty Jackie had to quietly endure from the fans and the press and the anti-integrationist teams like the Cardinals and the Phillies and even from his teammates. We also knew that he didn't subject himself to all that for personal benefit. Why would he choose to get spiked and cursed at and spat on for his own account?

Jackie was a college football hero, a handsome, intelligent, talented guy with a lot going for him. He didn't need that kind of humiliation. And it certainly wasn't in his nature to suffer it silently. But he had to. Not for himself, but for me and all the young black kids like me. When Jackie Robinson loosened his fist and turned the other cheek, he was taking the blows for the love and future of his people.

Now, 50 years later, people are saying that Jackie Robinson was an icon, a pioneer, a hero. But that's all they want to do: say it.

Nobody wants to be like Jackie. Everybody wants to be like Mike. They want to be like Deion, like Junior.

That's O.K. Sports stars are going to be role models in any generation. I'm sure Jackie would be pleased to see how well black athletes are doing these days, how mainstream they've become. I'm sure he would be proud of all the money they're making. But I suspect he'd want to shake some of them until the dollar signs fell from their eyes so they could once again see straight.

Jackie Robinson was about leadership. When I was a rookie with the Braves and we came north with the Dodgers after spring training, I sat in the corner of Jackie's hotel room, thumbing through magazines, as he and his black teammates—Roy Campanella,

Don Newcombe, Junior Gilliam and Joe Black—played cards and went over strategy: what to do if a fight broke out on the field; if a pitcher threw at them; if somebody called one of them ''nigger.''

In his later years, after blacks were secure in the game, Jackie let go of his forbearance and fought back. In the quest to integrate baseball, it was time for pride to take over from meekness. And Jackie made sure that younger blacks like myself were soldiers in the struggle.

When I look back at the statistics of the late 1950's and 60's and see the extent to which black players dominated the National League (the American League was somewhat slower to integrate), I know why that was. We were on a mission. And, although Willie Mays, Ernie Banks, Frank Robinson, Willie Stargell, Lou Brock, Bob Gibson and I were trying to make our marks individually, we understood that we were on a collective mission. Jackie Robinson demonstrated to us that, for a black player in our day and age, true success could not be an individual thing.

To players today, however, that's exactly what it is. The potential is certainly there, perhaps more than at any time since Jackie came along, for today's stars to have a real impact on their communities. Imagine what could be accomplished if the players, both black and white, were to really dedicate themselves—not just their money, although that would certainly help—to camps and counseling centers and baseball programs in the inner city.

Some of the players have their own charitable foundations, and I applaud them for that. (I believe Dave Winfield, for instance, is very sincere.) But as often as not these good works are really publicity stunts. They're engineered by agents, who are acting in the interest of the player's image—in other words, his marketability. Players these days don't do anything without an agent leading them every step of the way (with his hand out). The agent, of course, could care less about Jackie Robinson.

The result is that today's players have lost all concept of history. Their collective mission is greed. Nothing else means much of anything to them. As a group, there's no discernible social conscience among them; certainly no sense of self-sacrifice, which is what Jackie Robinson's legacy is based on. It's a sick feeling, and one of the reasons I've been moving further and further away from the game.

The players today think that they're making $10 million a year because they have talent and people want to give them money. They have no clue what Jackie went through on their behalf, or Larry Doby or Monte Irvin or Don Newcombe, or even, to a lesser extent, the players of my generation. People wonder where the heroes have gone. Where there is no conscience, there are no heroes.

The saddest thing about all of this is that baseball was once the standard for our country. Jackie Robinson helped blaze the trail for the civil rights movement that followed. The group that succeeded Jackie—my contemporaries—did the same sort of work in the segregated minor leagues of the South. Baseball publicly pressed the issue of integration; in a symbolic way, it was our civil rights laboratory.

It is tragic to me that baseball has fallen so far behind basketball and even football in terms of racial leadership. People question whether baseball is still the national pastime, and I have to wonder, too. It is certainly not the national standard it once was.

The upside of this is that baseball, and baseball only, has Jackie Robinson. Here's hoping that on the 50th anniversary of Jackie's historic breakthrough, baseball will honor him in a way that really matters. It could start more youth programs, give tickets to kids who can't afford them, become a social presence in the cities it depends on. It could hire more black umpires, more black doctors, more black concessionaries, more black executives.

It could hire a black commissioner.

You want a name? How about Colin Powell? He's a great American, a man more popular, maybe, than the President. I'm not out there pushing his candidacy, but I think he would be great for baseball. He would restore some social relevance to the game. He would do honor to Jackie Robinson's name.

It would be even more meaningful, perhaps, if some of Jackie's descendants—today's players—committed themselves this year to honoring his name, in act as well as rhetoric.

Jackie's spirit is watching. I know that he would be bitterly disappointed if he saw the way today's black players have abandoned the struggle, but he would be happy for their success nonetheless. And I have no doubt that he'd do it all over again for them.●

## MUSIC IN OUR SCHOOLS MONTH

● Mr. SANTORUM. Mr. President, I would like to take a few minutes of Senate business to discuss Music in Our Schools Month.

Throughout the month of March, which was designated Music in Our Schools Month, the Pennsylvania Music Educators Association [PMEA] promoted public awareness of arts education. On March 11, the Pennsylvania Alliance for Arts Education sponsored the Second Annual Arts in Education Day in Harrisburg, PA. Representatives from PMEA also attended the ''SingAmerica'' campaign here in Washington, DC, on March 13. In addition to renewing an interest in music, ''SingAmerica'' sought to restore a sense of pride in our communities.

For years, public schools in Pennsylvania have provided opportunities for children to grow and learn through the arts. Several teachers have observed that studying music has helped children learn to work in groups, to think creatively, and to communicate more effectively. Moreover, music education has helped introduce students to history and cultural studies.

Mr. President, I would like to take this opportunity to recognize the teachers who have dedicated their lives to preparing children for the future. I hope my colleagues will join me in thanking them for their commitment to improving education.●

## THE HONORABLE ALMA STALLWORTH

● Mr. LEVIN. Mr. President, I rise today to pay tribute to my friend, the Honorable Alma Stallworth, a truly dedicated public official who recently retired after 18 years of serving the people of northwest Detroit in the Michigan House of Representatives. Representative Stallworth is being honored at a retirement celebration hosted by the Black Caucus Foundation of Michigan and the Black Child Development Institute Metro-Detroit Affiliate.

Throughout her 18-year career in the Michigan House, Alma Stallworth was widely recognized as a champion of women, children, and minorities. She fought to expand prenatal coverage for pregnant women, increase Michigan's child immunization rate and provide parenting education to teenagers with children. She was an active member of the National Black Caucus of State Legislators, as well as a successful fundraiser for the United Negro College Fund, raising more than $1 million over the past 11 years.

Representative Stallworth was also a leader on issues related to public utilities. She served as chair of the Public Utilities Committee in the Michigan House of Representatives, and was a vice-chair of the Telecommunication and Banking Committee in the National Conference of State Legislatures.

Alma Stallworth's legislative leadership will be missed, but I am confident that she will continue to serve as a champion for those people who often lack a voice in the political process. I know my colleagues will join me in congratulating Alma on her illustrious career and in wishing her well in her future endeavors.●

## FIFTIETH ANNIVERSARY OF JACKIE ROBINSON BREAKING BASEBALL'S COLOR BARRIER

● Mr. ABRAHAM. Mr. President, I rise to pay special tribute to a legendary figure in our Nation's history; Jack Roosevelt Robinson. One half century ago today, Jackie Robinson stepped out of the dugout before an Ebbets Field crowd of 30,000 to play first base for the Brooklyn Dodgers. In doing so, he became the first African-American to play professional baseball in the modern major leagues.

However, Jackie Robinson did not merely break baseball's color barrier, he shattered it in the most spectacular fashion imaginable. He was the first African-American to lead the league in stolen bases, to win the batting title, to play in the All-Star Game, to play in the World Series, to win the Most Valuable Player Award, and to be inducted into the Hall of Fame.

As an ardent baseball fan, I marvel at his accomplishments on the field. As an American, I stand in gratitude for all he did for civil rights in this country. The impressive nature of his long litany of baseball firsts is far surpassed by the measure of his exceptional character. To be able to bear the brunt of national adversity and hostility and still perform with such dignity and grace requires a courage far greater than most could summon.

To many, the details of April 15, 1947 are long forgotten. For the record, in the seventh inning Robinson scored the deciding run in a 5 to 3 win over the Boston Braves. When Robinson crossed home plate, it was a victory for his

team, for professional sports, and, indeed, for the entire country. Jackie Robinson was one of those rare individuals who transcended both race and athletics to become an American hero. It is my hope and belief that his legacy today is as powerful as ever.●

## JACKIE ROBINSON

Mr. CONRAD. Mr. President, some of the most pivotal events in U.S. history that have helped eliminate the barriers between white and black Americans have been simple acts that occurred in very common, everyday settings; on a bus, in a diner, and in a school. Today marks the 50th anniversary of one of those events, and it also occurred in a common and unlikely setting—at a baseball game. On April 15, 1947, the Brooklyn Dodgers debuted their new infielder, Jackie Robinson, in a game against the Boston Braves. And by his very presence on that field, American society was changed forever.

Until that day, professional baseball had been segregated for over 50 years, and no African-American in the 20th century had worn a major league uniform. Segregation had denied many fine black players from competing side by side with their white counterparts. It was the dream of many Negro League stars like Satchel Paige, Josh Gibson, and Cool Papa Bell to take the field in a major league park and have the chance to claim their rightful place in the record books alongside Babe Ruth and Ty Cobb. They knew they were good enough, and so did many white baseball executives who saw them play. But until Jackie Robinson, black Americans were kept out of the majors and many of these great players never got the chance to play there.

In 1947, Dodgers' manager Branch Rickey ignored the color line and gave Jackie Robinson a chance to play. Not because he was black, not because he could be a symbol for a change in American society, but because he was a dazzling player who could help the Dodgers win. And he did. In that very first year, Robinson became the National League's Rookie of the Year. In 1949, he would be named the Most Valuable Player. In 10 years, he helped Brooklyn capture six National League championships and one World Series title. He retired with a lifetime batting average of .311 and was named to the Hall of Fame in his first year of eligibility.

After his rookie season, he was listed second only to Bing Crosby as the most popular man in America. That is a very interesting fact, for even though he clearly captured the hearts and minds of many Americans, and no doubt changed the thinking of many others, there were also those who hated him and let him know it with vicious insults, jeers, and threats of physical violence. On the field opposing ballplayers tried to spike him on the base paths, and pitchers regularly threw fast balls near his head. Even some of his own teammates asked to be traded when they learned he was being called up from the minors. Off the field he sometimes could not join the rest of the Dodgers in the same hotels or restaurants. Jackie Robinson had to endure it all, because he knew if he fought back, if his confidence and calm were rattled, and if he did not perform to the highest athletic level, it could be years before another minority player would be given the same chance. But he used his courage and ability to succeed on every level, proving himself to be much, much more than just a talented baseball player.

How far we have come in terms of racial equality in the half-century since Jackie Robinson's debut is debatable. Black athletes are now commonplace in professional sports, and some, such as basketball star Michael Jordan, are among the most successful and instantly recognizable figures in the world. Over the weekend, an amazingly-gifted and congenial young man named Tiger Woods became both the first African-American and first Asian-American to win the Masters golf tournament, breaking down another long-held color barrier.

But outside of sports, there are still subtle but daunting barriers that prevent African-Americans, as well as other minorities, from achieving equal status in many facets of our culture. Shortly before his death in 1972, Robinson himself was quoted as saying,

> I can't believe that I have it made while so many of my black brothers and sisters are hungry, inadequately housed, insufficiently clothed, denied their dignity, live in slums or barely exist on welfare.

If he were still alive today, it is likely his opinion would be unchanged.

But America is a work in progress and there may always be barriers, large and small, which create inequity in our society. Jackie Robinson was one of the best athletes in the world, and the barrier he broke was one that prevented him and other black athletes from using their talents for their fullest gain. Jackie Robinson faced that barrier with courage, faith, and dignity. He broke it for himself, but even more significantly for all those who have followed. That is why he is a hero and why we celebrate his memory today. Perhaps the lesson we can learn from Jackie Robinson's example is that we must face those areas of discrimination we encounter in our lives, no matter what our racial heritage, with the same courage, faith, and dignity. We may never fully end discrimination but we can continue working together to eliminate the barriers that remain.●

## JACKIE ROBINSON

● Mr. COVERDELL. Mr. President, today, all of America celebrates the 50th anniversary of Jackie Robinson's courageous entry into major league baseball, an event which foreshadowed and indeed paved the way for the wider integration of American society in the 1950's and 1960's. For the people of Georgia, this celebration has special significance because Jackie Robinson was born in Cairo, GA, 78 years ago. Last year, his Georgia roots were honored when the Cairo High School named its baseball stadium Jackie Robinson Field.

The son of a sharecropper and grandson of a slave, Jackie Robinson knew poverty, adversity, and the most overt forms of discrimination. He knew especially the lonely burden of having to break the color line in baseball all by himself. Apart from remarkable athletic abilities, Jackie Robinson possessed extraordinary personal qualities which enabled him to embody the hopes and challenge the prejudices of an entire generation of Americans. He truly met the classic definition of courage—the demonstration of grace under pressure.

Georgians and all Americans honor the history which Jackie Robinson made 50 years ago today. It is clear in retrospect that he did more than open the door of the national pastime to African-Americans. He also helped to open the door of a genuine opportunity society to all Americans. Jackie Robinson believed passionately in the promise of the American dream. Through a lifetime of hard work, personal sacrifice, and commitment to racial harmony, he did as much as any American over the past half century to help make that noble dream a reality.●

## RECOGNIZING THE FRONT LINE IRS EMPLOYEE

● Mr. ROBB. Mr. President, as we debate our tax system and the management of the Internal Revenue Service, I believe we should take time out to recognize a largely unappreciated group of public servants. If there is anyone dreading tax day more than the taxpayer in general, it is the front line IRS employee who is right now trying to handle all of those last minute phone calls and process the bulk of returns that are just now starting to flood in. These people are not the problem, they are the ones who make the system as it exists work in the best way possible. The revenues they collect pay for our national parks, our highways, and our national defense. While we can debate the system at length, I believe we should take a moment today of all days to recognize the hard work done by those front line men and women at the IRS to make our government run.●

## TRIBUTE TO THE TOP 10 SMALL BUSINESSES IN KANSAS CITY

● Mr. BOND. Mr. President, on Monday, April 21, 1997, the Kansas City MO Chamber of Commerce will honor the 1997 Top 10 Small Businesses of the Greater Kansas City area. The Chamber is an association of almost 3,000 businesses across the 10-county bistate area whose members employ approximately 240,000 people in the Greater

Kansas City area. This honor is part of the Chamber's award-winning Small Business Week activities, which are among the country's largest Small Business Week celebrations.

The Top 10 Awards are given in recognition of the economic contributions of small businesses which make up more than 90 percent of the Greater Kansas City metropolitan area. These 10 businesses alone contributed $104 million in annual sales and employed more than 840 people in 1996. Nearly 700 companies were nominated, but only 10 can earn the honor of small business of the year. Of the 10, the Greater Kansas City Chamber will select its 11th annual Small Business of the Year, at its luncheon on April 25, 1997. The Small Business of the Year will receive the ''Mr. K'' award, named for Ewing Marion Kauffman, one of the country's best entrepreneurs.

This year's Top 10 recipients are, Accommodations by Apple, Inc., Gould Evans Affiliates, Hermes Landscaping, Inc., Arthur Clark Holding Inc., Boulevard Brewing Co., The Corridor Group, Inc., Courtney Day Inc., DARCA Inc., Data Systems International Inc., and Galvmet Inc.

When Ewing Kauffman observed that, ''Surprisingly, of all of the motivational aspects that there are, once a person has food, clothing, and shelter, the most motivating force in the world is appreciation. * * * we don't express appreciation as much as we should.'' I can only speculate that he was thinking of businesses such as these. As the Chairman of the Senate Committee on Small Business, it gives me great satisfaction to see my home State thriving in the small business community and I would like each honoree to know how much I appreciate their hard work and commitment to excellence. I congratulate these companies not only for this honor, but also for the outstanding community service they provide to the Greater Kansas City area. They are an inspiration to all small businesses not only in this area, but around the country, and I applaud them.●

## TRIBUTE TO MAJ. MARGARET M. JOSEPH

● Mr. SANTORUM. Mr. President, I would like to take a few moments of Senate business to honor Maj. Margaret Joseph, a Pennsylvanian who dedicated her life to defending freedom and serving her country.

Margaret distinguished herself as a member of the Army Nurse Corps. During World War II, she served in the European theater. Many soldiers fighting in France and England owe their lives to dedicated professionals such as Margaret Joseph, who nursed them back to health. For others, her compassionate care was among the last acts of kindness they would experience on this Earth. In recognition of Margaret's skill and dedication, she was promoted to the rank of major by an act of Congress.

Unfortunately, Major Joseph is no longer with us. She passed away on November 19, 1996, in Philadelphia, PA. On December 3, 1996, she was laid to rest at Arlington National Cemetery with full military honors.

Mr. President, Major Joseph was rightfully proud of her service to this Nation. I hope my colleagues will join me both in recognizing her accomplishments and in honoring her as a patriot, as a distinguished soldier, and as a courageous human being.●

## BUDGET SCOREKEEPING REPORT

● Mr. DOMENICI. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32, the first concurrent resolution on the Budget for 1986.

This report shows the effects of congressional action on the budget through April 14, 1997. The estimates of budget authority, outlays, and revenues, which are consistent with the technical and economic assumptions of the 1997 concurrent resolution on the Budget (H. Con. Res. 178), show that current level spending is above the budget resolution by $16.9 billion in budget authority and by $12.6 billion in outlays. Current level is $20.5 billion above the revenue floor in 1997 and $101.9 billion above the revenue floor over the 5 years 1997–2001. The current estimate of the deficit for purposes of calculating the maximum deficit amount is $219.6 billion, $7.6 billion below the maximum deficit amount for 1997 of $227.3 billion.

Since my last report, dated March 4, 1997, there has been no action to change the current level of budget authority, outlays or revenues.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
*Washington, DC, April 15, 1997.*

Hon. PETE V. DOMENICI,
*Chairman, Committee on the Budget, U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The attached report for fiscal year 1997 shows the effects of Congressional action on the 1997 budget and is current through April 14, 1997. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the 1997 Concurrent Resolution on the Budget (H. Con. Res. 178). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended.

Since my last report, dated March 3, 1997, there has been no action to change the current level of budget authority, outlays or revenues.

Sincerely,

JUNE E. O'NEILL,
*Director.*

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, FISCAL YEAR 1997, 105TH CONGRESS, 1ST SESSION, AS OF CLOSE OF BUSINESS APRIL 14, 1997

[In billions of dollars]

| | Budget resolution (H. Con. Res. 178) | Current level | Current level over/under resolution |
|---|---|---|---|
| ON-BUDGET | | | |
| Budget Authority | 1,314.9 | 1,331.8 | 16.9 |
| Outlays | 1,311.3 | 1,323.9 | 12.6 |
| Revenues: | | | |
| 1997 | 1,083.7 | 1,104.3 | 20.5 |
| 1997–2001 | 5,913.3 | 6,015.2 | 101.9 |
| Deficit | 227.3 | 219.6 | −7.6 |
| Debt Subject to Limit | 5,432.7 | 5,262.6 | −170.1 |
| OFF-BUDGET | | | |
| Social Security Outlays: | | | |
| 1997 | 310.4 | 310.4 | 0.0 |
| 1997–2001 | 2,061.3 | 2,061.3 | 0.0 |
| Social Security Revenues: | | | |
| 1997 | 385.0 | 384.7 | −0.3 |
| 1997–2001 | 2,121.0 | 2,120.3 | −0.7 |

Note.—Current level numbers are the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 105TH CONGRESS, 1ST SESSION, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1997, AS OF CLOSE OF BUSINESS APRIL 14, 1997

[In millions of dollars]

| | Budget authority | Outlays | Revenues |
|---|---|---|---|
| ENACTED IN PREVIOUS SESSIONS | | | |
| Revenues | ..... | ..... | 1,101,532 |
| Permanents and other spending legislation | 843,324 | 801,465 | ..... |
| Appropriation legislation | 753,927 | 788,263 | ..... |
| Offsetting receipts | −271,843 | −271,843 | ..... |
| Total previously enacted | 1,325,408 | 1,317,885 | 1,101,532 |
| ENACTED THIS SESSION | | | |
| Airport and Airway Trust Fund Reinstatement Act of 1997 (P.L. 105–2) | ..... | ..... | 2,730 |
| ENTITLEMENTS AND MANDATORIES | | | |
| Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted | 6,428 | 6,015 | ..... |
| TOTALS | | | |
| Total Current Level | 1,331,836 | 1,323,900 | 1,104,262 |
| Total Budget Resolution | 1,314,935 | 1,311,321 | 1,083,728 |
| Amount remaining: | | | |
| Under Budget Resolution | ..... | ..... | ..... |
| Over Budget Resolution | 16,901 | 12,579 | 20,534 |
| ADDENDUM | | | |
| Emergencies: | | | |
| Funding that has been designated as an emergency requirement by the President and the Congress | 1,806 | 1,228 | ..... |
| Funding that has been designated as an emergency requirement only by the Congress and is not available for obligation until requested by the President | 323 | 305 | ..... |
| Total emergencies | 2,129 | 1,533 | ..... |
| Total current level including emergencies | 1,333,965 | 1,325,433 | 1,104,262● |

## ORDERS FOR WEDNESDAY, APRIL 16, 1997

Mr. NICKLES. Madam President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10 a.m. on Wednesday, April 16. I further ask unanimous consent that on Wednesday, immediately following the prayer, the routine requests through the morning hour be granted and there then be a period of morning business until the hour of 1 p.m. with Senators to speak for up to 5 minutes each, with

the following exceptions: Senator CAMPBELL, 10 minutes; Senator HUTCHINSON, 10 minutes; Senators MCCONNELL and GRAHAM, 30 minutes each; Senator CONRAD, 10 minutes; Senator KENNEDY, 15 minutes; and, Senator DORGAN, 1 hour.

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

## PROGRAM

Mr. NICKLES. Madam President, for the information of all Senators, tomorrow from 10 a.m. until 1 p.m. the Senate will be in a period of morning business to accommodate a number of Senators who are wishing to speak.

At 1 p.m. we hope to reach an agreement to begin consideration of H.R. 1003, the so-called assisted suicide legislation. This is legislation that would ban Federal funding of assisted suicide. If an agreement is reached, it would allow for 3 hours of debate on that bill. Therefore, Senators can expect a roll-call vote on Wednesday mid to late afternoon. All Senators will be notified accordingly when the vote is scheduled.

## ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. NICKLES. Madam President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6 p.m., adjourned until Wednesday, April 16, 1997, at 10 a.m.

## NOMINATIONS

Executive nominations received by the Senate April 15, 1997:

### DEPARTMENT OF STATE

LINDA JANE ZACK TARR-WHELAN, OF VIRGINIA, FOR THE RANK OF AMBASSADOR DURING HER TENURE OF SERVICE AS U.S. REPRESENTATIVE TO THE COMMISSION ON THE STATUS OF WOMEN OF THE ECONOMIC AND SOCIAL COUNCIL OF THE UNITED NATIONS.

### NATIONAL COUNCIL ON DISABILITY

YERKER ANDERSSON, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 1999. (REAPPOINTMENT)