RAILROAD DEFICIT REDUCTION FUEL TAXES

Mr. CHAFEE. Unfortunately, I understand the conference agreement on H.R. 2043 takes no action to equalize the rate of deficit reduction fuel taxes paid by the various modes of transportation. As the distinguished chairman of the Finance Committee and I have discussed, an obvious inequity currently exists which requires that railroads pay a 5.55 cents-per-gallon fuel excise tax, while all other modes of transportation pay no more than 4.3 cents-per-gallon for this purpose. In fact, by transferring deficit reduction taxes paid by other transportation users, including truckers which compete with the railroads, into trust funds for infrastructure improvements, we exacerbate the current inequity. Railroads continue to contribute to deficit reduction, while their competitors instead contribute to their own infrastructure.

If transportation is to be singled out for deficit reduction, the burden of contributing to a balanced budget should be shared equally among all modes. While I regret that no solution to this problem was possible in this legislation, I hope you share my belief that the fuel tax inequity imposed on the Nation's railroads must be remedied at the earliest opportunity.

Mr. FAIRCLOTH. Mr. President, I rise in strong support of the tax bill, H.R. 2043.

Mr. President, this is a major tax cut for the American people—more than $90 billion in tax relief. This is the largest tax cut for the American people since 1981.

In terms of education, the provisions are very significant. My legislative priority for this year has been a tax credit for community college students of any age to improve their job skills. On the first day of this Congress, I introduced S. 50, a bill to provide a $1,500 tax credit for community college students. Technology has brought about rapid change in the workplace, and the need to update one's skills on a daily basis is critical. I think the community college system is the best job training program we have in this country. North Carolina has been a leader in education and in job growth. There is a strong link between the two. The tax bill will provide a 100-percent tax credit for the first $1,000 of expenses for attending a community college or the first 2 years of college. It will provide a 50-percent credit for of the next $1,000. In sum, it's a $1,500 tax credit for all of America's community college students. I was a strong supporter of this provision, and I am pleased it has been retained and improved.

The legislation also provides an interest deduction for student loans. Under the bill, State prepaid tuition plans will receive tax-free treatment. And, the bill permits penalty free withdrawals from IRA's for education expenses. All of these provisions will improve our education system without spending more money on bureaucrats or Government programs.

Mr. President, this is major tax relief for America's working families. For too many years, these families, working men and women have been the backbone of America, going to work every day, paying the mortgage, raising families, and paying their taxes and their debts. The Government has put a greater and greater tax burden on them every year. This tax relief is long overdue. In fact, it's 16 years overdue. Their last tax cut was 1981. There have been plenty of tax increases in the intervening years.

Mr. President, there are a number of other positive items in this tax bill. For example, the bill: Cuts capital gains taxes; cuts the capital gains on the sale of one's home; provides greater estate tax relief, particularly for small family-owned businesses and farms; accelerates the phasein of self-employed health insurance tax deduction; and provides a more generous IRA for at-home spouses.

Mr. President, we should not lose sight of the fact that the Republicans have now controlled Congress for 3 years. We have finally overcome the President's opposition and cut taxes. In 1993, President Clinton passed the largest tax increase in American history. To me, this is a stark contrast in philosophy. If the Senate was not in Republican hands, we would be debating the size of the tax hike, not the tax cut. Although the White House has at times tried to blur the differences, it should not be lost on the American public that wasteful Government spending is going down, and taxes are being cut for the first time in years. The battle for greater tax relief does not end here. The Tax Code has to be simplified dramatically. Overall tax rates are too high. Americans are working until May just to pay taxes. We need to set a protection into law that not more than 25 percent of one's wages can be taken in taxes.

I can assure the Senate and my constituents in North Carolina that I will
contribute my work for greater tax relief.

Thank you, Mr. President, I am pleased to support this bill.

Mr. LAUTENBERG. Mr. President, I rise in support of the conference report on this legislation.

Mr. President, before I begin to discuss this legislation, let me take a moment to again congratulate the chairman and ranking member of the Finance Committee, Senator Roth and Senator Moynihan, for their leadership on this legislation. Both these distinguished Senators reached out to Members on the other side of the aisle to make this happen, and they deserve enormous credit for their leadership.

Mr. President, I am supporting this legislation for four primary reasons. First, it will help ordinary, middle-class families and especially their children. Second, it will promote education. Third, it will help clean up our environment and promote economic development. And, fourth, it’s part of a broader bipartisan agreement that will balance the budget and prepare our Nation for the 21st century.

First, Mr. President, this legislation would provide substantial assistance to middle-class families in the form of a $500 tax credit for children under the age of 17. This credit will help millions of ordinary people who are raising their children, working hard, and struggling to pay their bills. These Americans, an extra $500 or $1,000 per year can go a long way. And, so long as our Nation can afford to provide this relief in the context of a balanced budget, I think it’s the right thing to do.

Mr. President, I am especially pleased that the child tax credit included in this legislation will be available to lower income families who also qualify for the earned income tax credit, or EITC. This proved to be one of the more contentious issues in the conference, much to my surprise. Yet some around here argued that providing direct tax relief to police officers, nurses, and teachers somehow amounted to welfare. I never understood the logic of that. But, fortunately, Democrats made this a top priority. And, in the end, these hard-working Americans will be able to benefit from the child tax credit.

Mr. President, the second major element of this legislation is the provision that promotes education. The bill includes a $1,500 tax credit to help students afford the first 2 years of college. In addition, there’s a tax credit worth up to $1,000 for those who want to pursue additional education beyond that. This latter benefit will be available to adults of all ages. And it’s especially important. In an increasingly technological age, education must be a lifelong process. And it’s something that we should encourage and support.

Mr. President, the third major reason why I’m supporting this legislation is that it includes new incentives to clean up thousands of contaminated, abandoned sites in economically distressed areas. That not only will improve the environment, but it will help encourage redevelopment of these areas, known as brownfields. It’s a win-win approach that will make a real difference for communities around our Nation.

Mr. President, the final reason I am supporting this legislation is that it’s part of the broad bipartisan budget agreement that I helped negotiate with Democrats, and the President. That agreement will provide several benefits outside the tax area that we never could have achieved without this broader compromise.

We’re getting close to providing health care coverage for uninsured children. We’re restoring disability benefits for legal immigrants. We’re ensuring that 30,000 disabled children don’t lose their Medicaid coverage. We’re investing $3 billion to move people from welfare to work. And the list goes on.

None of these important advances would have been possible without a broad bipartisan agreement. And to get that agreement, I had to accept some significant new tax breaks that we otherwise would have resisted.

Mr. President, I, for one, do not share the faith of my Republican friends that cutting taxes for rich Americans is the ticket to economic growth. We’ve tried trickle-down economics in the past. And it’s proved not only unfair, but ineffective in promoting the economy.

Most Democrats have a different approach. Mr. President, rather than focusing on tax cuts for ordinary Americans. The people who work hard, raise their kids, and who often have a hard time keeping their heads above water.

In other words, Mr. President, rather than showering tax breaks on the rich and having that money trickle down, we’d rather provide relief to ordinary Americans, and allow those funds to flow back up.

Fortunately, Mr. President, while this bill does contain some new tax breaks for the very wealthy, the bulk of its benefits are focused on the middle class. The most expensive element in the package is the child tax credit. The next most expensive area is education. Both of these types of tax relief are targeted on people who really could use the help.

Having said that, Mr. President, there clearly are other provisions, such as the capital gains cut and the backloaded IRA. I’m concerned about the costs of these new tax breaks, especially in the future. If it were up to me, I would have done much more to constrain those costs.

But, Mr. President, these provisions were necessary to reach the broader agreement. There simply would not have been a deal without them. And so, on the whole, many on this side of the aisle felt that this was the price we had to pay to achieve other benefits in the budget agreement.

At least, Mr. President, the legislation before us does not include some of the more egregious proposals that would have exploded the deficit in the future.

But the bottom line, Mr. President, is that, though it has real flaws, I am going to support this legislation. And I would encourage my colleagues to do likewise.

No, it’s not perfect legislation. But it’s part of a compromise that will do a lot of good. It provides significant tax relief to middle-class families. It will help millions of Americans afford college. It will encourage millions of others to pursue their educations throughout their lives. It will lead to the cleanup and redevelopment of many abandoned sites around our nation. And it’s part of a bipartisan plan that will balance the budget and prepare our Nation for the next century.

Mr. SPECTER. Mr. President, I am pleased to vote in favor of the Taxpayer Relief Act, which will provide the first significant tax cut to working Americans in 16 years.

Although I still believe that we ought to move to a system of a fairer, flatter tax without myriad exceptions and deductions, this bill represents an important first step in relieving the tax burden on working Americans and families. This tax bill provides a net tax reduction of $96 billion over 5 years while remaining on a glide path toward a balanced budget.

Specifically, I am pleased that the final package includes a $500 per child tax credit, tax incentives for education, including education IRA’s, a modified Hope Scholarship and tax free treatment of State prepaid tuition plans. It also takes important steps toward expanding participation in IRA’s, a reduction in the capital gains tax and AMT, and incentives for small business by reinstatement of the home office business deduction and an acceleration in the phase in of the self-employed health insurance deduction.

On estate taxes, an area where I have long believed that we must have relief, this bill would help family farmers and small businesses by increasing the exclusion to $1.3 million. It would also increase the exclusion for families to $1 million over 10 years.

In conclusion, Mr. President when combined with the budget savings bill passed earlier today, we have made real progress on putting our financial house in order and providing necessary tax relief to millions of Americans.

Mr. MOYNIHAN. Mr. President, one provision of H.R. 2014 would repeal the $150 million limit on section 501(C)(3) bonds. This is a change I have long sought, and I am grateful for my chairman’s support for this change. It is my understanding that the intention of the provision is that bonds that meet the requirements of the bill will be eligible for tax-exempt treatment without being subject to the $150 million limitation. Furthermore, these bonds will not be taken into account with respect to other qualified section 501(C)(3) bonds.

REPEAL OF LIMIT ON SEC. 501(C)(3) BONDS
bonds that are subject to the $150 million limitation, which bonds may continue to be issued on a tax-exempt basis to finance and refinance expenditures as permitted under existing law.

Mr. ROTH. I agree with the Senator's interpretation of this provision of the bill.

Mr. ALLARD. Mr. President, I must admit that I was less than pleased with the spending portion of the budget reconciliation package. I regret that I was unable to give this bill my support. Unfortunately, we failed to address the problem of growth in entitlement spending. We passed on making some needed reforms to the Medicare system. We owe our children and grandchildren much more. Mr. President, I am much more pleased with the tax portion of the budget reconciliation package. One of my primary goals has always been to reduce the tax burden on hard-working Americans. I am proud to say that we will take a step toward this goal today. For the first time in 16 years, we give the American people a measure of tax relief. I am especially pleased that we are taking steps to reduce two of the most onerous and economically harmful taxes—the capital gains tax and the death tax.

Mr. President, with this act today, we will move in the direction of protecting family farms and businesses from Uncle Sam's grasping arms. Under current law, many family farmers and small businesses have to be sold off just to pay the taxes on the founder's estate. This is tragic and irresponsible. But today, we will change that law to allow estates containing small businesses and family farms to deduct the first $1.3 million of the value of the estate. This change in death tax law is a good step in the right direction, although I must emphasize that it is only a first step. No family owned business or farm should have to be sold to pay taxes. I will continue to fight to see that no family owned business is ever again the victim of the Federal Government's insatiable appetite for more money.

We also make some good progress in the area of capital gains tax relief in this bill. Under current law, the U.S. has one of the highest capital gains tax rates in the world. These high rates have the perverse effect of punishing those who help our economy to grow by reducing the rate on all capital. Most taxpayers will now be charged a 20 percent rate and those in the lowest income bracket will only have to pay 10 percent. The 43 percent of Americans that now invest in stocks in one form or another will benefit from these provisions.

Mr. President, I am pleased with these steps that we are taking today to reduce harmful and unfair taxes, and I am proud to say that I will support this portion of the budget reconciliation package. I look forward to working with my colleagues in the future to enact further tax reduction and reform that will help our family farms and small businesses.

Mr. HUTCHINSON. Mr. President, the United Kingdom deregulated its electric utilities in 1990. There is now a central power pool. Power stations with capacities of over 10 megawatts are ordinarily required to sell all electricity generated into the pool. Consumers buy from the pool or from regional electric companies that buy from the pool.

Thus, for example, an independent generator wanted to build a power station to supply electricity to an oil refinery in England, it might lease land from the refinery and build the power station. However, a direct sale of electricity to the refinery would not be permitted. The generator would sell electricity to the pool, and the refinery would buy from that pool. The pool prices change each half hour based on demand and supply, and, therefore, fluctuate frequently.

The refinery will want protection against price fluctuations. Consequently, it will enter into a contract for differences with the generator. The parties will agree on a schedule of fixed prices that the generator would have charged had the generator been free to make a direct sale. When the pool price exceeds the agreed price in the schedule, the generator will pay the refinery the difference. The refinery will pay the generator the difference when the pool price is less. Thus, the difference contract is a way for both parties to buy certainty. The generator is certain of his revenue stream. The refinery is certain of how much electricity will cost over an extended period. It is a hedging arrangement.

It is my understanding that the relevant provision in the bill does not turn payments under such differences contracts into subpart F income. Would the Chairman clarify this understanding?

Mr. ROTH. The legislation is not intended to affect arrangements which do not constitute notional principal contracts under present law. In addition, the legislation is not intended to change the treatment of notional principal contracts entered into as part of a hedging arrangement referred to elsewhere in section 954.

Mr. HUTCHINSON. I thank the Chairman.

Mr. McCAIN. Mr. President, the conference agreement to H.R. 2014 includes a provision to provide Amtrak up to $2.3 billion during the next 2 years. This funding provision would be provided in the form of tax credits. While I have already made my concerns known regarding this provision, I note that it would require enactment of reform legislation prior to the Treasury providing these credits to Amtrak.
Mr. LOT. I look forward to having the full Senate consider the authorization legislation reported by the Senate Commerce Committee and will be happy to work with the Senator.

Mr. McCAIN. I thank the majority leader and Senator Hatch for clarifying this issue. The reform language in this tax bill linked to the release of tax credits clearly means comprehensive, substantive, meaningful reforms to ensure Amtrak operates more efficiently and to set up a process that will protect taxpayers if Amtrak does not meet its financial goals. Let there be no misunderstanding. There will be no new funding provided to Amtrak until we first enact legislation providing operational, labor and liability reforms. The hard working men and women whose tax dollars are subsidizing Amtrak deserve to have their contributions invested as responsibly as possible. I stand ready to work with the majority leader and the subcommittee to bring this reform measure before the full Senate.

Mr. THURMOND. Mr. President, I rise to support the Tax Relief Act of 1997. I commend the Finance Committee and the leadership, along with the Budget Committee, for their hard work. This bill, along with the Balanced Budget Act of 1997, fulfills our promise to the American people—to restrain Government spending, and to bring Tax Relief to the American people.

This tax reduction act has some tax relief for all Americans, at all stages of life. The child tax credit will boost the family budget for parents with children. Homeowners, and others with capital assets will benefit from the capital gains tax reduction. The education provisions will encourage savings and assist all students. The bill has provisions for savings and investment, and for small business will encourage economic growth and promote employment. Finally, there are estate tax reforms which will help preserve family businesses and farms.

Mr. President, this Nation has waited too long for a balanced budget—nearly 30 years; and it has been 16 years since we have delivered any significant tax relief. These measures passed today keep us on the track of smaller government and a strong economy.

I applaud this measure, because it is good for the people of South Carolina and good for the Nation. It is a good down payment toward a simpler, fairer, and less burdensome tax system.

Finally, Mr. President, these two bills put us on course to fiscal responsibility. We must continue to keep spending within the limits of our resources, and begin to reduce the national debt. We owe no less to our children and grandchildren.

Mr. ENZI. Mr. President, I rise in support of H.R. 2014, the conference report on tax relief. Through this tax package, we can give the American people the first serious tax reduction package in 16 years. This legislation provides tax relief to families with children, it offers greatly needed relief for small business, and it encourages education and investment. Finally this legislation provides tax relief for individuals and small businesses from the punitive Federal death tax. I commend the Chairmen of the Finance and Budget Committees and the other conferences for their hard work on this package. We must realize that we still have a long journey ahead in relieving the tax burden on American taxpayers and in simplifying the cumbersome tax code.

Mr. President, our tax burden in this country is overwhelming. We tax income, we tax investment, and we tax savings. In fact, we have pretty well figured out a way of taxing a person from the time they get up in the morning to the time they go to bed. From the time you wake up in the morning and have your first cup of coffee, you are paying sales tax. When you get in your car and drive to work, you are paying gasoline tax. As you work all day to support your family, you are also supporting the Government by paying income tax. When you go home at the end of the day, you and your family and finally go to bed, you are paying property tax. If you decide to make a telephone call or turn on the light switch, you get taxed for that too. This taxation on almost all your daily activities goes on your entire life and to add insult to injury, we even tax you when you die. It is a tragic situation in this country when most people spend more money on taxes than they spend on food, clothing, and shelter combined. It is time that we relieve this tax burden on our Americans.

Just as our tax burden is too high, our Tax Code is frustratingly complex. Like a critically ill patient, the Internal Revenue Code is in desperate need of a heart transplant. It is essential to modernize our Tax Code with layer after layer of bandages while ignoring the gaps of the dying patient beneath. This complexity has often left even the professional tax preparers in a quandary about the meaning of the myriad of code provisions and revenue regulations. When even the experts cannot understand our Tax Code, it is time for meaningful reform.

I had the pleasure of conducting a small business committee field hearing in Casper, WY, this past April in order to find out the concerns facing many of our small businesses. One of the consistent messages I received from the hearing was that the complexity of our Tax Code is straining small businesses. Even the representatives from the accounting profession testified that our Tax Code is in desperate need of simplification. They are concerned about their own liability because they cannot accurately give tax relief to individuals and small businesses from the punitive Federal death tax. I commend the Chairmen of the Finance and Budget Committees and the other conferences for their hard work on this package. We must realize that we still have a long journey ahead in relieving the tax burden on American taxpayers and in simplifying the cumbersome tax code.

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with the Senator from New Hampshire, and I intend to work with him in a bipartisan manner to promote land conservation by pushing forward the recommendations made by the Northern Forest Lands Council in 1994. As highlighted in S. 552, the Forestland Preservation Tax Act, certain tax policies work against the conservation and management of forestland and instead force landowners to sell or change the use of their land. H.R. 2014 begins to address this program with the provisions for conservation easements and tax incentives for small businesses and family farms. In the Northeast, the timber production is part of our agriculture and faces many of the same challenges as family farms. Mr. ROTH. I agree with both Senators, and look forward to working with both of you on these issues in the future.

CHILD HEALTH PROVISIONS

Mr. MOYNIHAN. Mr. President, I would like to enter into a colloquy with the distinguished chairman of the Senate Finance Committee, on both sides of the aisle. The conference agreement as it relates to the children's health initiative. First, the issue of what benefits must be provided to children has been very important to us in this Chamber, on both sides of the aisle. Under the conference report, a State covering children under the new title XXI must offer at least the coverage listed under the options specified in section 2103(a). Do these options establish floors or ceilings?

Mr. ROTH. These four options are floors. States are given flexibility to design their programs, while meeting the standards of section 2103(a). States may also build upon the benchmark packages. With grant funds, States, if they wish, may provide additional benefit coverage, but they must provide at least the coverage described in section 2103(a). For example, a State may supplement the benchmark-equivalent package of the standard Blue Cross/Blue Shield plan for Federal employees by expanding dental, hearing services benefits.

Mr. MOYNIHAN. Another benchmark is the coverage for State employees. It is my understanding that this benchmark coverage is equivalent to the health benefit plans in which State employees are enrolled. Is that correct?

Mr. ROTH. Yes, this benchmark allows States to provide children with coverage benefits equivalent to the health benefit plans in which State employees are enrolled. Is that correct?

Mr. MOYNIHAN. I thank the distinguished chairman of the Finance Committee for his helpful remarks. I would also emphasize that, in the Finance Committee, members on both sides of the aisle strongly agreed that these child health grants should not supplant current State spending, and instead would supplement and enhance current State child health insurance programs. The conference report included such maintenance of effort provisions. To ensure a cost-effective grant program, Federal funds should not replace existing State spending.

Mr. NICKLES. Mr. President, the chairman of the Senate Finance Committee has worked closely with me on a provision in this bill to clarify the availability of section 168(j) of the Internal Revenue Code to Indian lands in Oklahoma.

Section 168(j) was enacted in 1993 to provide accelerated depreciation for property placed in service on Indian reservations. Since Oklahoma has no formal reservations, the House of Representatives included a provision in their tax bill to clarify that lands in Oklahoma within the jurisdictional area of an Oklahoma Indian tribe and eligible for trust-land status would qualify for section 168(j).

As the chairman knows, the Senate receded to the House provision in conference. However, since the House leaves the interpretation of the provisions to the U.S. Department of the Interior, I believe it is essential that we clarify congressional intent.

There needs to be a “bright-line” test for determining which Oklahoma lands qualify for section 168(j) in order to treat Oklahoma fairly compared to other States and to avoid costly litigation. The Department of the Interior has indicated that “lands in Oklahoma within the jurisdictional area of an Oklahoma Indian tribe” would be defined as lands within boundaries of the last treaties with the Oklahoma tribes. This definition narrows the land area compared with current law by eliminating the unassigned lands.

Because I believe it is important that we clarify this matter, does the chairman concur with my explanation?

Mr. ROTH. The Senator from Oklahoma is correct. I thank the Senator for his cooperation on this issue.

Mr. DOMENICI. Mr. President, pursuant to section 313(c) of the Budget Act of 1974, I submit the following list of extraneous material for H.R. 14, the Taxpayer Relief Act of 1997.

There being no objection, the material was ordered to be printed in the Record, as follows:
RAILROAD DEFICIT REDUCTION FUEL TAXES

Mr. CHAFEE. Unfortunately, I understand the Conference Agreement on H.R. 2014 takes no action to equalize the rate of deficit reduction fuel taxes paid by the various modes of transportation. As the distinguished Chairman of the Finance Committee and I have discussed, an obvious inequity currently exists which requires that railroads pay a 5.55 cents-per-gallon fuel excise tax, while all other modes of transportation pay no more than 4.3 cents-per-gallon of fuel. In fact, by transferring deficit reduction taxes paid by other transportation users, including truckers which compete with the railroads, into trust funds for infrastructure improvements, we exacerbate the current inequity. Railroads continue to contribute to deficit reduction, while their competitors instead contribute to their own infrastructure.

If transportation is to be singled out for deficit reduction, the burden of contributing to a balanced budget should be shared equally among all modes. While I regret that no solution to this problem was possible in this legislation, I hope you share my belief that the fuel tax inequity imposed on the Nation’s railroads must be remedied at the earliest opportunity.

Mr. ROTH. As the Senator from Rhode Island knows, I am deeply concerned about the inequity of excise taxes faced by railroads. While we were unable to include a solution to this problem in H.R. 2014, it is my hope that we will have the opportunity to pursue such a remedy as quickly as possible, perhaps, in the upcoming ISTEA reauthorization legislation.

Mr. CHAFEE. Let me express my appreciation to the Chairman, Senator ROTH, for his interest in this important issue. I look forward to working with him on this matter during the upcoming ISTEA legislation.

PUERTO RICO TAX INCENTIVES

Mr. D’AMATO. Mr. President, I joined with Senators MOYNIHAN, Chafee, HATCH, GRAHAM, and Breaux recently in introducing S. 906, which would provide job creation incentives for our fellow 3.8 million American citizens in Puerto Rico. I am disappointed that these incentives were not included in the bill before us today, H.R. 2014, the Taxpayers Relief Act. S. 906 had the support of the public and private sectors in Puerto Rico, was endorsed by the President, and has received bipartisan support in Congress. It was my goal to include this job creation incentive in today’s legislation. But because of extreme economic constraints on available resources, this was not possible.

As a result of the changes made to tax incentives affecting Puerto Rico in 1993 and 1996, Puerto Rico has no Federal export incentive—indeed, with respect to industry projects, the small business and job creation incentives which are available in other States, Puerto Rico has little or no incentives to make new investments or replace depreciating plant and equipment. This is inequitable and should be changed. Our fellow citizens in Puerto Rico, where there is an unemployment rate more than twice the national average, and well over 50 percent of its population living below the poverty line, can least afford to suffer economic setbacks.

Mr. President, urge the Senate to consider S. 906, or other incentives for economic growth in Puerto Rico at the first available opportunity. This legislation provides a wage-based tax credit that encourages U.S. companies to stay and expand on the island, thus attracting new businesses or jobs. Further, existing U.S. companies operating on the island have little incentive to make new investments or replace depreciating plant and equipment. This is inequitable and should be changed. Our fellow citizens in Puerto Rico, where there is an unemployment rate more than twice the national average, and well over 50 percent of its population living below the poverty line, can least afford to suffer economic setbacks.

We cannot wait until the damage is done. Puerto Rican Americans, no less than Americans living in the States, should be receiving the benefits of economic growth and job creation that the Taxpayer Relief Act provides to so many others.

Mr. BROWNBACK. Mr. President, I rise to make a few remarks on the tax cut package being considered before us today.

Not since 1981 have we been able to offer the American people as comprehensive a tax relief package as we are offering in this tax bill. Through the unique tax relief provisions of this act, American families much needed tax relief in the form of $50 per child tax credit, capital gains tax rate cuts, as well as an increase in the unified credit exemption for death taxes. Families will also be able to save through tax relief education opportunities.

But this is just the beginning. Cutting taxes and shrinking government spending are two things that will help to remove the obstacles that impede the progress of our economy. We must continue to cut taxes even more. Current estimates by the Congressional Budget Office place our deficit this year around $45 billion. With a robust economy and continually declining deficits we could easily reach a balanced budget next year and even go into surplus for the first time in well over a generation—something that would truly make this budget deal historic.

One of the spending portion of the budget deal the Administration has stated that the amounts agreed to are enough for the operation of the federal government. Although I believe that we need to reduce the size of the federal government even further. To even go that far would limit the size of the government we cannot and should not let government grow beyond what we have agreed to go here today when revenues exceed the costs of the operation of the federal government.

The question is now upon us as to what we should do next—what we should do after having achieved the goals so boldly outlined just three short years ago. The debate is no longer about whether we should balance the budget or not—it’s not about whether we should cut taxes or not—we have done those things. The debate before us is now in terms of a more limited government with lower taxes. The next question is now that we have agreed on the acceptable size of government what should we do next.

The short answer is we must continue to cut taxes.

Surpluses that are generalized either next year or five years from now must be used for further tax reduction. We must make it clear that our priority is to provide Americans with as much tax relief as possible—and using surpluses to provide additional tax relief makes that priority clear. Cutting taxes will continue to fuel the economy and further unleash the potential of our economy to perform at full speed. For too long the Congress has worked to hinder the functioning of our economy by imposing a multilayered tax system that punishes success more than it rewards.

We must continue to cut taxes and to make that our priority as we move into the next century.
Mr. BOND. Mr. President, I rise today in support of H.R. 2043, the Revenue Reconciliation Act of 1997. This conference report is the product of months of effort by Members of the Senate as well as our colleagues in the other body and representatives of the administration. This legislation also represents the first real tax cut for the American people in over a decade. Today, Americans are bearing an enormous burden when it comes to income taxes. According to a recent study by the Tax Foundation, the per capita Federal tax burden has increased 36.5 percent since 1992 and 57.5 percent since 1988, largely as a consequence of the severity of the administration’s 1993 tax increase.

In simple terms, the tax burden on Americans today is too high. Many Americans now pay more in taxes than they do for food, clothing, and housing combined. This takes a positive step toward easing that burden in an effort to let the hard-working men and women in this country keep more of the money they earn.

What we believe is that critical, that we continue to eliminate the deficit and pay down the debt—but we must do that in the context of lower taxes for the American people. We can do both—we can provide the American taxpayers with much needed tax relief and pay down the debt by allocating excess revenue to both tax reduction and debt reduction. But we must be vigilant in ensuring that excess revenues do not go to more Government spending; they must go to tax cuts and debt reduction alone.

We must continue to limit the size, scope, and intrusiveness of the Federal Government. We must further limit Government and force its shrinkage through a continuing effort to cut taxes. And when we cut the size of Government further we must return the money to the taxpayers who have been forced to subsidize its woefully inefficient operations for much of this century. This deserves to be our priority.

Now, however, we must reject any notions of relaxing at having completed this historic budget deal. Rather, we must pick up again, and begin again, fighting for more tax relief, more tax cuts, and a smaller, less intrusive Federal Government.

The American people have said they want these things—now we must bind ourselves to provide those things—it would be irresponsible to do otherwise. Thank you Mr. President, I yield the floor.

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have borne the inequality created by the Soliman decision, which radically limited the home-based businesses that could claim the deduction. Even more troubling is the fact that many home-based businesses that would arguably meet the current criteria for the deduction never claim it for fear of triggering an IRS audit. This bill puts home-based businesses on an equal footing with their larger competitors and clears the way for the continued success of these important entrepreneurs.

I am also pleased that we are able to provide a significant reduction in the estate tax for family owned businesses and farms. With less than one-third of family owned businesses currently being passed on to a second generation, and only about one-eighth passed to a third generation, estate tax reform for family owned businesses and farms is urgently needed. This legislation will provide a $3 million exclusion from estate tax for these family owned enterprises. In addition, the bill will increase the individual estate tax credit to $1 million by 2006. The result will not only provide a windfall to successful family owned businesses and farms that would otherwise have to be sold in order to pay the Federal Government, but it will also preserve the millions of jobs that these enterprises contribute to our local communities.

Small businesses will also benefit from the capital gains provisions in the bill. My committee has heard on many occasions that small businesses need greater access to capital. I can think of no better way to address that need than by opening up the billions of dollars of built-in gains that currently exists in our economy, which the capital gains tax reduction is expected to unlock. Small companies will also have greater capital access through the provisions in the bill that will allow tax-free rollover of gains from an investment in qualified small business stock into an investment in another qualified small business. This provision will foster investments in small businesses and encourage existing investors to repeat their success stories by rolling over their gains into new start-up companies.

Additionally, millions of limited partners, many of whom work in small limited partnerships and limited liability companies, can rest easy as a result of the moratorium included in the bill that will prevent the IRS from finalizing its proposed stealth tax regulation before July 1, 1998. This proposed regulation purportedly merely defined who is a limited partner. But in reality, the rule will raise taxes on millions of limited partners by regulatory fiat. The Constitution vests the power to impose taxes in Congress, and Congress along with the courts is the final authority in this matter. This bill will stop the IRS from usurping that power and give Congress an opportunity to exercise its authority to find a statutory solution.

Finally, small business will have extended protection from IRS penalties under this legislation as a result of the 6-month extension of the penalty-free period for small businesses subject to the Electronic Federal Tax Payment System (EFTPS). This past June, the IRS agreed to waive penalties through December 31, 1997, on small businesses who are required to pay their taxes electronically starting on July 1, 1997. The bill extends the penalty-free period through June 30, 1998, and will ensure that small firms will not be penalized if errors or problems occur. In addition, it will give Congress time to enact the legislation, which Senator Nickles introduced, that would make EFTPS voluntary for most small businesses.

Mr. President, despite the many positive provisions in this bill for small business, there is still an alarming omission—a safe harbor for independent contractors. The need for such a provision was made clear by the 2,000 delegates to the 1995 White House Conference on Small Business who named it the most important issue for the President and the Congress to address. For too long millions of entrepreneurs and businesses that hire them have lived in constant fear that the IRS will use its now infamous 20-factor test to find that a worker was misclassified to the tune of thousands of dollars in back taxes, interest, and penalties, not to mention the enormous costs of accountants and attorneys necessary to fight the IRS.

No one disputes that the IRS has a duty to collect Federal revenues and to enforce the tax laws. The problem in this case is that the IRS is using a procedure that is patently unfair and is doing so on an increasingly frequent basis. It is time for companies, workers, and most especially the IRS, to have clear rules for determining the status of workers.

The legislation that I introduced earlier this year reaches that goal through a general safe harbor based on clear, objective criteria and a bar against retroactive reclassification of workers by the IRS. I remain committed to working with those on all sides of this issue to find an answer to this critical problem, and I call on my colleagues on both sides of the aisle to join with me in that endeavor. Let’s end the environment of fear in which small businesses and self-employed individuals must live. They should be able to spend less time looking over their shoulder for an IRS audit, and more time focusing what is contributing to the growth and strength of our economy and creating much-needed jobs.

Mr. President, the Revenue Reconciliation Act that we consider today will help Americans in so many ways, from raising children and educating them to helping small businesses continue to be the economic engine of this country. In addition, it is the culmination of so many of the efforts that we began more than 2 years ago to bring meaningful tax relief to hard-working Americans across this country. I urge all of my colleagues to support this important legislation.

Mr. ROTH. Mr. President, I ask unanimous consent that the distribution tables for 1998-2002 on the conference report to H.R. 2014, the Taxpayer Relief Act of 1997, as prepared by the Joint Committee on Taxation be printed in the RECORD.

The distribution tables show that the Taxpayer Relief Act of 1997 is a substantial tax cut for America’s over-taxed middle-income families.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

**DISTRIBUTIONAL EFFECTS OF THE CONFERENCE AGREEMENT ON THE REVENUE PROVISIONS 1 OF H.R. 2014**

(1) Taxpayers 1 includes child credit, capital gains reform, education incentives, IRA expansion, self-employed health deduction increase, EIC reduction, individual AMT depreciation conformity and relief for farmers, and air travel taxes attributable to personal travel. Do not include increases in the cigarette excise tax.


(3) Federal taxes are equal to individual income tax (including the outlay portion of the EIC), employment tax (attributed to employees), and excise taxes (attributed to consumers). Corporate income tax is not included due to uncertainty concerning the incidence of the tax. Individuals who are dependents of other taxpayers and taxpayers with negative income are excluded from the analysis.

<table>
<thead>
<tr>
<th>Income category2</th>
<th>Change in federal taxes 3</th>
<th>Effective tax rate (per $100)</th>
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</thead>
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<td>75,000 to 100,000</td>
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Total: 21,961 | -1.8 | 1,253 | 100.0 | 1,221 | 100.0 | 20.7 | 20.2 |
### DISTRIBUTIONAL EFFECTS OF THE CONFERENCE AGREEMENT ON THE REVENUE PROVISIONS 1 OF H.R. 2014  
[Calendar year 1999]

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<th>Change in federal taxes3</th>
<th>Federal taxes4 under present law</th>
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<th>Effective tax rate (per- cent)4</th>
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<th>Proposal</th>
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<td></td>
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<td>Billions</td>
<td>Billions</td>
<td>Percent</td>
<td>Percent</td>
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<td>30.2</td>
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<td>127.8</td>
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4. The effective tax rate is equal to Federal taxes described in footnote (3) divided by income described in footnote (2) plus additional income attributable to the proposal.

Detail may not add to total due to rounding.

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[Calendar year 2000]

<table>
<thead>
<tr>
<th>Income category2</th>
<th>Change in federal taxes3</th>
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</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Millions</td>
<td>Percent</td>
<td>Billions</td>
<td>Billions</td>
<td>Percent</td>
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<td>100.0</td>
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<td>Billions</td>
<td>Billions</td>
<td>Percent</td>
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<td>146.8</td>
<td>100.0</td>
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Source: Joint Committee on Taxation.

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Mr. SARBANES addressed the Chair. The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Will the Senator from Arkansas yield some time?

Mr. BUMPERS. Mr. President, I am delighted to yield to the Senator from Maryland.

Mr. LOTT addressed the Chair. The PRESIDING OFFICER. The Senator from Maryland is recognized. He has the floor.

Mr. LOTT. Will the Senator yield for a unanimous-consent request that I think would be of great interest to all Senators?

Mr. SARBANES. I am happy to do that.

UNANIMOUS-CONSENT AGREEMENT

Mr. LOTT. Mr. President, I believe that everybody knows what is in this bill now and Senators have had many opportunities to express their enthusiastic support for the bill. It seems to me that Senators are ready to vote. If we can get this unanimous-consent agreement that I have discussed with the Democratic leader, we would have this vote this afternoon and we would be through with our work and we would not have another vote until Wednesday, September 3.

I ask unanimous-consent that the vote occur on adoption of the pending tax fairness conference report at 6 p.m. this evening, and that no further action occur prior to the vote.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Reserving the right to object, Mr. President. I reserve the right to object not for the purpose of objecting, but for the purpose of making a brief statement with respect to my vote on the last rollov vote. I think the Senate made a mistake, and I had hoped to be here in time to express my opposition to the motion to waive all points of order. I think that was a mistake. These are the reasons why it is a mistake. I was not—along with most of the other Members of this body—a conferee on this resolution. I know very little about what's in the bill—only by asking questions of staff and listening to other Members. But I had nothing to do with the conference report that was brought back. Many of the Senators in here are in the same boat.

What goes into that conference report depended a lot on the actions of the House of Representatives. They are a part of the conference report that comes back here for us to vote on. Our only recourse—inasmuch as we cannot amend the conference report, our only recourse, if indeed we want to get a vote on something in that conference report, is to make a point of order if the point of order is available.

The Byrd rule was devised for the purpose of keeping some matters off reconciliation measures because there was very little time on a reconciliation bill for debate, and on a conference report, there is no opportunity to amend it. And so we devised the Byrd rule violations that were involved here. I saw none that I would question. Some of the Byrd rule violations are good, in my view. But at least I had the opportunity, I had the right to raise a point of order and get a vote. I could not amend the conference report, so a point of order would be my only way to delete from the bill an extemporaneous matter and get a vote on it. And now the Senate has adopted a motion that waived all points of order. It took away your rights, your rights, your rights, and my rights, if we had wanted to make a point of order under the Byrd rule.

It was a bad precedent. What are we going to do next time—the next time we bring in a reconciliation bill? The first thing, if the majority so wishes, could be to move to waive all points of order? They have the votes. They have the votes. We might be in the majority the next time, or we may not be.

Another thing that happens in these conferences is, the administration, which is a separate branch of Government—and I still hold that there are three equal, coordinate branches of this Government. I don't salute the executive branch. I don't serve under any President. I serve with the President. But the administration goes into these conferences, whether it is a Republican administration or a Democratic administration, and tries to dominate those conferences, tries to get matters included in the conference report right at the last minute so we won't have time to air them under the limited time for debate. But there is still a point of order that a Senator has a right to make, and especially under the Byrd rule, because usually if the administration wants to put in something, it may be an authorizing measure, it may be something which ought to be debated. But because they can get it in the reconciliation bill, if they can get by the Byrd rule points of order, then they are home scot-free. I am opposed to that. I think we made a mistake. It is a bad precedent. And I only wish I had had time to express my viewpoint before we voted. Maybe it would not have changed any votes, but still I would have had an opportunity. I thank all Senators for listening. I apologize for imposing on your time.

Mr. LOTT. Mr. President, I renew my request.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. SARBANES. Mr. President, just 4 years ago, in 1993, in order to reduce the deficit, the Congress, by a narrow margin, enacted a budget resolution that curtailed programs and increased taxes—taxes that fell primarily on those at the upper end of the income scale. This combination of spending restraint and revenue increases represents a logical way of dealing with the deficit issue.

DISTRIBUTIONAL EFFECTS OF THE CONFERENCE AGREEMENT ON THE REVENUE PROVISIONS 1 OF H.R. 2014

(Calendar year 2002)

<table>
<thead>
<tr>
<th>Income category</th>
<th>Change in federal taxes 2</th>
<th>Federal taxes 4 under present law 2</th>
<th>Federal taxes 4 under proposed law 2</th>
<th>Effective tax rate (percent) 4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than $10,000</td>
<td>$1,240 1.12%</td>
<td>$1,240 1.12%</td>
<td>$2,300 2.30%</td>
<td>62.0%</td>
</tr>
<tr>
<td>$10,000 to $20,000</td>
<td>$2,707 1.02%</td>
<td>$2,707 1.02%</td>
<td>$5,314 2.65%</td>
<td>62.0%</td>
</tr>
<tr>
<td>$20,000 to $30,000</td>
<td>$4,079 1.03%</td>
<td>$4,079 1.03%</td>
<td>$7,764 2.59%</td>
<td>62.0%</td>
</tr>
<tr>
<td>$30,000 to $40,000</td>
<td>$4,547 1.04%</td>
<td>$4,547 1.04%</td>
<td>$9,602 2.40%</td>
<td>62.0%</td>
</tr>
<tr>
<td>$40,000 to $50,000</td>
<td>$5,205 1.04%</td>
<td>$5,205 1.04%</td>
<td>$12,070 2.41%</td>
<td>62.0%</td>
</tr>
<tr>
<td>$50,000 to $75,000</td>
<td>$7,324 1.47%</td>
<td>$7,324 1.47%</td>
<td>$19,386 2.49%</td>
<td>62.0%</td>
</tr>
<tr>
<td>$75,000 to $100,000</td>
<td>$9,407 1.93%</td>
<td>$9,407 1.93%</td>
<td>$26,404 2.47%</td>
<td>62.0%</td>
</tr>
<tr>
<td>$100,000 to $200,000</td>
<td>$21,200 2.12%</td>
<td>$21,200 2.12%</td>
<td>$48,920 2.47%</td>
<td>62.0%</td>
</tr>
<tr>
<td>$200,000 and over</td>
<td>$50,828 2.94%</td>
<td>$50,828 2.94%</td>
<td>$95,108 2.94%</td>
<td>62.0%</td>
</tr>
</tbody>
</table>

Total, all taxpayers: $33,293 2.2% $1,505 1.00% $1,471 1.00% $20.6 2.00%

(1) Includes child credit, capital gains reform, education incentives, IRA expansion, self-employed health deduction increase, EIC reduction, individual AMT depreciation conformity and relief for farmers, and air personal travel tax attributes to personal travel. Does not include increase in the cigarette excise tax.


(3) Federal taxes are equal to individual income tax (including the payroll portion of the EIC), employment tax (attributed to employees), and excise taxes (attributed to consumers). Corporate income tax is not included due to uncertainty concerning the incidence of the tax. Individuals who are dependents of other taxpayers and taxpayers with negative income are excluded from the analysis.

(4) The effective tax rate is equal to Federal taxes described in footnote (3) divided by income described in footnote (2) plus additional income attributable to the proposal.

Source: Joint Committee on Taxation.
This approach has worked in a most impressive way. The flourishing economy has brought unemployment below 5 percent for the first time in a quarter of a century. While unemployment is at a quarter-century low, inflation is at a 31-year low and the Federal Reserve has not raised interest rates in a year. Federal personal income tax revenues are growing faster than personal income, which in turn is growing faster than personal income. Today we have already enacted budget cuts of $123 billion in revenues over the first 5-year period, 1998 to 2002, and then to cost $21 billion from 2003 to 2007 with no projection beyond that point. IRA's will cost $1.8 billion in the first 5 years, $18 billion in the next 5 years. And estate tax cuts will cost $8 billion in the first 5 years and $12 billion in the 5 years thereafter. So, as everyone can see, we are on an upward trajectory that makes it necessary to ask how long this trend will continue.

As a percentage of gross domestic product, the deficit has gone from 4.9 percent—a very worrisome figure—in 1992 to well under 1 percent for the current fiscal year, the best performance since 1974. So you have the best unemployment rate in 25 years, the lowest inflation in 31 years, the lowest deficit as a percent of GDP in 23 years. We are doing far better than any of the other major industrial countries. So it is a very impressive economic and deficit-reduction performance indeed that we are now witnessing.

Given this performance, one would think that the wise policy would be to stay the course and finish the job that we would choose to continue following the path on which we find ourselves. Today we have already enacted budget cuts and spending restraints, legislation which obviously works in the direction of deficit reduction. But now we are passing a tax cut when the objective, or so everyone states, is deficit reduction.

Tax cuts obviously work against deficit reduction. And the tax cuts contained in this legislation are particularly destructive of deficit reduction in that they will grow over time in a way that may well jeopardize the goal of reaching and staying in budget balance altogether.

The capital gains, inheritance, and IRA tax cuts all carry with them the potential for substantial increases in future years. In fact, the tables put out by the Joint Tax Committee itself with respect to the tax cuts contained in this legislation are particularly destructive of deficit reduction in that they will grow over time in a way that may well jeopardize the goal of reaching and staying in budget balance altogether.

For the first 5 years covered by this legislation—1998-2002—estate tax cuts will cost $6 billion in revenues. For the next 5 years, from 2003 to 2007, they will cost $28 billion in revenue. That is the upward trendline from the first 5 years to the second 5 years. We don't have the figures for beyond the initial 10-year period. They have not been provided to us. So we are in a sense being asked to make this decision in the dark. But it is reasonable to assume that these estate tax cuts will continue in that upward trajectory.

Capital gains cuts in this conference report are listed as producing $123 billion in revenues over the first 5-year period, 1998 to 2002, and then to cost $21 billion from 2003 to 2007 with no projection beyond that point. IRA's will cost $1.8 billion in the first 5 years, $18 billion in the next 5 years. And estate tax cuts will cost $8 billion in the first 5 years and $12 billion in the 5 years thereafter. So, as everyone can see, we are on an upward trajectory that makes it necessary to ask how long this trend will continue.

This rising trend will, in effect, under—"if"—the deficit reduction effort. Is it not prudent—indeed, irresponsible—to commit to such tax cuts before we have actually achieved budget balance and before we have a more accurate and realistic view of whether it can be sustained.

As the Baltimore Sun said in an editorial only yesterday, and I quote: "The question remains: Will the generous tax cuts come back to haunt the country in the form of widening deficits as the tax cuts take full effect several years down the road?" The answer, judging from the figures I have just cited, appears to be yes.

Furthermore, let me note that all of this is based on the economy continuing to function as strongly as it is functioning right now. In effect, with this tax cut, we are giving away our margin to engage in a counter-cyclical fiscal policy, if we have an economic downturn in a counter-cyclical fiscal policy. In a downturn when, in fact, you might want to do a tax cut in order to stimulate the economy to help move us out of the recession when, in fact, you have proceeded to use up the margin for taking such policy action with the legislation that is here before us.

Second, these tax provisions before us in this conference report are strikingly inequitable, and result in a disproportionate share of the burdens of deficit reduction falling on lower income individuals and families. The impact of the reduction in programs contained in the spending bill passed earlier today will be felt by ordinary working people, primarily. The tax reductions contained in this legislation, far from burdening upper income individuals, will primarily benefit those at the top end of the income scale.

In fact, it has been reliably estimated that the top 1 percent of the income pyramid will receive more than 40 percent of the tax cuts contained in this conference report. The top 5 percent will receive 44 percent of the benefits. And the top 20 percent, the upper quintile, will receive 77 percent of the tax benefits contained in this conference report. I repeat, the top quintile will receive 77 percent of the benefits.

By contrast, the bottom 60 percent, the lowest three quintiles, will receive less than 7 percent of the benefits. So the top fifth of the income pyramid is receiving 11 times the benefits that the bottom three-fifths of the income pyramid will receive under this proposal.

There is no way that can be regarded as an equitable arrangement. And, in fact, what is happening here is, in order to move toward deficit reduction, additional burdens are being put on working people. In fact, under this conference report, the people at the top end of the income scale, feeling that a contribution to deficit reduction, are getting out from some of the burden which they now bear, a burden which has helped to bring the deficit down to the point at which we find ourselves today.

A budget agreement and the tax measure to implement it should under—"if"—take equitable deficit reduction appropriating the burdens in a way that it is reasonably spread across the entire society, as was done in 1993 when ordinary working people made their contribution through program reductions, and those at the top end of the income scale made their contribution through tax increases. Here again we have people bearing more share of the burden of program reduction. But the tax breaks contained in this resolution go very much to those at the upper end of the income scale, leaving working Americans bearing a far larger proportion of the burden.

So one must conclude this budget fails the equity test. A budget agreement and the tax program to implement it should also lead to lasting long-term deficit reduction, I don't think the scale is ahead of making a deficit reduction. Here again we have people bearing more share of the burden of program reduction. But the tax breaks contained in this resolution go very much to those at the upper end of the income scale, leaving working Americans bearing a far larger proportion of the burden.

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I thank the Senator for yielding me time.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I would like to yield 10 minutes, or such time as he may use, to the distinguished Senator from Virginia [Mr. Robb].

Are we going back and forth? I apologize for that, and withhold the request.

Mr. ROTH. Mr. President, I yield 5 minutes to the distinguished Senator from Montana.

Mr. BURNS. Mr. President, I thank my good friend from Delaware. I rise today in support of this package. I guess every now and again we get into a situation where we have a big bill in front of us. I know that there is a good friend of mine on the floor now. I call him one of the greatest American slaves to his labor than anybody, and that is Senator Domenici from New Mexico on Budget, now with Senator Roth at the helm on Finance.

A lot of things that we have tried to do in the last 6 or 7 or 10 years we get in this bill. We had a problem one time in the caucus. I can remember my good friend from Wyoming. It got kind of quiet. Nobody was coming up with any answers. He said, “Our biggest problem is we are overthinking this thing.” And we could be doing just that.

But I want to remind America what it is all about. And that is middle America and what it means to young men and women who are starting out in agriculture on their farms. This is income averaging, because we are going to phase out subsidies, folks. We have to allow those who are starting off in the farming business, and those who want to sell a farm, to have capital gains when we sell those farms. We are giving them some way that we can pass our farms and ranches on to the next generation. In other words, we don’t have to sell the farm to save the farm, and income averaging, allowing a young man and a young woman on a farm to accumulate cash and save it in the good years so that they can make it through the bad years. That is basically what we want to do. And I call them farm friendly provisions in this budget deal.

In small business, the ability and just a short time to write off 100 percent of your premiums for a tax credit on your health care insurance; you get your home office tax credit back; the alternative minimum tax for small businesses and farming operations. Yes, on that same farm or ranch they have children; and the $500-per-child tax credit, which, in my State, means that $200 million a year stays in that State on children who spend that money is left to the parents. That decision will be made around a breakfast table rather than around a conference table here in Washington, DC.

So let us take a look at the big picture. Let us take a look at the people who really pull the wagon. They have been looking for relief a long time. It is in this package.

I congratulate my good friend from New York, a good friend from Delaware because they have worked a long, long time. And, yes, you can find something in here that you do not like. But let us not let perfection stand in the way of progress. Let us at least take that one giant step in the right direction and let people control those dollars that they have worked so hard to earn.

Across my State of Montana, we are agriculture and we are small businesses. So this package is just like a rifle shot; it is pointed right at those people who really are the heart and soul of any community, and, yes, the working men and women of this country. I am going to support it. I hope that all of my colleagues will support it. And then if there is something wrong with this body, this body is not encased in stone. There is plenty of time to put some fixes in that maybe should be put in. But nonetheless, right now let us take that one giant step in the right direction.

Mr. President, I yield the floor and I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. Abraham). Who yields time?

Mr. MOYNIHAN. Mr. President, the Senator from Virginia would like 5 minutes.

The PRESIDING OFFICER. The Senator from Virginia is recognized for up to 5 minutes.

Mr. ROBB. Mr. President, I thank the Chair and I thank the distinguished Senator from New York.

I had planned to make a longer formal statement today, but I will be very brief given the lateness of the hour. Most of the things that I wanted to say have already been said, and in most cases said more eloquently than I suspect I could say them. I really do not enjoy being the burr under the saddle when there is so much euphoria. Many good people have worked long and hard to achieve this compromise which I think is ultimately the only way that the system works in terms of the major proposals that we deal with in this institution.

I applaud the President and the Republican leadership for working together. I applaud the ranking members and the chairs of the Finance Committee and the Budget Committee. I have had the privilege of working with the chairman of the Budget Committee for almost 20 years. In my prior incarnation as a Governor, Senator Domenici was always one of the most respected Members of either party from Congress on matters that related to fiscal policy. I know him for this budget agreement represents a major milestone. I know him to be a hard worker, and I know him of his personal commitment to fiscal responsibility and to bringing down the deficit. It is real. I have seen him make tough decisions and without compromising his view of the deal that was finally struck between the President and the leadership in Congress.

My guess is that he is at least as enthusiastic, if not more so, about the deficit reduction portion than perhaps some of the timing on the tax cuts.

I would say that there are very few people that I know, Mr. President, who wouldn’t like to have their taxes reduced. My problem is with the timing of the tax cuts. We have been making real progress on the deficit in the last few years. We are on the right course. We have, as the Senator from Maryland indicated just a minute ago, some of the most favorable economic statistics and optimistic projections we have ever had. If ever we were going to make long-term progress, not only in reducing the deficit but in actually beginning to reduce the debt, so that we would not be passing on to our children opportunity in our history, we should be missing an opportunity that may not come again to make a substantial effort toward long-term fiscal responsibility. I am even more concerned that some of the proposals that we are going to pass today will have some unfortunate consequences in the outyears.

I think we will have to look back upon our time on watch and answer to future generations as to why, when we had this opportunity, this window of opportunity in our history, when so many of the economic indicators are so good, we were not willing to make the tough choices.

I voted for the package this morning with a range of regret. As I have been committed to deficit reduction for my entire public career, I was disappointed that we failed to include in that particular package some rather modest, but important, restraints on entitlement growth, restraints that made sense for our long-term future. They were among the very first parts of the proposal that we moved away from. Just as we failed to show the political courage to take the kind of steps that we have taken on the tax cuts. Other economists told us what the Consumer Price Index was doing to all of the programs that were related to it and the impact a revision would have on the long term. What are we doing here today? Providing the cut good news in the short term that many of our citizens will respond favorably to, but in the long term all of us are going to have to answer for the consequences of our actions.

With that, Mr. President, I thank the Chair. I applaud those who have worked hard to reach this particular agreement, but I respectfully dissent.
I yield the floor.

Mr. ROTH. I yield 3 minutes to the distinguished Senator from Arizona.

Mr. MCCAIN. Mr. President, I congratulate Senator ROTH, Senator DOMENICI, Senator MOYNIHAN, and especially our leader for this landmark agreement.

However, I wish to remark on the conference agreement provision that gives $2.3 billion to Amtrak under the guise of so-called tax relief. Mr. President, I believe it is called the great train robbery. It used to be in the Old West that the outlaws took money from the trains. Now the trains are taking money from the taxpayers—$2.3 billion. The James boys, Jesse and Frank, probably never imagined that this incredible scheme does it. It is not to be believed.

Do you know how they are going to get that $2.3 billion, Mr. President? They are going to get it with a $2.3 billion tax break they never paid. Amtrak has never paid any taxes. In fact, they have lost $20 billion since they came into being. They have lost $20 billion. Now we are going to take tax relief from the freight trains that used to run prior to Amtrak ever coming into existence.

Mr. President, this is most bizarre. I have only been here 10 years, and I am sure some bizarre and Orwellian things have occurred, but this is the most bizarre thing I have ever seen. The only thing, the only thing I think that saves that is that Congress, the leader and others have demanded that reform be part of the package. And our friends on the other side of the aisle, rather than grabbing ahold of this great sweetheart deal in history, won’t even agree to reforms. Right now, if you are laid heart deal in history, won’t even agree to doing away with that in-...
in pushing for individual retirement accounts for spouses. Now we have millions of nonworking spouses that will be able to invest in an IRA before taxes. I think that is a very positive provision. We have educational IRA’s, again because of the exemption for family businesses, farms and ranches. And I will tell my colleagues, it is extremely popular, very much needed. If you have a family farm, business or ranch and you happen to pass away and you have a taxable estate of $1 million. You are in a taxable rate of 39 percent. And I don’t think Government is entitled to take 39 percent of that property. And so again I think this is long overdue.

We have other relief in this bill to encourage savings, to encourage investment. We reduced the capital gains tax 20 percent. Every time we reduced capital gains we have had more savings.

And so again, I think this is a positive encouragement job; it will encourage savings. It will leave families to keep more of their own money in their pocketbooks.

I compliment again the Speaker and I compliment the leader, Senator Roth and Senator Moynihan, those who worked so tirelessly to make this happen. The good news is this will become law. We will do what we said we were going to do. We said we were going to give American families tax relief. We said we were going to pass incentives to create more jobs. We have done that in this bill. I urge my colleagues to vote for it. I am glad to see this will become law soon.

I yield the floor.

The PRESIDING OFFICER (Mr. Domenici). Who yields time? The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, I have already spoken on the subject today. There are a couple of other things I would like to add.

First of all, there is always a big constituency for tax cuts and I have never known a Member of Congress to lose a vote by voting for a tax cut. We lost a lot of good men and women in 1993 because they voted for a tax increase, which has reduced the deficit from $300 billion to an anticipated $40 billion this year. But they are not here. They honored what they thought was a demand by the American people for a balanced budget, clearly within our grasp. But, you see, there is a big constituency for tax cuts. There is a big constituency for spending. There is no constituency for a balanced budget. There are those who have looked forward to that, as I have, for 22½ years. When I was deciding whether I wanted to run again, that was one of the major considerations with me.

There are two things that I think would reinstate confidence in the American people in the congressional system and in our country in our political system. The two things that would do more than anything to build confidence in America would be to balance the budget, and, No. 2, to change the way we finance campaigns.

I concluded that neither were going to happen in the next 36 months and probably wouldn’t happen during the next 6 years if I ran and were reelected. That wasn’t the only consideration.

But here we are. In 1986—every economist in the country now believes we will probably balance the budget in 1998. So what are we going to do? No. No. We screamed about balanced budgets around here for 22½ years that I have been around here. Now it is within our grasp and how do we treat it? Postpone this so we don’t do it in 1998, give away some goodies.

And there are some goodies in here that I love. The educational part of it intrigues me. I love it. But here is something the American people have been clamoring for all these years.

We could postpone this for at least a year and provide some comfort to the American people in letting them know that we are really concerned about deficit spending.

Let me ask you this. What in the name of goodness are we always talking about Greenspan raising interest rates for, depending on the inflation rate? Everybody is scared to death the inflation rate is going to go up a couple of tenths of a point. Greenspan will raise interest rates, and this glowing economy, almost unprecedented in the annals of the history of this country, will come to a screeching halt. There will be no balanced budget once this economy cools.

I yield myself 2 additional minutes, Mr. President.

So, what are we doing? This is not a tax cut of the magnitude of 1981. Certainly in the scheme of things it doesn’t even begin to match the tax cuts of Jack Kennedy in 1961–1963. But I tell you what it is, it is $135 billion infused into the American economy which could, which just could fuel the economy to the extent of a couple of tenths of a point in inflation. And if that happens, you can bet that the Fed will raise interest rates. And if that happens you can bet that this economy is going to start slowing and you will not see a balanced budget.

The idea I don’t mean saying, Mr. President, I don’t know how to say it any stronger—the idea of doing what we are doing today and postponing something that is so near at hand, a balanced budget—postponing it for 5 years is the height of irresponsibility.

The PRESIDING OFFICER. Who yields time? The Senator from Michigan.

Mr. ABRAHAM. Mr. President, I just wanted to take a minute here at the finish of this debate, to compliment a number of people whose commitments have been so vital to the success of this bill. From the very beginning of the 104th Congress until today, the Presiding Officer himself has been in the lead as the chairman of our Budget Committee. Without his leadership, we never would have reached this point. Without the leadership of the chairman of the Finance Committee we would not have reached this point. Without the able work of the ranking member of the Finance Committee we would not have reached this point. Certainly, without the assistance and the leadership of our majority leader, we would not have reached this point.

Today we do something that has not occurred in 16 years, we give the taxpayers of our country a chance to keep more of what they earn. In my State of Michigan this means a great deal. We are not a rich State, in the sense that everybody makes a lot of money. We are a rich State in terms of values and natural resources, but the hard-working people in Michigan have waited an awful long time for the tax cut which we are going to deliver. Whether it is the working family who will receive a $500 per child tax credit or the family trying to finance the education of children—who do not want to go bankrupt, but want their kids to go to college—or the small family farmers and small business people who have feared the prospect of having to sell the family business or farm in order to pay death taxes, or the people in our inner cities who are going to benefit from the brownfields provisions that will allow us to clean up environmentally contaminated brownfields and create job opportunities in deserted factory sites, or the people who are hopeful that we can have more dollars for road repair because of having the gas tax cut by 43 cents, the people who are hopeful that we can have more dollars for road repair because of having the gas tax cut by 43 cents, the people who are hopeful that we can have more dollars for road repair because of having the gas tax cut by 43 cents, the people who are hopeful that we can have more dollars for road repair because of having the gas tax cut by 43 cents, the people who are hopeful that we can have more dollars for road repair because of having the gas tax cut by 43 cents, the people who are hopeful that we can have more dollars for road repair because of having the gas tax cut by 43 cents, the people who are hopeful that we can have more dollars for road repair because of having the gas tax cut by 43 cents, the people who are hopeful that we can have more dollars for road repair because of having the gas tax cut by 43 cents, the people who are hopeful that we can have more dollars for road repair because of having the gas tax cut by 43 cents, the people who are hopeful that we can have more dollars for road repair because of having the gas tax cut by 43 cents.

So I compliment everybody who has played this role. I think we are moving in the right direction. Many of us would like to do more, and I hope we will have the chance next year, in the later Congress, to do more. But for what we are achieving today, I think we are deliver what the credit is owed to the leadership we have had. So I rise to compliment that leadership and say, as a new Member of this body, I am delighted to be
Mr. President, I yield the floor and thank the chairman of the Finance Committee for this time.

Mr. ROTH. Mr. President, I yield the remainder of my time to the majority leader.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. ROTH. Mr. President, if I need some additional time, I yield myself time off my leader time, although I hope—I will stay as close to the appointed hour for a vote as possible.

The PRESIDING OFFICER. The Senator has that right.

Mr. LOTT. Mr. President, I thank the chairman of the Finance Committee, Senator Roth, for yielding me this time and thank him for his great work.

I talked about that this morning in relation to the balanced Budget Act, but I think it is even more appropriate that I commend him for his diligence, patience, leadership, his bipartisan effort. He did a great job on this legislation. I am extremely proud of him and I think he should feel proud.

To the Senator in the Chair, the Senator from New Mexico, his imprint is over both these bills; all over them. I thank for that.

This morning I was satisfied with our action on the balanced budget. I was pleased we got it done. I thought it was an important thing to do and that we should get it done and move forward and reach a balanced budget with honest numbers.

But, with this bill I am enthusiastic, I am really excited about what this legislation does. It is going to help our children with the tax credits and education provisions. I feel good about the education provisions. Some people say, “Well I don’t like that part or the other part.” Education is about the future of America, and we put some of the provisions in the lower brackets, we put some others in there that will help our children have a better access to community colleges and universities and colleges. It is worthwhile and I am proud of that.

A lot of young people, young business men and women are going to benefit from this. My own son, a young entrepreneur, will benefit from it. And even he was excited, the other night, when I told him what was in this bill. Nothing makes a father prouder than for his own son to say, “Dad, this will help me to create some more businesses and hire some more people.” He has 60 young people working for him now.

This is what the American dream is all about: Investors, savers, farmers, small business men and women, spouses, and seniors. This is one that really does what we said it was going to do, and we got it done. I am very proud of it.

This is a great tax cut for working Americans in 16 years. It is long overdue. Taxes are too high in my opinion. The Tax Code is obviously too complex and complicated. The IRS is too intrusive in our lives and everybody knows that. Bipartisan, Republicans and a lot of Democrats wanted to do more than just talk about tax relief, they wanted to get it done. We wanted to deliver and we wanted to provide this legislation. We picked up considerable bipartisan support and came together in a way that I have not seen the Senate come together in the years that I have been in the Senate, certainly as majority leader. It was a good feeling. We went out on the steps of the Capitol and said we had done our job for this legislation. I thought it was constructive and thoughtful, and I was very proud of it.

The President also supports this bill. I am glad that he has supported this tax package and the tax relief that we are going to give to people. He insisted that some parts of it be dropped. I was very disappointed in that. But we insisted on some things that he didn’t want to go along with. As I said repeatedly, we gave ground on this bill, and we found some common ground in many instances.

I was particularly concerned, though, about one provision that we had to drop, the so-called Coverdell amendment that would have allowed for an education IRA to be used to pay for education from K through high school, for elementary and secondary. Yes, I like the fact that we are helping community college opportunities for our children, and universities and colleges. But the problem is, the problem in education in America is not at the higher education level. Our higher education system in America is a good one. It is broad, it is diverse, there is lots of choice. The problem is at the elementary and secondary level. Why shouldn’t a parent, who can now put $500 in the Roth education IRA opportunity, be able to take some of that money to help their children in the fourth grade with some tutoring, so that they can get that help with remedial arithmetic? Why shouldn’t a parent be able to do that? I think they should, and I am very sorry that we had to drop this from the package. But the President insisted that this not be allowed because, he said, it would undermine public education. I don’t want to do that. I am a product of public education. My mother is a public education schoolteacher. So there were some disappointments along the way. But there is a lot of good in this bill.

Everybody can declare a victory in being for this, because the American people, the American family will benefit from this legislation. Three years ago, congressional Republicans promised the American people a $500-per-child tax credit to help them save for the future or to meet the costs of raising a family in today’s world. We kept that promise. And along the way, the Democrats got in on all of their talk and/or their imprints. But the main thing is they are going to get this help. Parents with children will get some help to do things for their own children. I think we should be proud of that.

The start of this Congress I urged that the Republican conference introduce, as our first bill, a bill to help families with the needs for education and for college costs. S. 1, the first bill that was introduced this year, our highest priority, was in education. The legislation before us today incorporates many of those tax provisions. If American families are looking for someone to thank, they need to look further than the sponsors and the leader of this legislation, Senator Roth and Senator Moynihan. They really did a great job. They brought us together and they produced the final package that we are voting on here today.

As amazing as it seems, we have been working to resist some of the criticisms that we should not have tax relief for working Americans. We have done it here. We have kept our promises. I think it is going to be good for the economy. The American family will get some help to do things for their own children. I think it is going to be good for the economy, too. But it’s a step in the right direction. It provides help where it is needed and there will be another day for us to have a fairer Tax Code. So, it is the kind of legislation that we need. We have come together to pass it. It will provide extensive tax relief. Tax reform will be something we will do another day. That is not what we have done a good job here, and I urge my colleagues to rally round the banner of lower taxes and economic growth and join me in sending
America’s tax cut to the President for his signature.

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

The PRESIDING OFFICER (Mr. Bennett). Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. LOTT. I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the conference report accompanying H.R. 2014, the Revenue Reconciliation Act of 1997.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 92, nays 8, as follows:

[Rollcall Vote No. 211 Leg.]

YEAS—92

NAYS—8

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

Mr. LOTT addressed the Chair.

Mr. LOTT. Thank you, Mr. President. I want to thank all the Senators for their cooperation. I know this is kind of like “school’s out” for a break, and we are taking advantage of the opportunity to say good-bye to each other and enjoy the district and State work period. But I want to thank all the Senators for the tremendous cooperation we have seen here in the last 2 weeks. I do not know that I have seen it any better since I have been in the Senate.

We have already moved 10 appropriations bills. We are going to try to get lined up to start on the 11th one right when we come back. We have passed these two very important bills, the Balanced Budget Act and the Tax Relief Act. It took a lot of cooperation on both sides of the aisle.

I want to thank my counterpart on the Democratic side of the aisle, Senator Daschle. He is a pleasure to work with. I think we have a relationship that is important for the Senate; that we be able to talk to each other and work with each other in honesty and frankness. We are going to continue to do that.

Before we leave, we are going to work on doing as much as we can, and I think it is going to be substantial on the Executive Calendar. So I just want to thank Senator Daschle and our colleagues on both sides of the aisle for their good work.

If we could keep this pace going, I think the American people would be very pleased and maybe they would feel very good about our Senate and what we are trying to do.

So thank you very much for your cooperation.

I would be glad to yield to the Democratic leader.

Mr. Daschle. Mr. President, I know there are Members who wish to leave. I will be very brief.

Let me just commend the majority leader for his leadership in bringing us to this point. As he has indicated, we have the good fortune to have a good relationship, and we work very closely together. I think, in part, the results are very clear. That relationship has been productive.

Let me also commend the chairmen of the Finance Committee and the Budget Committee, and our ranking members on both the Finance Committee and the Budget Committee, for the extraordinary job they have done. Obviously, you cannot lead if there are not those who are willing to follow. We have followed, and we have worked in good faith on both sides of the aisle.

This is a great day for the Senate and a great day for America. I appreciate very much the opportunity, once more, to express our gratitude to all Senators.

Mr. LOTT. I thank Senator Daschle. I do want to also take a brief opportunity, without naming names, and I think their names should be put in the RECORD—to thank a lot of staff people who worked extremely long hours, all night several times over the past few weeks, on both sides of the aisle. You know who we are talking about. We extend our appreciation and thanks to those staff members for their great work. This was a monumental accomplishment. I don't know how you physically got it done. I thank you for that.

Mr. KERRY. Will the Senator yield?

Mr. LOTT. I am glad to yield to the Senator from Massachusetts.

Mr. KERRY. Mr. President, I congratulate the majority leader. He is correct, there has been a significant amount of progress made in the last 2 weeks. I ask the majority leader publicly on the record what he and I have talked about a number of times privately, and that is an issue of enormous concern to some of us. We have written a letter to the majority leader regarding a campaign finance reform debate. While we leave here in good spirits and have cooperated, when we come back, I will comment about having the opportunity to debate campaign finance reform. I ask the majority leader whether he has a sense of when that might take place or if he could give assurance that it will take place.

Mr. LOTT. Mr. President, I expected that I would get this question, and I don't have a time that I could give. I must say that the Governmental Affairs Committee is working right now and looking into potential campaign violations, and what happened in the last election. I think for us to proceed before we even get the completion of that work would be premature. Regarding the last election, we ought to know what laws have been broken and how they were broken. I don't have a date in mind.

I am sure I have been told by several Senators that this issue will come up sometime soon. I understand that. I hope that we will be patient and take our time and maybe even see at some point if we could not do something in this area in a bipartisan way. But I understand what the Senator from Massachusetts has said. He indicated he is going to bring it up at some point. I am aware that will happen. We don't have any time scheduled on that at this point.

When we come back, the focus will be on the three remaining appropriations bills we have not passed, to conference reports that we must pass, and pending legislation we must pass, including ISTEA, the highway transportation legislation, which expires at the
end of September. We have a lot of very serious work to do of interest to the Nation’s Capital, to the people in America, including the Interior appropriations bill, the Labor-HHS appropriations bill, as well as the ISTEA bill. I just take this time to look at these matters. I am sure they will be considered appropriately as we move into the fall.

Mr. KERRY. Will the majority leader yield further?

Mr. LOTT. I yield for a further question.

Mr. KERRY. Mr. President, I thank the leader for that answer. I understand where he is heading with respect to that.

If I could ask further, I had wanted at this time, Mr. President, to be able to introduce a bill. I don’t know what the intentions of the leader are regarding time to be able to proceed and do that.

Mr. LOTT. We have some unanimous-consent requests and then Senator DOMENICI has an issue, but there will be time for brief remarks.

Mr. THURMOND addressed the Chair.

Mr. LOTT. Mr. President, I yield to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I just want to commend Senator LOTT, the majority leader, for the outstanding leadership he is providing here in the Senate. Many things here have been accomplished. I don’t recall, in the 43 years I have been here, fine leadership shown that has gotten so much done in such a short time. I am proud of you. And I want to commend Senator DASCHLE for his fine cooperation and leadership, too.

Mr. LOTT. Thank you very much.

Further, I want to say that we are going to have a period for morning business.

Mr. KERRY. Mr. President, would it be appropriate at this time to ask if I could proceed after the Senator from New Mexico?

Mr. LOTT. Mr. President, I see a number of Senators that wish to speak. I believe Senator DOMENICI has something he needs to do, and I have a couple unanimous consents, and then the Senator may speak. Within a very few minutes, he can get recognized.

Mr. SARBANES. If the Senator will yield, Mr. President.

Mr. LOTT. I yield to the Senator from Maryland.

Mr. SARBANES. First of all, I join with my colleagues who have commended the majority leader for the very efficient way in which the Senate has conducted itself over the past month. We have obviously, processed a great deal of business.

I just want to say that I was very heartened to hear the majority leader state that it was his intention to address this Executive Calendar before we go out, I gather, with the anticipation of clearing, if not all of it, most of it, as I understand it.

I want to underscore how important that is. If we do it now, these people can move into their positions and be functioning within the week. If we don’t do it now, then it obviously has to carry over into September, and you are talking about losing 5, 6, 7 weeks before we get people on the job.

I just want to commend the majority leader for his indication that he is going to address that issue before we depart.

Mr. LOTT. Maybe before we go out tonight.

Mr. LEAHY. Mr. President, if the leader will yield further. As a member of the Appropriations Committee, I commend the distinguished majority leader, the Democratic leader, and the chairman and ranking member of that committee for pushing us this far on the appropriations. It is highly commendable.

I join my friend from Maryland in saying there are many of these nominations on the calendar that need to be cleared as soon as possible—especially the judges that are there. We have new vacancies in our courts. Again, once a person has been confirmed, it still takes weeks before they get out of whatever life they are in—private practice, or whatever—to get out of that and get set up and get their law clerks hired, and on and on, and with all that it means with their families and lives and all. So if some can be cleared now, we know it will be 5 weeks sooner.

Mr. BIDEN. Will the majority leader yield?

Mr. LOTT. I yield to the Senator from Delaware.

Mr. BIDEN. Mr. Leader, on the matter of the legislation we just passed, I want to make one comment. It is obvious that the Senator from New Mexico [Mr. MOYNIHAN] is viewed as an effective chairman. It is obvious that the Senator from New York [Mr. MOYNIHAN] is viewed as articulate and as one of the brightest people here. It is obvious that everyone knows the ranking member of the Budget Committee is.

I want to make a personal comment that I never thought I would make, or need to make. I think the single-most underestimated person in this body is one of the single-most effective people, and that is my senior colleague, BILL ROTH. He has a style that is so low-key and so quiet that I don’t think he gets the credit he deserves. I just want to remind everybody, notwithstanding the fact that everyone sees and hears more about the able leaders I mentioned, this deal would not have been done without BILL ROTH, BILL ROTH. People in my State love him, but they don’t even realize that.

I just want everybody to be reminded that this quiet guy from Delaware, who has a very different political view on a lot of things than I do, is one of the single-most effective people we have. On last year’s welfare reform bill, and every major thing we have done in the last 18 months, he has been at the helm, or has played a major part.

I want to personally recognize the contribution he makes and state for the record, I think he gets—not intentionally; I think he unintentionally—less credit than anybody in this place, and I think he plays the most significant role in all of what we are rightfully celebrating here, which is the passage of one tax bill and many other provisions that have taken place in welfare, et cetera. So I want the RECORD to reflect that the man from Delaware, my senior colleague, deserves a heck of a lot of credit.

Mr. LOTT. Mr. President, I thank the Senator from Delaware for making that comment. That is the kind of recognition that we should give more of around here, especially between colleagues of opposite parties.

Let me assure you that, without Senator Roth, the IRA provision and many other provisions in this bill would not be there. He was dogged and determined and did a great job. I thank the Senator for what he said and the recognition he gave.

PROVIDING FOR THE CONDITIONAL ADJOURNMENT OF THE TWO HOUSES

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Concurrent Resolution 136, the adjournment resolution, which was received from the House.

I further ask consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

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

The concurrent resolution (H. Con. Res. 136) was agreed to, as follows:

H. CON. RES. 136

Resolved by the House of Representatives (the Senate concurring), That, in consonance with section 132(a) of the Legislative Reorganization Act of 1946, which provides for the adjournment of the legislative day of Friday, August 1, 1997 or Saturday, August 2, 1997, pursuant to a motion made by the Majority Leader or his designee, it stand adjourned until noon on Wednesday, September 3, 1997, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns at the close of business on Thursday, July 31, 1997, Friday, August 1, 1997, Saturday, August 2, 1997, pursuant to a motion made by the Majority Leader or his designee in accordance with this concurrent resolution, it stand recessed or adjourned until noon on Tuesday, September 2, 1997, or until such time on that day as may be specified by the Majority Leader or his designee in the motion to reassemble, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

Sec. 2. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.
WAIVING CERTAIN ENROLLMENT REQUIREMENTS

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now turn to House Joint Resolution 90, regarding hand enrollment, that the joint resolution be passed, and the motion to reconsider be laid upon the table.

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

The joint resolution (H. J. Res. 90) was passed.

CORRECTING TECHNICAL ERRORS IN THE ENROLLMENT OF H.R. 2160

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of a House concurrent resolution that corrects the enrollment of the tax fairness conference report, that there be no amendments in order, that the concurrent resolution be agreed to, and the motion to reconsider be laid upon the table, all without intervening action or debate.

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

The Concurrent Resolution (H. Con. Res. 138) was agreed to.

UNANIMOUS-CONSENT AGREEMENT—H.R. 2160

Mr. LOTT. Mr. President, I ask unanimous consent that at 2:15 p.m. on Tuesday, September 2, the Senate turn to the consideration of H.R. 2160, the House Agriculture Appropriations bill, and one amendment be in order to be offered by Senator HARKIN regarding FDA and there be 20 minutes for debate to be equally divided in the usual form.

I further ask that following the conclusion or yielding back of time, the amendment be laid aside until 9:30 a.m. on Wednesday, September 3, and there be 30 minutes for closing debate to be equally divided, and following that debate, the Senate proceed to a vote on or in relation to the Harkin amendment.

I further ask that immediately following the vote in relation to the Harkin amendment, all after the enacting clause be stricken, the text of the Senate bill be inserted, including the Harkin amendment, if agreed to, and H.R. 2160 be advanced to third reading and agreed to, and the Senate insist on its amendment, request a conference with the House and the Chair be authorized to appoint conferees on the part of the Senate.

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

FOOD AND DRUG ADMINISTRATION MODERNIZATION AND ACCOUNTABILITY ACT OF 1997

Mr. LOTT. Mr. President, a lot of effort has been put into the Food and Drug Administration reform legislation. The committee reported it out by a, I believe, 14 to 4 vote. It was an overwhelming bipartisan vote. A tremendous effort has been underway to get an agreement on that legislation and to bring it to the floor. I think we should do that and, if I have to, I will begin a cloture proceeding the week we come back. This reform is very important. Some parts of it in the law will expire, I believe, at the end of August and will begin to have an impact in September and October.

I ask unanimous consent that the Senate now turn to the consideration of S. 830 regarding FDA reform.

Mr. KERRY. Mr. President, on behalf of the leadership, I do object.

The PRESIDING OFFICER. Objection is heard.

FDA REFORM

Mr. LOTT. Mr. President, this is the second time I have been blocked from trying to move to consideration of critical FDA reform legislation.

This bill, the FDA Modernization and Accountability Act, would ensure that patients and their health care providers have prompt access to safe and effective products, including prescription drugs, medical devices, and foods.

It would streamline the FDA bureaucracy, which has spun dangerously out of control in recent years. And, it would reauthorize the Prescription Drug User Fee Act.

I am greatly disappointed that this bill is being held hostage by a small number of Senators. This legislation enjoys strong bipartisan support. It passed the Labor Committee by a bipartisan vote of 14 to 10.

Since the bill passed committee on June 18, supporters of FDA reform have tried repeatedly to address the concerns of these four opponents. In fact, supporters of reform have made an additional 30 concessions in the bill since it was reported from committee.

Cosponsors of the bill, Democrat and Republican leaders of the Senate KENNEDY this morning in a last ditch effort to convince him to let the bill go forward. Despite the bill’s strong bipartisan support and despite these additional compromises, he refused. This legislation is too important to be held hostage. As such, I intend to bring the committee-passed FDA reform bill to the floor in September. If necessary, I will file cloture to ensure that this important piece of legislation for the health of the American people is completed in a timely manner.

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Two issues remained today. It is critical that FDA be able to get all the data they need to ensure that devices that have different technological characteristics from a predecessor device are safe and effective. Provisions of the committee-reported bill might unduly tie the FDA’s hands in this important area.

The second issue involves the proposal for sweeping Federal pre-emption of the current authority of States to regulate over-the-counter drugs and cosmetics. In compromise, for example, there is virtually no significant Federal regulation at the present time, and States should have the right to act to protect their citizens against dangerous products. Too often, there have been abuses such as lipsticks containing substances that could cause birth defects, skin creams made with known carcinogens, excessive lead in hair dye, and suntan products that produce severe chemical burns.

In my view, acceptable compromises can be reached on both of these issues, and I hope that good faith negotiations will continue.

Unfortunately, in the wake of the current impasses on these two issues, several additional matters that had previously been settled have now been reopened. A fair overall compromise is still possible that adequately protects the public, and I am optimistic that we can achieve it by September.

GLOBAL CLIMATE CHANGE OBSERVER GROUP

Mr. LOTT. Mr. President, under the provisions of Senate Resolution 98 regarding global climate change, the two leaders have the authority to appoint 12 Senators to serve on the Global Climate Change Observer Group.

Last week, the Senate adopted the Hagel-Byrd resolution regarding global climate change. This resolution encouraged the creation of a bipartisan group of Senators to monitor the status of negotiations on global climate change and to report periodically to the Senate on those negotiations.

As such, the minority leader and I have appointed 12 Senators to serve on this Global Climate Change Observer Group.

Due to their diligent efforts on the global climate issue, I have asked our colleague from Nebraska, CHUCK HAGEL, to serve as chairman, and the distinguished gentleman from West Virginia, ROBERT BYRD, to serve as co-chairman of the group.

The other Members of the observer group will include Senators ABRAHAM, CHAFEE, CRAIG, MURKOWSKI, ROBERTS, BAUCUS, BINGMAN, KERRY, LEVIN, and MURPHY.

I greatly appreciate our colleagues’ willingness to take on this important task and look forward to hearing their reports.
MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business with Senators permitted to speak therein for up to 5 minutes each. The PRESIDING OFFICER. Without objection, it is so ordered.

VERNAL G. RIFFE, JR.

Mr. DeWINE. Mr. President, I rise to note the passing, today, of an Ohio legend. Early this morning, an Ohio legend died. Lee Leonard, the dean of the Ohio statehouse press corps, began his report in this morning's Columbus dispatch:

Vernal G. Riffe, J.r., who rose from a Scioto County insurance salesman to become one of the most powerful figures in Ohio's political history, died today at 1:30 a.m. He was 72.

Vern Riffe served a record-breaking 20 years as Speaker of the Ohio House of Representatives, from 1975 to 1995. From the first day that he was elected Speaker, he was The Speaker and will remain The Speaker, Mr. President. The Speaker. He came to the Ohio House in 1959, spent 16 years learning the skills that would make him the most effective as well as the longest-serving speaker of the Ohio House of Representatives.

He studied the approaches of legislative veterans. He learned a lot. He learned that, in a legislative body, you get a lot further by helping your colleagues move their own legislation forward than by doing by grandstanding. As a result, Vern Riffe quickly became the person both Republican and Democratic Govormers turned to to make things happen. Vern Riffe was a pragmatic, results-oriented Speaker. He was a partisan, but his greatest victories came from his willingness to work with Republican Ohio Governors to get things done for the people of Ohio.

When Vern Riffe retired from the Speakership, he said this:

If I was 20 years younger, I might be in the mood for forming my own party, called the Moderate Democrats or the Middle of the Road Democrats.

That was Vern Riffe.

These are the lessons of Vern Riffe: Hard work, learn the details, build consensus, and put the interests of Ohio ahead of the interests of your political party.

Vern Riffe grew up in politics. His family was highly political, and from an early age he loved the nuts and bolts of making government work. He used to say, "I love being Speaker."

Political scientist Samuel C. Patterson of the Ohio State University summed up Riffe's style:

Riffe loved working with his members, doing favors for them, helping them get re-elected, and assisting them in fulfilling their own ambitions and their own objectives as legislators. As a political leader, he was supportive and depended on their reliability and trust. Riffe's friendliness and his southern Ohio, small town, "down home" demeanor, endeared him to his supporters and disarmed most of his opponents. He was not stridently partisan, a quality underscored by the fact that the two prominent Republicans, former longtime Governor James A. Rhodes and former house Republican leader Corwin Nixon, are among his closest personal friends.

That is the Vern Riffe that I remember. He used to spend time at the Galleria across the street from the Statehouse, meeting with members of the house and senate in a very informal way, reaching agreement on literally countless issues. When he retired from the house a couple of years ago, this is what one state representative said:

Vern Riffe is the Woody Hayes of Ohio politics. Without his strong leadership, not just the Ohio House, but all of State government will be fundamentally different.

I think that is right. Vern Riffe was a legend, a man who cared about using the power he had to help the people of Ohio.

In conclusion, Vern Riffe never lost sight of the values he learned from his closest political adviser, and, as he told me, the closest friend. That was his dad, Vernal G. Riffe, Sr., who was a former railroader who served as mayor of the town of New Boston. Vern Riffe's dad used to tell him: "Son, if you're going to be a leader, you've got to lead." Mr. President, Vern Riffe always led.

Another Ohio legend, John Mahaney, president of the Ohio Council of Retail Merchants, put it best. He said about Vern Riffe: "It's like you get in the Hall of Fame by batting .300, 15 out of 20 years. It's longevity and consistency. And (Vern Riffe) passes both tests."

Mr. President, we will miss him a great deal. In March of this year, he and his wife Thelma began their 50th year of marriage. On behalf of the people of Ohio, I express my condolences to Thelma and to their children—Cathy Skiver, Verna Kay Riffe, Mary Beth Hewitt, and Vernal G. Riffe III, and to their seven grandchildren.

Mr. President, he was a good man. I yield the floor and thank my colleagues.

COMPTROLLER GENERAL, GENERAL ACCOUNTING OFFICE

Mr. LOTT. Mr. President, before leaving for the August recess, I want to address the Senate briefly on the matter of the vacancy in the Office of the Comptroller General. The General Accounting Office is a vital organization to the Congress, and the person selected to fill the position must have the confidence of both the majority and minority. When a vacancy occurs, a commission is established by statute to consider and recommend candidates to the White House. The members of this commission are the President pro tempore of the Senate, the Speaker of the House, the majority and minority leaders in the House and Senate, and the chairman and ranking member of the Senate Governmental Affairs Committee and the House Government Reform and Oversight Committee.

Members should be advised that this group has been organized on a bipartisan, bicameral basis, and we are moving forward. Based on the precedent of alternating between Houses, it will serve as chairman of the commission, with the Speaker of the House serving as vice chair. The Governmental Affairs Committee has jurisdiction over the General Accounting Office, and I have requested that the Speaker and his staff to manage the administrative tasks of the commission. There are a number of candidates to start, but Senator Daschle joins me today in putting all Members on notice that we are open to recommendations. If you know of someone interested in being considered for the position, please advise me, the minority leader, Senator Thompson, or Senator Glenn at the Governmental Affairs Committee, as soon as possible to ensure that the commission has an opportunity to consider all qualified candidates.

THE NATIONAL FEDERATION OF THE BLIND OF KENTUCKY

Mr. FORD. Mr. President, I want to take this opportunity to recognize an organization who has represented the visually impaired for 50 years. Members of the National Federation of the Blind of Kentucky will convene on September 5 and 6 to celebrate their work and commitment to improving the lives of visually impaired citizens in the Commonwealth of Kentucky.

The organization's first president, Harold L. Reagan, lived his life not as a blind person, but as an American citizen with a dream. Not only was Reagan blind, but he also lost his arm. In the 1930's this was not easy to overcome. However, this did not stop Reagan. He created an enterprise selling candy, soft drinks and cigarettes over a counter at the Jefferson County Courthouse in Louisville, KY. Reagan was the first visually impaired person to manage this type of business in Kentucky and inspired many others to follow in his footsteps.

Reagan faced adversity with courage and strength. Along with fellow supporters, Reagan helped shape a small organization that became known as the Kentucky Federation of the Blind. This group challenged society to set aside their biases, and opened doors for the visually impaired. Their efforts led to the establishment of a separate agency for the blind in Kentucky which improved services to the blind through additional resources and the elimination of bureaucratic hurdles.

In 1947 Kentucky became the 27th State affiliated with the National Federation of the Blind. Betty Niceley filled the shoes of her mentor as President of the Kentucky chapter. Visually impaired Kentuckians, family, friends and citizens now reap the
benefits of current information, education, and a forceful advocate on State and Federal issues.

Ongoing activities and constant public contact continues to make the National Federation of the Blind of Kentucky a leader throughout the country for its research and promotion of technology assisting visually impaired users in obtaining highly sought after computer jobs.

As times change, so do biases and expectations. This year the U.S. Senate saw a staffer join us on the floor to assist with important legislation. While this is not unusual, it was unusual to see this aid assisted by her guide dog. This same aid and guide dog assisted my office a little over a year ago.

I would never say the road that Reagan and other visually impaired Kentuckians have traveled was an easy one to travel, but a necessary journey to benefit generations to come. As friends and family gather today and tomorrow, it will not only be a time to reflect on the past, but toward the future.

I am proud to stand before you and say the world is changing for the better. I know you will join me in congratulating the National Federation of the Blind of Kentucky for 50 years of dedication and service in our quest for a better future.

TRIBUTE TO JOE R. CHRISTIAN

Mr. FORD. Mr. President, I am pleased to have the honor today of paying tribute to Joe R. Christian who will be retiring on August 19 from the U.S. Capitol Police after 20 years of service to the force.

As the officer on duty with the Capitol Third Division, Joe has given Members and staff of the House Permanent Select Committee on Intelligence a sense of security and well-being that few others could. His warm smile, good sense of humor and welcoming words have endeared him to his colleagues as well.

Officer Joe Christian has demonstrated that he is a true Kentuckian by his commitment to serving the public good. While he may no longer live in the Commonwealth, Joe has roots back home in Elkhorn, KY. I know that his friends and family there are proud of his service to the U.S. Capitol Police and the U.S. Navy. Like Joe, I joined the Navy at 18 and for over 20 years, he flew all over the world with different squadrons, earning an Honorable Discharge as well as a Good Conduct Medal with a five oak leaf cluster.

I am proud of Joe, too, and extend my best wishes to him as he begins this new phase of his life.

SUPREME COURT JUSTICE WILLIAM BRENNAN

Mr. FEINGOLD. Mr. President, last week this Nation lost a true American hero with the passing of former Supreme Court Justice William Brennan. The contributions of William Brennan to our democratic way of life are many and will continue, long after his passing, to touch the lives of people all across this Nation in the most important and fundamental ways. Always a defender of individual liberty, William Brennan helped to preserve many important rights that each of us, as Americans, enjoy today. He fought relentlessly to preserve the right to vote, the right to privacy, and the right to be treated as an equal with your fellow citizens. His legacy is one that honors the fundamental notion that in America, the individual truly does matter.

In terms of length of service on the Supreme Court and number of opinions written, William Brennan ranks near the top. However, to reduce his career to these simple numbers is to diminish the scope and importance of William Brennan in shaping this Nation’s constitutional law. Many of Brennan’s most significant decisions were decided by narrow margins and it is a testament not only to the unreliability of Justice Brennan’s often cited Irish charm, but also to the power of his intellect and reasoning.

Justice Brennan was a man of enormous dignity and compassion. His intellect and reasoning, second to none. Although there are many areas which one could point to in order to highlight the greatness of William Brennan, I will note just two that are significant to me. First, his unrelenting defense of the first amendment right to free expression. Because of William Brennan, the media in this Nation retains the right to criticize the government, to show the American people what goes on in their government—in other words, to hold us accountable. Absent this right, the credibility of our democracy and our form of government would be, in my opinion, greatly diminished.

William Brennan understood that if the first amendment was to mean anything, it must protect that expression which was not popular. In upholding the first amendment in regard to flag desecration, Justice Brennan wrote that:

"If there is a bedrock principle underlying the First Amendment, it is that the Government may not prohibit expression of an idea simply because society finds the idea itself offensive or disagreeable."

In typical Brennan fashion, his opinion was joined by four colleagues of diverse perspectives, Justices Marshall, Blackmun, Kennedy, and Scalia.

In regard to capital punishment, Brennan remained steadfastly opposed. Although he acknowledged that his view was the minority, he maintained until the end that the death penalty was wrongful of the eighth amendment prohibition on cruel and unusual punishment. In his estimation, a system which treated human beings as nonhuman or objects simply to be toyed with and disregarded was simply not protected by the U.S. Constitution.

In the wake of Justice Brennan’s death last week, I am reminded that while we don’t want to do that, and will try to prevent it, it is an inevitable consequence of having capital punishment. This is a staggering, yet candid, statement which I think, makes Justice Brennan’s point in a very stark and chilling way. Justice Brennan may well have been on the minority on capital punishment. Mr. President, that is not to say however, that his position was incorrect.

Mr. President, there is no question that Justice Brennan was a man that I admired. His opinions were reasoned, intelligent, and always consistent with the notion that in America the rights of the individual, no matter his or her background, upbringing, political ideology, or religious beliefs, were protected. That simple, yet often overlooked notion is the foundation of our democracy and was the cornerstone of Justice Brennan’s approach to the law. He was truly the most influential Justice this century. And we can only add my name to the list of those who mourn his passing. I also join those who celebrate the richness of his life and the countless opinions which helped improve the lot of millions of Americans. Ours is a better Nation because of William Brennan.

However, Mr. President, the greatest measure of William Brennan is not one taken from afar—from simply reading his opinions or following the public pronouncements of his colleagues. Rather, to be a good friend, it is important to know him, his family, friends, and those who sit with him on the bench. In this regard the comments of his colleagues are telling. Justice Souter called Brennan the most fearless principled man of the Court of this generation that has ever lived. Justice Scalia, a jurist often at philosophical odds with Brennan called him the most influential Justice of this century. Justice Kennedy called him a great friend of freedom, not only for those who enjoy freedom, but also those who seek it. Of course, it is a tribute to the wisdom of Justice Thomas was quoted recently as saying that there simply isn’t a more decent or brilliant human being than William Brennan. From these great jurists of diverse backgrounds and ideological perspective, the message is the same: William Brennan’s contribution was undeniable, important, and lasting. It is not surprising Mr. President, that even in saying good-bye, Justice Brennan has once again forged a diverse coalition.
stood at $5,372,436,799,991.80. (Five trillion, three hundred seventy-two million, seven hundred ninety-one dollars and eighty cents)

During the past 15 years. (One trillion, eighty-nine billion, six hundred ninety-one dollars and eighty cents)

Federal debt stood at $1,089,616,000,000. (Two trillion, three hundred four billion, nine hundred eighty-three million, nine hundred ninety-one dollars and eighty cents)

Fifteen years ago, July 30, 1982, the Federal debt stood at $1,099,118,000,000. (Two trillion, three hundred four billion, nine hundred ninety-one dollars and eighty cents) during the past 15 years.

CONGRATULATIONS TO SGT. GARY HURT ON HIS RETIREMENT

Mr. ASHCROFT. Mr. President, I would like to encourage my colleagues to join me in congratulating Sgt. Gary Hurt as he retires on August 31, 1997, from 28 years of service to the Missouri State Highway Patrol. I add my personal appreciation and best wishes to those of Gary's many friends and colleagues.

There are few careers more noble than those spent in public service. Gary's 18 years in the Governor's Security Division of the Missouri State Highway Patrol have meant a great deal to the State of Missouri and the many who have served under his leadership. I want to take this opportunity to publicly thank him for the outstanding service he graciously provided my family and me while I served as Governor of Missouri.

During my tenure as Governor, Gary and I traveled from one end of the State to the other, as well as around the country. Gary always represented the State of Missouri and the Missouri Highway Patrol with dignity, integrity, and professionalism. His commitment to detail put me at ease regardless of travel and event circumstances. I have enjoyed and benefited from the personal attention we have received from the office of the Governor and I would like to take this opportunity to publicly thank him for the outstanding service he graciously provided my family and me while I served as Governor of Missouri.

I wish Gary and his wife, Carol, much happiness as they begin a new chapter in their lives. May God richly bless them both.

CONCERN ABOUT RELAXATION OF CROSS-OWNERSHIP RULES

Mr. TORRICE LLI. Mr. President, the balanced budget agreement passed by the Senate today was an extraordinary and historical accomplishment. The American people can be proud that Congress took bipartisan action to provide not only the first balanced budget in a generation but also tax relief to working families, health care for uninsured children and relief for those seeking a college education and the promise of long-term solvency for Medicare.

In another historic yet less worthy act, the conferees quietly included in the bill a provision to, for the first time, relax the cross-ownership rules that prevent television stations or newspapers from owning a television station within the same city. The FCC has rightly enacted and enforced cross-ownership prohibitions for 50 years to ensure diversity of opinion and views on our local airwaves.

But the provision in the reconciliation bill would allow newspaper owners and broadcasters to bid on licenses within the same market during the 2002 auction of the current analog signals. Stations in markets with populations greater than 400,000. These signals will be made available as the current analog stations convert to digital transmission.

This action could have a seriously detrimental effect on the diversity of the current mosaic of broadcast entities. Broadcast television remains the most prolific form of local broadcast news and it is critical that this diversity is continued. Indeed, I am deeply concerned by the financial impact this provision could have on the FCC's current review of cross-ownership rules.

Congress directed the FCC to review cross-ownership rules in the Telecommunications Act of 1996 and the results of this review are pending. While I believe Congress should revisit the reconciliation relaxation provision on its own merits and free from the rush toward passage of the agreement, it is also critical that the FCC, during its own review of cross-ownership, does not interpret passage of this provision as unobjectionable Congressional support for repeal or relaxation of cross-ownership rules.

Indeed, it is important to note that this provision is intended to provide cross-ownership only when there is a doubling of broadcast outlets within a particular market and only in markets of populations greater than 400,000. If Congress had wanted to take further action, it would have done so and therefore the FCC should not.

Our broadcast spectrum is one of our Nation's most valuable assets and one of the most powerful yet limited resource for the dissemination of ideas and free expression. It is critical that Congress work to protect rather than dilute this resource and I will fight for the integrity of our airwaves as Congress continues to address these issues.

TERRORIST BOMBING IN JERUSALEM

Mrs. FEINSTEIN. Mr. President, I am pleased to join with the distinguished chairman and ranking member of the Foreign Relations Committee, and many others, as an original co-sponsor of Senate Concurrent Resolution 46.

Yesterday two suicide terrorist bombers blew themselves up in the Mahane Yehuda open-air marketplace in the center of Jerusalem. These bombs were clearly timed to do the maximum possible damage. They exploded seconds apart at about 1 p.m. local time, at the height of the off-season tourist shopping hour. Initial reports indicate that at least 18 people were killed and over 100 were injured.

This was a despicable, bloodthirsty act, which all of us stand in a somber silence in one voice. It is not yet known exactly who perpetrated the bombing, but it bears great similarity to attacks conducted in the past by the Palestinian extremist groups, Hamas and Islamic Jihad. Whoever bears guilt for this terrible crime is beneath contempt.

We join Prime Minister Netanyahu, President Weizman, and the Israeli people in mourning those who were murdered yesterday and extend our deepest condolences to their families. To the wounded, we offer our prayers and hopes for their full recovery.

Sadly, Israelis have become all too familiar with harm daily routines shattered by the sudden bloodshed and carnage of bombings in seemingly ordinary places—a bus, in a marketplace, in park or a cafe. On top of all the other tragic aspects of these bombings, the way Israelis are forced to live with the knowledge that their world could be blown apart at any instant is a peculiar kind of torture.

President Clinton was exactly right when he said yesterday morning that the bombing attack was aimed not only at innocent Israeli civilians, but also at all those in the Middle East who genuinely desire peace. And I fear that this bombing, because of its timing and location, could be as damaging to prospects for peace as any that we have seen in the past.

The timing could hardly have been worse. The President's Special Middle East Coordinator, Dennis Ross, was about to travel to Israel to try to breathe new life into the Israeli-Palestinian peace talks, which have been suspended for many months, but which were just beginning to show signs of resuming. In fact, there is good reason to believe that this attack was timed specifically to disrupt the peace process and the impending resumption of the peace talks. Now it may be weeks or months before these talks can resume and be productive. For the extremists, the greatest danger is that the talks could once more be delayed and the President's authority to provide assistance to the Palestinian Authority, allow the
PLO to operate an office in Washington, and waive other restrictions on United States-Palestinian contacts, if he certifies that the Palestinian Authority is fulfilling its commitments. I had hoped that the House and Senate leadership would work with those of us who care deeply about this issue to pass a short-term extension of the Middle East Peace Facilitation Act, so that it does not expire while the Congress is in recess next month. There are no Members, myself included, who believe that the act needs to be reworked to establish a tougher standard of compliance, before it is extended for the long term. But a short-term extension of 60 or 90 days would give us the opportunity to negotiate a meaningful new version of the law, without this important legislation lapsing for a matter of weeks, or even months.

Now, under these circumstances, I do not think it will be possible to pass to a short-term extension in the short time before the August recess. I hope that we will be able to negotiate an appropriate replacement for the current Middle East Peace Facilitation Act shortly after the recess in September.

The explosion of this bomb also makes it deeply resonant. The Mahane Yehuda marketplace is in the heart of downtown Jerusalem. It is a place where every Israeli has spent time, and many Jerusalemites visit or pass through daily. It will be difficult to recover from an attack in such a central and symbolic place, and the Israeli Government will find it difficult to engage in peace talks while this memory is fresh.

What will it take to recover from this bombing? Before anything else can take place, it will take action by the Palestinian Authority. First and foremost, the Palestinian Authority should resume security cooperation with the Israelis to control the future, not the past. At one time, in 1995 and part of 1996, Israeli-Palestinian security cooperation reached unprecedented levels. This cooperation reflected a mutual understanding in the shared stake both sides had in preventing acts of terrorism by extremists bent on destroying the peace process.

But the shared stake still exists today, but the Palestinian leadership must recognize, as the President has, that the Palestinians are angered by some Israeli actions, which do not change the mutual interest they have in preventing terrorism. Because if anything will stop the peace process from achieving the aspirations of both Palestinians and Israelis, terrorism will.

Second, the Palestinian Authority must reinvigorate its efforts to root out terrorist groups in the areas under its control. This effort has been spotty, at best, by the Palestinian officials, including Chairman Arafat, who have rightly criticized for giving less than clear signals that terrorism will not be tolerated under any circumstances. This is not acceptable. An unequivocal red light against terrorism and the operations of terrorist groups—a no-tolerance policy—is the only thing that is acceptable.

Chairman Arafat, as Prime Minister, and I work to condemn the bombing, which is the right thing for him to have done. But he must not and cannot stop there. He should condemn publicly in the strongest possible language—in English and Arabic—these bombings and all other acts of terrorism. He should instruct his security forces to dismantle the infrastructure of the terrorist groups, arresting those who are complicit in the conduct of terrorist attacks. He should use his bully pulpit to insist that Palestinian society rejects the elements who believe their aspirations—or martyrdom—can be attained by killing Israelis. If he fails to take these steps, there can be no peace process, and Palestinian aspirations will remain unrealized.

Finally, when the security situation is more stabilized, both sides must resume peace talks with a view toward meeting only their own needs, but the needs of the other side as well. If they talk only, the zero-sum terms, they will go nowhere. Both sides must make their demands—on Israel's further redeployments in the West Bank, and on final status issues like Jerusalem, settlements, refugees, and sovereignty—with the understanding that if the other side has no stake in the process, there will be no final status agreement that brings about a lasting peace.

Clearly the peace process cannot coexist with terrorism. But despite yesterday's tragic and criminal bombing, the logic of this peace process, and the fundamental need for peace between Israelis and Palestinians has not changed. To give up on this effort would condemn future generations of Israelis and Palestinians to a hostile population of over 2 million, to the detriment of Israel's long-term security and well-being. It would also bury Palestinian dreams of self-determination.

To turn away now from the search for peace would be to reward the extremists for their acts of violence and terrorism. It would be a victory for the barbaric suicide bombers of Mahane Yehuda. It would say to them: You were right. You win. There cannot and shall not be peace between Israelis and Palestinians.

Neither Israelis nor Palestinians—nor the United States—can afford for that to happen.

ROSA PARKS TRAGEDY

Mr. ABRAHAM. Mr. President, I rise today to express my thanks to a number of organizations and individuals who have provided crucial assistance to the family of Mrs. Parks, who lost her grandson, was killed. One of the young women, Tiandra Gunn, returned from Virginia with her family, and the Olufelukes. The Olufelukes, who were attacked, were traveling on Interstate 95, south of Petersburg, VA, when their bus ran off the highway, slid down an embankment and came to a rest on its side in the Nottoway River.

Many of those on board sustained serious injuries, and one chaperon, Adisa Foluke, whom Mrs. Parks has said she considers her grandson, was killed. One of the young women, Tiandra Gunn, returned from Maryfield, VA, to Detroit. Northwest Airlines provided free air travel to the students stranded so far away from home, and arranged to transport the body of the deceased home to Michigan.

Examples of compassionate generosity weren't limited solely to Michigan businesses. The American Red Cross offered paid for the group's lodging for 2 nights in Richmond, VA. Donated free meals. Individual volunteers, both in Michigan and Virginia, offered their help to the young women and their families during this difficult time.

Rarely in such dire circumstances could one find reason to be heartened. However, the immediate and overwhelming response from the Detroit-area business community was to ask how they could help. Chrysler Corp. offered the use of a private jet to return Mrs. Parks and her associates from the Institute immediately flew to Virginia to be with the youths and their families during this difficult time.

Mr. President, each year the Rosa...
the state of Michigan, to all those who gave so generously in this time of need. I would include in this category, not only Chrysler Corp., Northwest Airlines, the American Red Cross, and Shoney’s, but also Eunice Miles of my Southfield office, and Steve Hessler, my deputy press secretary. Both provided quick response and extra time and effort during a critical time. I yield the floor.

NORTH KOREAN FAMINE—A HUMAN TRAGEDY AND A THREAT TO PEACE

Mr. BIDEN. Mr. President, I rise to address a great human tragedy silently unfolding in North Korea and the urgent need for the United States to respond. The North is experiencing a severe famine and has asked the world for help. Pyongyang has gratefully acknowledged our past assistance. It is in our interest to respond generously to their plight.

ON THE BRINK OF STARVATION

According to experts from the World Food Program (WFP) who recently returned from extensive travels in North Korea, tens of thousands of people are on the brink of starvation. Hundreds of thousands more are suffering from severe malnutrition, the result of several years of scarcity. The public food distribution system on which 78 percent of the North’s population depends has effectively ceased to function in most parts of the country. In those few rural areas where the public distribution system still is operating, rations have fallen to below 100 grams per day, the equivalent of a small handful or rice or corn for each person.

The evidence of famine is pervasive and undeniable. Children are among the hardest hit, their hair tinged red from malnutrition, their growth stunted, their eyes sunken and listless. Mr. BIDEN. Mr. President, I rise to respond generously to their plight.

[From Newsweek Magazine, J July 28, 1997]

J JUST SKIN AND BONES

(By Tom Masland and J effrey Bartha tol)

It’s a slow-motion catastrophe, largely hidden from outsiders. But the latest visitors to North Korea confirm the world’s worst fears. A nation of 23 million people is starving, slowly and painfully. “Mere survival is becoming more and more difficult,” wrote one man to his mother in Japan. “There are people dying.” Travelers describe scenes that were unthinkable in this police state: beggars in the streets of Pyongyang, masked, armed robbers raiding private homes for food, trees totally stripped of leaves and edible bark. Perhaps most persuasive of all are the first photographs to document the despair. The one on this page was taken in an orphanage by an official visitor from a Roman Catholic charity. The blank stares of the spindly infants cry out time and again.

In response to the crisis, Washington last week doubled its previous donation of food aid to the North, from 100,000 to 200,000 metric tons of rice. Grain represents slightly more than half the $45.6 million requested by the World Food Program earlier this month in direct response to the crisis. North Korean children, Executive director Catherine Bertini says the WFP needs enriched baby food for children who are too malnourished to digest the rice, and a handful of ground corn. Bertini reports that the program’s staff members in North Korea “estimate that 50 to 80 percent of the children they have seen in nurseries are underweight and markedly smaller than they should be for their age. They are literally wasting away.”

Playing politics: The emergency food aid will help, but it’s not a lasting answer to North Korea’s creeping famine. The crisis is bound up with history: the Koreans are going hungry because their Stalinist economy is collapsing, and the United States, Tokyo and Seoul are using food aid to lure Pyongyang into peace talks and economic reform. Yet North Korean leader Kim Jong II is known as a hardliner and his cronies are wary of any compromise that could loosen their grip on power. They’re prepared to do whatever they feel is necessary to survive—and they’re wildly unpredictable.

Managing North Korea’s collapse has become a top priority for the administration. The United States has 37,000 troops based in South Korea to help deter Pyongyang. Yet as North Korea deteriorates, fears mount that its leaders will “use it before they lose it.” The endgame is no longer a matter of if, but when. As a Rand Corporation study concluded last year, “The Korean Peninsula presents a strange paradox. Nobody knows what might happen this year or next, but everyone agrees on how things will look in 10 or 20 years. The North Korean regime is doomed in the long run.”

In part to obtain famine relief, Pyongyang last month finally agreed to attend peace talks in New York, bringing to an end the formal state of war that still applies on the peninsula. And last week North Korea promised to lift a ban that has prevented Japanese and other families from visiting their homeland for more than three decades. Japan, which has vast stocks of surplus rice, now is considering providing additional food aid. Beijing is providing enriched baby food for North Korea’s hungry kids, the endgame is now.

INADEQUATE U.S. RESPONSE

Mr. BIDEN. The United States has a long tradition of responding generously to people in need. By sharing our bounty, we have saved millions in Sudan, Ethiopia, Somalia, and Angola.

To date, however, our response to North Korea’s famine has been cautious and inadequate.

Over the past 12 months, the United States has provided approximately $60 million in food aid, including the recent announcement of $27.4 million for 100,000 metric tons of grain.

The world, following our restrained lead, has been slow to meet the genuine emergency needs of the North Korean people. According to the World Food Program, the North began 1997 roughly 2 million tons of grain short of what it would need to avoid famine. But as of July 1, the North had received a total of only about 423,000 tons of food aid, it had managed to purchase or otherwise another 330,000 tons, leaving a shortfall of more than 1 million tons for the remainder of the calendar year.

The United States has never linked politics with emergency food assistance, and we should not do so now.

We can do more.

And we should do more to avert mass starvation and the incumbent risk of political and military instability of the Korean peninsula.
ROOTS OF FAMINE

Why is the North experiencing a famine? North Korean authorities attribute the shortages to a string of bad weather, including serious flooding in 1995 and 1996. Truth be told, however, the primary cause of the problem is a double whammy of wrong-headed, discredited Communist economic policies and the devotion of vast resources to the North Korean armed forces.

But this does not make the North Korean people less deserving of emergency relief. It is not ethically permissible to use starvation as a weapon to force the North Korean dictatorship to undertake essential economic reforms. Some observers worry that it may revitalize the North Korean children too weak to lift relief for North Korea wonder aloud whether the famine might not be a blessing in disguise; the perfect mechanism to bring about the downfall of one of the most repressive regimes left on the planet. But this cynical view is not only immoral, it displays a total disregard for the potentially explosive results of strangulation.

Famines are profoundly restabilizing events. No one can predict with confidence how the majority of any assistance we provide will reach the intended targets.

WHY NOT STARVE THEM OUT?

Opponents of emergency famine relief for North Korea wonder aloud whether the famine might not be a blessing in disguise; the perfect mechanism to bring about the downfall of one of the most repressive regimes left on the planet. But this cynical view is not only immoral, it displays a total disregard for the potentially explosive results of strangulation.

Famines are profoundly restabilizing events. No one can predict with confidence how the majority of any assistance we provide will reach the intended targets.

But while the diplomats talk and the world waits and prays for peace, famished innocent North Koreans move closer to death.

It is time for the United States to lead a comprehensive, humane response to North Korea's famine.

Not because the North has agreed to peace talks;

Not because the North has frozen its nuclear program and accepted international atomic energy agency monitoring of its Yongbyon nuclear facility;

Not because the North is cooperating for the first time in 50 years in the search for the remains of America's 8,000 missing servicemen from the Korean war.

We should respond because it is the smart thing to do. It is the noble thing to do. It is an expression of all that is best about America that cannot help but resonate in the hearts of the North Korean people.

NATO ENLARGEMENT AFTER MADRID

Mr. BIDEN. Mr. President, earlier this month in Madrid, the North Atlantic Treaty Organization held a momentous summit meeting, which brought together the heads of state and government of its 16-member countries to discuss the future of the Alliance in the 21st century.

Mr. President, I was privileged to be a member of a bipartisan, bicameral Congressional delegation to the summit meeting. Today, I would like to discuss the results of Madrid and their important implications for American foreign policy.

At Madrid, NATO took the historic step of inviting Poland, the Czech Republic, and Hungary to begin accession talks with the Alliance.

The alliance now has several pressing priorities as it moves forward to the summit.

As its first priority, NATO must complete these accession talks this fall with the three prospective new members:

Poland, the Czech Republic, and Hungary have all met the basic Alliance membership requirements—democracy, civilian control of the military, the rule of law, no conflicts with neighbors, and the willingness and ability to assume Alliance responsibilities.

NATO and the candidates must now assess the military capabilities of each of the three in detail, and must plainly state each country's responsibilities and tasks within the Alliance.

Of particular importance is that the issues of cost of enlargement must be forthrightly addressed, both by the three prospective members and by all the current members of the Alliance.

The goal is to successfully conclude the talks with Poland, the Czech Republic, and Hungary in time for the United States to be signed at the NATO ministerial meeting in December of this year. The next step is for each of the 16 current NATO members to begin the process of ratification of amending the Washington Treaty. Of course, Mr. President, according to our constitution, it is the U.S. Senate that is responsible for advice and consent to treaties, and we anticipate that we will consider the NATO enlargement treaty amendment next spring.

NATO's second major priority after Madrid is developing a strengthened cooperative relationship with those countries that were not invited to be in the first group of new members. At Madrid, NATO re-emphasized an Open Door policy by which the group of invited countries will not be the last. Additional candidates will be considered, beginning with the next NATO summit, to be held here in Washington in April 1999 on the occasion of the 50th anniversary of the founding of the Alliance.

In an important gesture, the Madrid summit communiqué singled out for special mention the positive developments toward democracy and the rule of law in Slovenia and Romania. As many of my colleagues will remember, I was a strong advocate of Slovenia's being included in the first group of new members.

I anticipate that both Slovenia and Romania, and perhaps other countries, will be invited to accession talks with NATO in 1999.

In addition, in a thinly veiled bow to Estonia, Latvia, and Lithuania, the Madrid summit communiqué reiterated conditions set by the 1995 study whereby no European democratic country will be excluded from consideration for membership because of its geographic location.

Translated into real English that means that NATO will not allow Moscow to give the three Baltic states a double whammy.

In other words, the Soviet Union's illegal, forcible incorporation of the Baltic states in 1940—which, I am proud to say, was never recognized by the United States in 1940—will not be used as a pretext to veto their consideration for NATO membership.

Mr. President, Ukraine, with an area and population the size of France, is arguably the most strategically important country in East-Central Europe. At Madrid, NATO and Ukraine signed a Charter on a Distinctive Partnership. Ukraine is currently not seeking NATO membership, but under President Kuchma (KOOCH-ma) it has undertaken democratic and free-market reforms in an attempt to move closer to the West. This charter should reinforce this trend.

In order to keep the enlargement momentum going in the countries not yet ready for membership, a new Euro-Atlantic Partnership Council was inaugurated at Madrid. This body will direct an enhanced Partnership for Peace Program—a program involving more than two dozen countries, which, incidentally, has exceeded our most optimistic expectations.

Of vital importance to the new security architecture in Europe is NATO's
new relationship with the Russian Federation. Based on the Founding Act between NATO and Russia, that new relationship has begun to take shape.

The permanent joint council, whose consultative functions are outlined in the Founding Act, recently held a preliminary meeting, and more are planned for the autumn.

Rather than being a rival for the North Atlantic Council, as some critics have asserted, the permanent joint council will be a means for controlling how Russia can show its intention to cooperate in a positive spirit with the West.

I hope and expect that it will act in this manner. If, however, Moscow chooses the old path of propaganda and confrontation, then the permanent joint council will atrophy. But, I re-emphasize, in no way will the permanent joint council usurp the leading role in NATO played by the North Atlantic Council.

The third and final immediate priority for NATO after the Madrid summit is to finalize the internal adaptation of the alliance. This, Mr. President, is a complex and crucially important issue.

Beginning in 1991, NATO approved a new strategic concept which not only went beyond the cold war focus on collective defense and toward more diverse tasks in a global context. In order to carry out these new tasks, the new strategic concept emphasized the need for NATO to achieve an effective force projection capability.

At the January 1994 Brussels summit, NATO agreed to set up a more flexible set of options for organizing and conducting military operations. This goal was, and is, to be achieved through the mechanism of the combined joint task force, known by its acronym CJTF. Although there has been considerable disagreement between the United States and France as to the theoretical details of how this is to be controlled, in practice both the IFOR and SFOR operations in Bosnia have been unofficial combined joint task forces under NATO command and control.

Mr. President, I am going into this level of detail because, as I will discuss shortly, the question of post-SFOR Bosnia is inextricably tied in with the ratification of NATO enlargement.

Another aspect of NATO's internal adaptation concerns reforms in the alliance's command structure. At the June 1996 ministerial meeting in Berlin, NATO agreed that a European security and defense identity—known by its initials ESDI—would be created within the framework of the alliance by allowing European officers to wear a Western European Union (WEU) command hat as well as their NATO hat.

As part of the restructuring, NATO has already reduced the number of its strategic commands from three to two, and it is also planning to reduce the number of major subordinate commands. It is at this intersection of ESDI and command structure, Mr. President, that the expressed interests of France and the United States have collided.

The French want to have a European officer take over from an American as Commander of Armed Forces South (AFSOUTH) in Naples. We have repeatedly stated that this would impact upon our Sixth Fleet, even if the fleet would formally remain under American command. Until now, the dispute remains unresolved, but at Madrid the French agreed to keep talking. In any event, disagreements over internal adaptations do not threaten the enlargement process.

Mr. President, having been privileged to have been at Madrid and having followed the immediate follow-up to the summit, I find my belief reinforced that NATO is on the right track. There remain, however, two challenges, which if not satisfactorily met, could well torpedo ratification of NATO enlargement by this body. They are, first, burdensharing and, second, post-SFOR Bosnia.

The first challenge is an existential one for NATO. The heads of state and government participating in the meeting of the North Atlantic Council in Madrid directed the Council to "bring to an early conclusion the concrete analysis of the resource implications of the forthcoming enlargement." The coming months will see serious discussion and study on the actual costs of enlargement.

The Pentagon Report to the Congress in February 1997 was an excellent starting point. Personally, I find its methodology and conclusions convincing, but they have already been challenged by some of our European NATO partners. On other occasions I have discussed the details of the Pentagon study, so I will not take time today to repeat most of them.

One aspect, though, bears special mention. Because the United States have been the principal financiers of the alliance, the United States take for the entire free world through its military activities a proportion of the burden of providing the resources for enlargement.

Mr. President, I don't think it is too much to ask of our European allies what we have been asking of the American people. If one Europe, whole and free is worth ensuring through an enlarged NATO, then our European allies will take up the challenge and make the sacrifices that we have made.

If they feel it is not worth the price, then I fear that the future of the entire alliance will be cast in doubt.

A corollary of burdensharing in NATO is the responsibility that the United States takes for the entire free world through its military activities outside of Europe, especially in the Pacific and the Middle East. As we proceed with NATO enlargement, we must be certain not to use a disproportionate share of our defense funds in Europe and thereby weaken our ability to carry out our responsibilities elsewhere.
I am confident that with equitable burdensharing of enlargement, this will not happen.

The second looming challenge, Mr. President, is creating a post-SFOR force for Bosnia. I have long called for applying new concepts, which I referred earlier, to Bosnia, so that our European allies can provide ground forces there after June 30, 1998, supported by awesome American air, naval, communications, and intelligence assets and an over-the-horizon U.S. Ready Reserve Force in the region.

An amendment to that effect was included in the fiscal year 1998 Defense Authorization Bill passed by the Senate.

If our European allies follow the logic of their repeated calls for a European security and defense identity within NATO, which has been officially recognized by the alliance, then they should seize the opportunity offered by the expiration of SFOR's mandate next June.

By taking up our offer of a CJTF they can consolidate the Dayton peace process and remove a major impediment to the ratification of NATO enlargement by the U.S. Senate.

If, on the other hand, our European allies persist in their in together, out togetherness, oblivious to the Ma'drid communique's call for-'a true, balanced partnership in which Europe is taking on greater responsibility'—then this body will come to the obvious conclusion that the alliance's official policy upon which enlargement is based no longer obtains. Such a development would have the gravest consequences, not only for enlargement, but for the future of NATO itself.

Mr. President, I sound these warnings in the firm belief that my two doomsday scenarios will not come to pass. For all but the most provincial Europeans and isolationist Americans recognize the need for the United States to remain intimately involved with Europe and will not want to jeopardize that involvement. The history of the 20th century has shown that when the United States absents itself from European affairs, the Europeans—unfortunately—are unable peacefully to resolve their disputes. The result in World War I and World War II was an enormous American sacrifice of blood and treasure.

In order that we should never repeat that isolationist mistake, the United States in 1949 led the founding of NATO, the most successful defensive alliance in history. For nearly half a century it has kept the peace in Western Europe, allowing its European members to rebuild, overcome their own ethnic and national animosities, and eventually to prosper.

Mr. President, NATO enlargement involves huge policy commitments for the United States and therefore must be held up to the closest scrutiny. Many of us have been posing relevant questions to the administration for several months, and we have received satisfactory answers. There will, of course, continue to be new issues to be faced as we get deeper into the details of enlargement. But I believe that it serves no useful purpose to repeatedly recycle already answered questions, as if possessed with a need to reinvent the wheel.

For example, some of my colleagues recently asked, once again, what threat NATO enlargement is designed to counter. But, as I understand it, Clinton administration and NATO long ago answered that question: the threat is instability in Central and Eastern Europe, the crucible for two world wars in this century. NATO enlargement will extend the rim of stability eastward on the continent.

In case anyone thinks that I am only spouting theoretical political science phrases, let me cite an article in The Washington Times, which quotes the head of the Security Policy Division of the Lithuanian Foreign Ministry. Saying that his country was delighted by NATO's decision in Madrid to invite Poland, the Czech Republic, and Hungary to join, the Lithuanian official explained—"because that extends the zone of stability to our borders."

By now we surely know that the addition of Poland, the Czech Republic, and Hungary, NATO does not draw new dividing lines on the continent, as some of my colleagues recently suggested. I think the jubilant crowd that welcomed the President in Bucharest—after the Madrid summit—has laid that myth to rest. The Romanians knew that NATO, by emphasizing its open door policy at Madrid, had once again made clear that its goal is an undivided, peaceful, and free Europe—and an alliance that will welcome Romania as a member in the near future.

Some of my colleagues would like to come up with a finely delineated taxonomy of ethnic quarrels, border disputes, external aggression, and the like, as a basis for moving ahead with NATO enlargement.

But, of course, such theoretical discussions are rapidly being made superfluous by the lure of NATO membership. Since enlargement became a real possibility Hungary and Romania have formally improved their relationship, as have Hungary and Slovakia, Romania and Ukraine, Slovenia and Italy, Poland and Lithuania, Germany and the Czech Republic, Russia and Ukraine, and other European countries that I am probably forgetting.

Mr. President, these historic reconciliations did not happen by accident. With the notable and sad exception of Croatia and Yugoslavia, the various peoples of Central and Eastern Europe are no longer wallowing in the swamp of ancient, tribal hatreds. Rather, they are attuned to the 21st century and the opportunities that NATO enlargement, above all, can offer.

Some of my colleagues have asked whether NATO membership will force the new Eastern European democracies to spend too much on arms when expenditures for infrastructure critical to economic growth are more pressing. Leaving aside the rather patronizing tone of the question, the answer has been clear for months: Warsaw, Prague, and Budapest each has no trouble defining its national interest. Pending verification in this fall's accession negotiations, the Polish, Czech, and Hungarian procurement plans fall well within prudent limits of the free-market economic reforms that all three have been implementing for several years.

Some of my colleagues have asked whether membership in the European Union might be a better option for these countries to achieve economic stability than NATO membership.

Again, Mr. President, I think we must treat the Central and East Europeans like adults. They know what is vital to them.

For example, why—other than to throw up roadblocks in the NATO enlargement process—would one posit an artificial dilemma? It's not an either or choice: many of these countries are viable candidates for both NATO and EU enlargement.

In fact, earlier this month the European Union invited the first three NATO enlargement candidates—Poland, the Czech Republic, and Hungary—plus Slovenia, Estonia, and Cyprus to membership talks for the next round of EU enlargement.

Some of my colleagues have asked: what have we given up in terms of NATO's own freedom of action to deploy forces throughout the expanded area of the alliance in order to obtain Russian acquiescence to the expansion plan?

Well, Mr. President, the answer is simple, nothing. We have known since NATO made crystal clear last March and in its famous three no's declaration that the alliance has no reason, intention, or plan in the current and foreseeable security environment permanently to station substantial combat forces of current members on the territory of new members. Obviously, if the security environment changes, so will too NATO's troop stationing policy. In short, we have retained our freedom of action and have given up nothing—not one, zero. I hope that issue has been laid to rest.

While everyone by now admits that Russia's leaders have acquired NATO enlargement, some of my colleagues have asked the unanswered question: But what of tomorrow's Russian leaders? They wonder whether NATO enlargement will create an incentive for Moscow to withhold its support for further strategic arms reductions.

First of all, no one can categorically disprove a negative. Some Russian leaders are against further strategic arms reductions for a variety of reasons. NATO enlargement may be one of them, although I seriously doubt that...
it is one of the more important ones. Ultimately, I believe that the next generation of Russian leaders will see that arms control is in their own national self-interest.

Additionally, we should not forget that the fact that NATO-Russia Founding Act the Russians will have the opportunity not only to observe NATO first hand, but will also be able to work cooperatively with it. They may not learn to love NATO, but at least they will see that it does not correspond to the aggressive, rapacious Stalinist caricature that they grew up with.

Many of us in this body are justifiably concerned about the cost to the American taxpayer of NATO enlargement, and I have talked myself blue in the face to Europeans making clear my insistence on equitable burdensharing. But I would also remind my colleagues that freedom is not cost free. As a deterrent to aggression, ethnic conflict, or other kinds of instability, an enlarged NATO is far less expensive than conducting a military operation after hostilities have broken out would be.

Here again the case of Bosnia and Herzegovina is instructive. Had we become actively involved earlier with the lift and strike policy that I advocated as early as 1992, we could have prevented many of the quarter-million deaths and 2 million displaced persons in that tormented country. Moreover, we would have sided with the cause of long term reconstruction costs that the United States and the rest of the world community are now bearing.

So while we persist in our goal of a North Atlantic alliance of truly shared responsibilities, let us not lose sight of the bigger picture that American expenditures on NATO are the best security investment that this country can ever make.

Mr. President, I would summarize my thoughts since Madrid in the following way: NATO enlargement is on the right track. It is a vital force in the integration of the new Europe. Tough negotiating and bargaining lie ahead. Several key questions must be definitively answered in the coming months, above all the actual cost of enlargement and how it will be apportioned. We must work out a satisfactory NATO-led, post-SFOR force for Bosnia. The Committee on Foreign Relations, for example, will hold an extensive series of hearings on these topics. But let us not confuse the debate by repeating already answered questions.

I am convinced that after thorough scrutiny and debate, NATO enlargement will occur on schedule and will contribute to expanding and enhancing stability in Europe, and thereby will strengthen America’s security.

I thank the Chair and yield the floor.

AMBASSADOR RICHARD GARDNER’S OUTSTANDING SERVICE

Mr. KENNEDY. Mr. President, too often we take for granted the exceptional work done by our Ambassadors and members of the foreign service. These individuals perform their duties in countries throughout the world, often in difficult conditions. Their service is a great tribute to their ability and their loyalty to our Nation, and they deserve our commendation and gratitude for the job they do so well in representing our country in other lands.

Earlier this month, one of our most respected ambassadors, Richard Gardner, completed his service as Ambassador to Spain. Dick has previously served as Ambassador to Italy, and is widely recognized as one of the Nation’s foremost experts on foreign policy. The knowledge, enthusiasm, and diligence he brought to his post in Madrid significantly strengthened the political, economic, and cultural ties between our Nation and Spain.

I commend Ambassador Gardner for his outstanding service.

Leaders in Europe have recognized the remarkable contributions made by Ambassador Gardner, and I ask unanimous consent that a recent article by Miguel Herrero de Minón be printed in the RECORD.

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

[FROM “EL PAÍS”, July 1, 1997]

A FORTUNATE AMBASSADOR

(by Miguel Herrero de Minión)

The U.S. Ambassador, Professor Gardner, has just concluded his mission in our country. The time for farewell is the time for praise and the Gardners have made so many friends here, and even established family ties, that they will receive more than enough accolades. That is why I only want to bear witness to a simple, objective fact: Ambassador Gardner has been a fortunate ambassador and good fortune, an excellent attribute for the one who has it and, particularly in the position he holds, requires two ingredients: specific circumstance and the ability to navigate through to a safe port. The former is mere chance; the latter comes through character, good fortune consists of building a destination between both.

The circumstance of Gardner’s embassy in Spain is no less than the maturation of the U.S.-Spanish relationship, which led naturally to it becoming a truly “special” one. I think I was the first, now a number of years ago, to suggest this term, remarking that of all the countries in the European Union with the exception of Britain, Spain is potentially the one that has the most interests in common with the United States. Accordingly, the sometimes embarrassing but also hopeful and strategic relationship between 40 years ago, has been growing while increasing economic, cultural, strategic and political ties have come to turn Embassy breakfasts into seminars— and his intellectual talents—he has even enriched our bibliography with a masterpiece of economic-diplomatic history—have served his mission well, as has his liberal patriotism in the best tradition of American internationalism—as opposed to unilateralism and isolationism—which has always held him in check. The path of the mission involves making oneself known, understood and making friends.

The growing number of Spaniards who believe in the Atlantic community will miss him, because good fortune, doing such a good and timely job, is a rare and beneficial attribute.

TRIBUTE TO DONALD MARTIN

MR. WARNER. Mr. President, I rise today to pay tribute to a member of my staff who has served me and the Commonwealth of Virginia as a legislative correspondent for the past 2 years.

Don Martin will be leaving my office to attend law school this fall. He is the first member of his family to attend college and the first to graduate from high school. At Yale, Don was a top student recognized for his contributions as a community leader.

While attending George Washington High School, Don was honored as class president and recognized as the school’s outstanding student. Don Martin was also Virginia’s top high school debate champion in both 1996 and 1997.

Don’s legislative responsibilities have focused on issues related to the Committee on Environment and Public Works, on which I serve, Committee on Energy and Natural Resources, Committee on Commerce, Science and Transportation, and the Committee on Government Affairs.

Mr. President, in the sincerest sense, Don has a goal to give back to his family and community the same kind of love and commitment they gave him. His goal is to get back here and make a positive difference in his community of Wytheville. I respect him and wish him all the best.
THE TRAGIC BOMBING AT MAHANE YEHUDA MARKET

Mrs. BOXER. Mr. President, yesterday in Jerusalem, the Mahane Yehuda market was ripped apart by two suicide bombs that detonated only seconds apart. At least 15 people are dead and another 170 are estimated to be injured as a result. I came today to strongly condemn the bombings, and to extend my deepest sympathies to the people of Israel.

The images we have seen on the news have been heartbreaking. The bombs, packed with nails and screws, turned a busy marketplace into a horrifying scene of bloodshed and destruction. There is simply no justification for this indiscriminate killing of innocent people.

It has been reported that Issadin Kassam, a military wing of Hamas, has claimed responsibility for the bombing. This would not be the first time Hamas has terrorized the people of Israel and shown itself to be the strongest enemy of peace in the region.

Mr. President, this small majority of extremists cannot be allowed to block the peace that so many people desperately desire. Everyone affiliated with the peace process must now re-double their efforts to stabilize this region that has suffered so long.

Unfortunately, the peace process cannot move forward unless the Palestinian Authority keeps its promise to cooperate fully with Israeli efforts to combat terrorism. I am deeply saddened to report that to date, Palestinian efforts have been inadequate. Only by working together in good faith can terrorism be vanquished from the Middle East.

Once again, I express my sincerest condolences to the Israeli people for their latest sacrifice in the quest for peace.

TRIBUTE TO DR. RICHARD LESHER, U.S. CHAMBER OF COMMERCE

Mr. BURNS. I would like to pay tribute to a man who has given the American business community and millions of hard-working Americans over 2 decades of dedicated service. Dr. Richard Lesher, president of the U.S. Chamber of Commerce, will be retiring in mid-August of this year. Dr. Lesher has successfully steered the world’s largest business federation during this era of global competition.

After nearly a quarter of a century with Dr. Lesher at the helm, the chamber’s membership has grown to over 215,000 business members, 3,000 State and local chambers of commerce and over 1,200 trade and professional associations. In addition to the national membership, the U.S. chamber works closely with 40 international members from 60 countries.

Dr. Lesher has worked tirelessly to improve the chamber and to continue championing the goals of the free enterprise system. In order to give his members a stronger voice in Congress, Dr. Lesher has established the Grassroots Action Information Network, or GAIN. He has overseen the creation of the National Chamber Litigation Center in 1971, the only public policy law firm that represents American business interests before regulatory agencies and the courts.

Dr. Lesher has been a constant source of inspiration and dedication in Washington, across the Nation, and throughout the industry. His innovative ideas, superb leadership and knowledge of issues have made the U.S. Chamber of Commerce the Nation’s leading business advocacy group. Dr. Lesher, thanks for your unfailing commitment to Americans and American business throughout your tenure. I wish you the very best in your retirement.

TRIBUTE TO PETER JENNISON

Mr. LEAHY. Mr. President, I rise today to honor a very special Vermonter. Peter Jennison has devoted much of his life to documenting our wonderful State.

Among many accomplishments, Peter has authored “Vermont: An Explorer’s Guide,” “Roadside History of Vermont,” numerous Vermont magazine articles and reviews, and also “Vermont on $500 A Day (More Or Less)”—and for those of you who are fortunate enough to have read Vcey, they know just how incredibly knowledgeable you understand the tongue-in-cheek title of the last book.

His skill and talent for writing and history earned him the Vermont Book Publishers Association Lifetime Achievement Award in 1996. As someone who has enjoyed many of his books and magazine articles, I know that this award is well deserved. Peter is a longtime special friend of mine and he is Jane and I wanted to let you know about this from the outset.

The Rutland Herald recently ran an excellent piece on Peter Jennison. I ask unanimous consent that the article appear immediately following my statement.

[From the Rutland Daily Herald, Jul 10, 1997]

A “BORN AGAIN VERMONTER” REFLECTS ON A LIFE SPENT AMONG BOOKS

(By Melissa MacKenzie)

At 75 nothing shocks Peter S. Jennison except the price of hotels and restaurants. “I can remember when a suite at the Plaza cost $30 a day,” he said with a chuckle on the morning of his big birthday, July 12 was celebrated quietly, followed by a family gathering at the weekend. Jane Jennison, his wife of 51 years, was cheerful but bedridden with emphysema, knee surgery and two hip replacements. Otherwise life appeared to be going tolerably well in the 1840 brick cottage on the hill above the Taftsville General Store.

Jennison, a “born again” Vermonter, who grew up in Swanton and then lived many years in New York only to return home again, is probably best known to the average reader as one of the authors of “Vermont: An Explorer’s Guide” and the popular “Roadside History of Vermont.”

Others may recognize him as the dry, accurate and often humorous reviewer of restaurants and inns for Vermont Magazine. Or you may have seen his books in libraries, including two novels and a novel called “The Governor,” written in 1964, and “The Mimosa Smokers,” and a semi-serious guidebook called “Vermont on $500 A Day (More Or Less).” Two of other his books, “The Story of Woodstock, 1890-1983,” and “Frederick Billings,” written with Jane Curtis and Frank Lieberman, reflect his historian side and his lifelong interest in Vermont.

An affable observant man known for his quiet wit. Jennison and his wife, Jane, founded Countryman Press, a part of the giant W.W. Norton Publishing Company, in Woodstock in 1973. Or re-founded, you might say. The Jennisons revived the imprint, dormant since the 1940s, which had in the past published such greats as Stephen Vincent Benet and Edgar Lee Masters, and launched their own version, including a new, color, illustrated design by Vermont artist Saba Field.

Success came quickly, although it was hard work. Peter and Jane worked from their kitchen table to produce Countryman’s first book, a guidebook called “Wonderful Woodstock:” and only three years later published its first bestseller, “Live in Woodstock,” by Steven Thomas, a book that is still selling well today. By this time several veteran editors and marketing people had joined the little enterprised Vermont, the late Keith Jennison, Peter’s brother, author of the humorous “Yup! Nope and Other Vermont Dialogues”, and three men who would eventually run the company, Louis Kannensteiner, Christopher Lloyd and Carl Taylor.

The idea was to pay careful attention to the selection of books, be willing to take a chance on a writer; and to take pride in the way their books were designed. Said Jennison at the time, which was “a much more personal kind of publishing that is possible elsewhere in the conglomerate scene.” It was a philosophy which paid, the company became a David among the Goliaths.

“Countryman was like a wood stove. You had to keep adding logs. Big city we grew beyond our expectations. When we were a master plan, it just happened. The more books, the more momentum,” Jennison said.

The company operated from the Jennisons’ home for the first four years. Editing, billing and shipping continued to get done at the kitchen table. Books were ferried in the back of a Toyota pickup truck. Next, Countryman moved down the hill near the Taftsville General Store, where it stayed until 1983, when it relocated to Woodstock and constructed its own building on Route 4. Countryman Press operated there until 1994. After the sale to W.W. Norton, the staff relocated to Mt. Tom. The building is presently for sale for $405,000.

Selling to a big New York City publisher was “an emotional wrench, like selling the family farm, but I realized we had, so to speak, survived the childhood and the adolescence of the company, and now we had grown up and got married,” said Jennison philosophically.

“For a small publisher it was getting more and more complicated and expensive to do business. The big wholesalers and the chains are now dictating the rules of the game,” he added.

“Publishing has gotten to be part of the entertainment industry. We are buying more books, but because of the star system that dominates the industry, a lot of new writers are being deprived of an audience. There are still some success stories, but they don’t have access to the major markets,” Jennison said.
Another factor is the reliance of the big players on computers and the industry's fixation on the bottom line. "Unfortunately, the buyers at Barnes and Noble and Borders (the largest book distribution company in the U.S.) are ruled by their computer records; how well an author sold books of that type of book, before, etc. I call it the Bill Gates-is-God mentality," he said.

Jennison, however, remains hopeful. "I am optimistic. I think there will always be a large number of people who would rather curl up with a book than a computer game. The format of the book will be with us for a long time," he said.

In 1996 the Vermont Book Publishers Association awarded Jennison a Lifetime Achievement Award for his contributions to publishing.

A sixth-generation Vermonter, born on a dairy farm in Swanton, north of St. Albans, Jennison attended a one room school until his parents packed him off to Phillips Academy, Andover. Next came Middlebury College, interrupted in his junior year by World War II. Jennison served three years with the Office of Strategic Services, the forerunner of the CIA, as a code and cipher specialist, decoding messages from U.S. agents behind the lines in France and Norway. Returning to Middlebury, he graduated with a degree in American literature, married Jane, and began what was to become a lifetime spent with books.

Jennison worked first for "Publishers Weekly" as a reviews editor and feature writer, later becoming Associate Director of the American Book Publishers Council. In the 1960s, he served on the National Book Committee, a non-profit citizens group, promoting books and libraries, similar to the Vermont Center for the Book, but on a national scale. Under the auspices of the Ford Foundation he also worked with fledgling publishing companies in Africa, the Middle East and Asia, as well as serving on the panel for the National Book Awards.

"The National Book Awards weren't as high profile in the sixties. We got a lot of local publicity, though, outside of New York. Now, it's more like the Academy Awards," said Jennison.

The Jennisons returned to Vermont in 1971. "I'd had enough of New York and I was tired of being held hostage by the New Haven Railroad," recalled Jennison, referring to the years as a commuter from suburban Westport, Conn.

Christina Tree, co-author of "Vermont: An Explorer's Guide," remembers the story a little differently. "The way I heard it, Peter came home one night after a hard day in the city, wound up like a clock, and accidentally walked straight off the patio into the family swimming pool, seersucker suit, briefcase and all. He got out, sputtering, and yelled, 'That does it. Jane, we're going back to Vermont.'"

Although he is now officially retired, Jennison continues to write for "Vermont Magazine" and often contributes to the weekly column in the Burlington (Vermont) Free Press. Jennison is also currently working on the next edition of "Vermont: An Explorer's Guide."

Countryman Press's "The Explorer's Guide series" started in 1979. The first book was about Massachusetts, the home state of Tree, a young travel writer at the Boston Globe. Said Tree from her home in Cambridge, Mass., "I wanted to write the kind of book I would have written on Massachusetts and one on Maine. But the year I was to begin the one on Vermont, I had some family difficulties, and Peter was appointed to help me out.

The partnership was such a success the two have continued co-writing the book ever since.

"We divided up the state," said Jennison. "Now, when it's time for a new edition, we switch sections and re-visit old places and add new ones."

The guidebook is published every two years and has garnered much praise for its accuracy and attention to historical detail.

The most recent edition came out in May, which means that come the summer of 1998, Jennison and Tree will again switch their sections and start trekking for the 1999 edition. Working off the previous edition on their computers, the pair will meticulously re-check all entries, changing place-numbers and prices where necessary adding names or dropping them.

Said Christina Tree, "The depth of Peter's knowledge of Vermont is huge. He's seen tremendous changes in the state, and he's got an interesting perspective, returning to Vermont through the years for so long. He personifies a certain kind of aristocratic Vermonter, who's very sophisticated and also very active and involved. He's low-key and witty and generous. And of course he's a fabulous writer. Somebody ought to do an oral biography of him."

Because Federal spending has been out of control, the American people have been saddled with an unconscionable tax burden. In 1960, Americans paid approximately one dollar in taxes for every $50 they earned. Today, one out of every three dollars goes to the tax man. These confiscatory tax policies are blatantly unfair to those who work hard to provide for their families.

The Balanced Budget Act reduces Medicare and Medicaid spending without reducing benefits, provides $24 billion for children's health initiatives, and mandates savings in other Federal programs. It also provides for effective enforcement of discretionary spending limitations necessary to balance the budget by 2002.

The Taxpayer Relief Act will ease the unconscionable burden on American taxpayers by reducing estate and capital gains taxes, providing a $500 tax credit for children, and providing more flexibility in Individual Retirement Accounts. Small businesses will gain tax relief by restoring the deductibility of home office expenses and self-employed health insurance costs. These and other provisions will allow Americans to keep more of their hard-earned dollars, rather than turning them over to pay for a bloated Federal bureaucracy.

The American people have waited a long time for deficit reduction and tax relief. With this legislation, we are showing the American people that we take our duties seriously, and I am pleased to support these bills.

Mr. President, there are several matters contained in these bills that I would like to discuss at greater length, some good and some not so good.
will give Amtrak tax credits for the operating losses incurred by freight railroads. The provision instructs the Internal Revenue Service to sit back through the tax returns of the freight railroads and determine the losses they incurred during Amtrak's passage of service from 1917 to 1971, before Amtrak ever existed. Those losses, which no one can quantify today, will then be provided to Amtrak in the form of $2.3 billion in tax credits.

Mr. President, give me a break. Are we supposed to be fooled by this? If we're going to permit a giveaway to Amtrak, let's just be straight with the American people. Let's not insult them with this bogus charade. It's a mockery of our tax policy and an insult to the public.

Why didn't the conferees simply give $2.3 billion to Amtrak, without all the machinations? Because proponents of this provision know that if funding were subject to appropriations, which is the process Congress wouldn't fund it because its simply not our top transportation priority. So, we're supposed to buy this ludicrous notion that Amtrak is owed a tax refund on taxes they never paid. To think that Congress would employ their creative powers to set up a process that will protect taxpayers if Amtrak does not meet its financial goals.

Let me take a moment to recap how we got to this novel provision. As my colleagues and I have pointed out, the Senate-passed tax reconciliation bill included an Amtrak funding provision touted by its sponsors as a half penny for Amtrak. But the truth is that new money—some $2.3 billion in new Federal subsidies—came at the expense of the tax cut promised to the American people. Let's not insult them with this bogus charade. It's a mockery of our tax policy and an insult to the public.

One has to question just how far Congress is willing to go in its quest to find funny-money for Amtrak. Today, Congress is telling the American public that they should believe there is some sort of justification for deeming Amtrak to have had operating losses prior to its existence. The American public is to believe Amtrak is entitled to a tax cut. The way back to 1917, even though it wasn't created until 1971.

What precedent does that set for our Federal tax policy? What type of signal does this send to private corporations and citizens on how the whimsy of Congress can retroactively recreate their tax histories? This proposed scheme is indefensible to the American public and sets an ill-advised precedent.

Mr. President, while I adamantly object to the tax credit scheme for Amtrak, I do what to note that at least one shred of responsibility remains in the bill with respect to Amtrak. It's small consolation but the bill does link the disbursement of this unprecendented amount of tax credits to Amtrak's financial performance. This means comprehensive and unprecedented Amtrak reform legislation was not included in this bill, I am confident Senator Hutchison will continue her endeavors to bring legislation passed by the Commerce Committee to the full Senate. And, at last, I would like to thank the Senator for the many hours he devoted to resolving this and all the other provisions in this tax legislation.

Before final passage of this bill, I look forward to entering into a colloquy with the Majority Leader and the Chairman of the Finance Committee regarding the linkage of Amtrak's access to this new windfall to the passage of a comprehensive reform bill. We will, in that colloquy, clarify that without that linkage, this bill does not mean a couple of lines tucked into an appropriations bill or a rider making some cosmetic change to Amtrak. It means comprehensive, substantive, meaningful, reform to ensure that Amtrak operates more efficiently and to set up a process that will protect taxpayers if Amtrak does not meet its financial goals.

I say to my colleagues and to the public, watch very carefully. Meaning what I do today is a result of this body's mandate. For a long time, the American public has been paying Amtrak their operating losses. While I am glad that in this budget agreement we have acknowledged the debt we owe those whose job it is to protect our lives and property by giving them a resource that is badly needed and too long denied.

The remaining 36 megahertz of spectrum in this band will be reallocated to other commercial uses and made available by auction. Clearing the band of incumbent low-power users to accelerate its availability for auction and to maximize its auction value will be furthered by a complementary provision in the bill that will allow the major incumbent low-power television licensees moved from this band to be accommodated in available spectrum below Channel 60. The bill also preserves the value of the spectrum below Channel 60, however, by stipulating that any such accommodation of qualifying low-power stations shall only be made if otherwise consistent with the FCC's digital table of allotments for different uses.

This spectrum to be auctioned will be defeated from several different sources. Some of it consists of analog broadcast TV channels that will be reclaimed from TV broadcasters as they move to their new digital TV channels. Ten channels of this TV spectrum located between Channels 60 and 69 will be cleared of current users and reallocated for different uses ion an expedited basis. Of these ten channels, four—a total of 24 megahertz of spectrum—will be reallocated for use by the nation's police, fire, and emergency medical services and essential public safety communications.

As demonstrated at a Commerce Committee hearing earlier this year, public safety users have endured severe spectrum shortages over the course of three decades. This is just because too much of the spectrum shortage has hindered them from using advanced technologies and data transmission communications, but has it had an even more devastating impact on their ability to communicate acceptably using the most advanced communications technologies, such as that demonstrated in the recent tragedies in Oklahoma City and the World Trade Tower, public safety officials found they could not rely on their radio communications to reach individuals working at different places at the disaster scene.

Reallocating this 24 megahertz to public safety will take a big step forward in remedying what has truly become a national disgrace. I am profoundly glad that in this budget agreement today, we have acknowledged the debt we owe those whose job it is to protect our lives and property by giving them a resource that is badly needed and too long denied.
disrupting the planned transition to digital television that will free up the broadcasters' analog broadcast channels for auction in the future.

The bill provides that the remaining analog TV channels below Channel 60 will be auctioned by December 31, 2002, or the year after that if not turned back and available for use until December 31, 2006, at the earliest.

Mr. President, because it is important to note that the bill contains several specified circumstances under which the FCC may extend the date for stations in individual television markets. Generally stated, the FCC may extend the date under any of these circumstances: first, if one of the market stations affiliated with one of the four largest national television networks is not broadcasting a digital signal, and that failure is not for lack of due diligences; second, that digital-to-analog converter technology isn't generally available in the market; or third, if more than 15 percent of the television households in the market do not subscribe to a multichannel digital program service that carries the local signals, do not have a digital television receiver, and do not have at least one analog channel equipped with a digital-to-analog converter.

Mr. President, this waiver standard is a compromise between the original provision in the House bill, which was so liberal it potentially would have caused the analog broadcast channels to never have had to have been returned for auction, and the Senate version, which was more rigorous in that it would have required the return of analog channels given the general availability to consumers of other means of receiving digital signals.

I would clearly prefer the more rigorous test. In saying this, I am not giving short shrift to the interests of TV viewers in my desire to have some reasonable assurance that the FCC would not cause the broadcast channels to be reallocated from its current shared or exclusive government use and made available for auction.

Concerns over the possible inability to find suitable substitute spectrum for incumbent users are mitigated by further provisions enabling the President to nominate spectrum for reallocation other than the bands specified in the bill if these substitute bands can be shown to bring comparable auction revenues.

In addition, the bill contains several provisions designed to enhance the revenues spectrum auctions will bring in by improving the auction process itself. Specifically, the bill would require the FCC to test contingent combinatorial auction bidding, a system which many believe helps bidders optimize their bidding strategy and thereby increases auction proceeds. It also requires the FCC to allow sufficient time prior to an auction to develop and promulgate auction rules that potential bidders can have an opportunity to factor into their bidding and business strategies. It also requires the FCC to establish minimum bids. Finally, it eliminates the entrepreneurial uncertainty and consequent lessened auction revenues, that is caused when spectrum is allocated for any and all unspecified uses.

This measure, Mr. President, is not designed to raise revenues, although it will unquestionably do so; but rather to provide a straightforward and sensible alternative to the FCC's old, time-consuming comparative hearing process. In addition to the length of time this process took to ultimately determine which party would get the license―oftentimes years―the application of the convoluted system of comparative criteria often selected winners based on essentially meaningless differences between applicants. Not surprisingly, this approach was essentially struck down by the court several years ago. Auctions will provide an efficient way to dispose of the many hundreds of cases that have stacked up under no decision, and provide a similarly efficient way of selecting licensees in the future. Those applicants who have applications pending before the Commission will be given a special period of 180 days in which to settle their applications and avoid auctions. In view of the different circumstances pertaining where multiple applicants for noncommercial educational stations are involved, the FCC may use lotteries to select licensees for such stations.

So much for analog television spectrum.

Mr. President, in addition to all this spectrum, the bill also provides for the accelerated auction during the out-years of 45 megahertz of spectrum previously identified for this purpose by NTIA and the FCC. The bill further tasks NTIA and FCC to cause 75 more megahertz of spectrum, 55 of which is specifically identified to be reallocated from its current shared or exclusive government use and made available for auction. Concerns over the possible inability to find suitable substitute spectrum for incumbent users are mitigated by further provisions enabling the President to nominate spectrum for reallocation other than the bands specified in the bill if these substitute bands can be shown to bring comparable auction revenues.

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So much for analog television spectrum.
CONGRESSIONAL RECORD — SENATE

July 31, 1997

shifted between the Treasury and the universal service fund in such a way that it appears that $3 billion in new revenue will be deposited in the Treasury in fiscal year 2002. This provision, which has been foisted on us by the Administration and its Office of Management and Budget, is nothing more than a convoluted device designed to make it appear that a $3 billion budget deficit has been plugged, when all that will really happen is that the fund will pay back to the Treasury precisely the amount that the Treasury will first have given the fund. It’s a disingenuous and dangerous policy to pursue, and one I intend to examine critically in Commerce Committee hearings in September.

In the meantime, the important thing to stress is that the telephone industry universal service fund will not lose a dime. And because telephone companies’ payments into the fund are rescheduled, the amount of money they ultimately pay may not be affected, and this should assure that telephone bills won’t go up either, at least for this reason.

Nevertheless, Mr. President, let’s be plain: a scam is a scam is a scam, and we should not condone scams, even those that don’t appear to actually hurt anything. But I suggest that the better remedy is to pass legislation that will not only address this particular scam, but also make sure that others like it are foisted on us again. The Commerce Committee will address this in September, to guarantee the integrity of the universal service fund and the continuity of the essential telecommunications services subsidized it.

This brings me to more fundamental concerns I have with the bill—concerns I have stated before, but concerns that must be stated once more. I have not believed, and I remain unconvinced, that the auction provisions provided for in the bill will generate anywhere near the $21.4 billion that CBO estimates they will. I believe this is too much spectrum to put on the market in too compressed a timeframe. 75 percent of the revenues estimated to be generated is to come from auctions held in the out-years of 2002 and 2003. Even under the best of circumstances, it is counterintuitive to think that flooding the market with spectrum in those years will not substantially depress its value. And these aren’t even the best of circumstances, Mr. President. I have already alluded to the devaluation that will inevitably result from bidding on spectrum that is variously unavailable for a number of years after the auction or encumbered with existing users who must be relocated. But the bottom line is, the scoring process and the demand to bring the revenues in within the five-year budget balancing window have made better approaches impossible.

None of this should be interpreted as an indirect way of saying that spectrum auctions are a failure. But I have advocated them as an efficient way of assigning spectrum licenses that allows the public, to whom the spectrum belongs, to realize the benefit of its market value. But it cannot be forgotten that spectrum auctions that are not well-designed were intended to be a kind of ATM for Congress to run to every time it needs a certain amount of money. Like any auction, spectrum auctions are subject to unpredictable vagaries that cannot be forecast, much less satisfactorily defended against. For this reason, like any auction, spectrum auctions cannot be relied upon to produce any given amount of money. But despite this fact, Mr. President, that’s exactly what you’re banking on—and I do mean “banking on” in its literal sense—when you rely on spectrum auctions to wipe out a substantial chunk of the budget deficit by 2003.

Let me just say that I do not think it likely that spectrum auctions will realize the $21.4 billion in revenue that has been estimated. Nevertheless, the bill we vote on today will at least set us on the road to achieving a balanced budget. For this reason, and despite my misgivings about the credibility of achieving the amount of budget savings we hope to achieve from this part of the package, I support the legislation.

MEDICARE IMPROVEMENTS

The Balanced Budget Act provides important changes to the Medicare system which will strengthen the program and protect it for current and future beneficiaries. The bill preserves and protects the Medicare program, while increasing choice within the program and expanding benefits for beneficiaries. The Medicare Choice program created in this bill will allow seniors to select from a wide variety of options, including HMOs, PPOs, PSOs, and Private Fee-for-Service programs. In addition, the new Medical Savings Account demonstration program which will allow 390,000 beneficiaries to select a high-deductible Medicare Choice plan.

Key provisions of the bill will help eliminate waste and fraud in the Medicare system which could result in significant savings. Significant portions of the “Medicare Whistleblower” legislation which I introduced earlier this year are incorporated into the fraud provisions of this bill. Seniors will now have the ability to request copies of their Medicare billing statements. In addition, seniors will be able to easily report suspected fraud and abuse in the system.

Overall, the Medicare reforms in this plan will produce $115 billion in savings over the next five years, which protects the program for today’s senior citizens and ensures Medicare will be available for future beneficiaries. In addition, the bill establishes a commission to study the Medicare system with a mandate to make recommendations by March of 1999 on comprehensive reform of the program. I firmly believe that our priority must remain protecting the Medicare system from bankruptcy by the year 2001, and I believe that this bill is an important first step in working toward that goal.

CHILDREN’S HEALTH CARE

The Balanced Budget Act provides significant improvements to health insurance for uninsured children in our country and put affordable health care insurance within the reach of every family. This new federal funding will allow states to expand Medicaid coverage or create innovative new programs which will address the specific health care needs of low-income children.

Providing access to health care for uninsured children has been a priority for me since coming to the Senate. During the 103rd Congress, I opposed legislation to address this problem, and I am pleased that we are able now to implement this new program for our nation’s children.

WELFARE REFORM

Last year, Congress made significant progress in reforming our welfare system when we passed the Personal Responsibility and Work Opportunity Reconciliation Act. This much-needed legislation is dramatically improving our nation’s welfare system and reducing the costs of the system, by requiring able-bodied welfare recipients to work and encouraging individuals to become self-sufficient.

However, the welfare reform law denied certain forms of public assistance to legal immigrants who were residing in this country prior to enactment of the legislation. At the time, I had concerns about the potentially disastrous impact this law would have on children, the disabled, and elderly legal immigrants who would lose vital support services such as Medicaid and Supplemental Security Income (SSI). I am pleased that this bill restores SSI eligibility for certain legal immigrants and refugees. In addition, children who are legal immigrants will be eligible for health insurance coverage as a part of the newly expanded Medicaid coverage contained in this package. These provisions will provide necessary safeguards for these vulnerable populations as we continue implementing the new welfare law.

MEDICAID PROGRAMS

Five states, including Arizona, operate managed care Medicaid programs, through a Section 1115 waiver. Each of these states have expanded coverage to children and vulnerable uninsured people beyond the traditional Medicaid categories. They have been able to provide these expanded services by using their disproportionate share hospital (DSH) funds.

I worked with my colleagues from the five affected states to protect the option to provide the expanded coverage. The Balanced Budget Reconciliation Act clarifies that states which use their DSH payments for Section 1115 health care expansions would not be penalized by
There are currently 1.3 million military retirees age 65 and older, about 97% of whom are eligible for Medicare. About 230,000 currently use military treatment facilities on a regular basis when space is available, at a cost of $1.2 million per year.

The cost of providing health care to military retirees through civilian Medicare providers has been estimated to be significantly higher than the care that is provided at a military treatment facility. In fact, the Department of Defense estimates the cost of care at a military treatment facility is 10-24 percent less than that at a civilian facility. DOD has testified to the Congress that they would be able to enroll and treat more Medicare-eligible beneficiaries at a lower cost to the government.

I am disappointed that the Senate provision to provide this critical medical benefit to our nation’s veterans was not included in the conference agreement. I hope this pilot program for military retirees will provide the impetus for legislation to extend the program to veterans.

I am sorry to say that the Balanced Budget Act does contain some earmarks and special interest provisions, although I am happy to report that there are very few in this bill.

It is unconscionable that the Congress would have the audacity to protect special interests in this bill, when the money wasted could have been used to provide additional tax relief for working Americans, higher funding for children’s health care, improved education programs, or just to reduce the deficit.

I ask unanimous consent that the list of special interest items be printed in the Record.

DEBT LIMIT INCREASE

Finally, Mr. President, I note with some dismay that the Balanced Budget Act increases the limit on the amount of debt the federal government can incur to $5.95 trillion. I just want to point out to my colleagues the irony of increasing the debt limit in a balanced budget act. Even as we pass this legislation to reduce federal spending by $270 billion over the next five years, we are forced to acknowledge that annual deficits will continue to add to our enormous national debt for several more years.

CONCLUSION

Mr. President, I hope that these two bills will provide the deficit reduction and tax relief promised to the American people. Certainly, it has not been possible to thoroughly analyze each provision of the legislation in the short time it has been available to Senators. If, however, we remain committed to the fiscal responsibility embodied in the Balanced Budget Act and the tax fairness of the Taxpayer Relief Act, the American people will soon reap the benefits of both lower taxes and a declining national debt.

There being no objection, the list was ordered to be printed in the Record, as follows:

OBJECTIONAL PROVISIONS IN THE CONFERENCE AGREEMENT ON H.R. 2015, THE BALANCED BUDGET ACT

SEC. 4011: Mandates establishment of Medicare Prepaid Competitive Pricing Demonstration Projects, initially in 4 areas (including one rural area), and then in up to 3 additional areas.

SEC. 4016: Mandates establishment of 9 Medicare Coordinated Care Demonstration Projects, 5 in urban areas, 3 in rural areas, and the District of Columbia (increase of 1.9%) and the District of Columbia (increase of 20%).

The conferees eliminated an important provision contained in the Senate bill which would provide incentives for states to devise innovative ways to meet expanding demand for access to Medicare-funded health care coverage. This provision would have authorized the continuation of a state’s successful Section 1115 waiver program and allow the states to expand coverage using state resources. This provision would have lowered both state and federal costs of these programs, and allowed states to expand coverage to their most vulnerable populations. I am very disappointed that the conferees did not include it in the conference agreement.

SCHOOL CHOICE

After the negotiations on the Balanced Budget Act were completed, President Clinton made a last-minute threat to veto the bill because the conferees contained an innovative and important educational provision that he claimed would “undermine public education.” This provision would have given parents the freedom to choose a school for their children, because this provision included only educational needs. Parents would have been able to withdraw funds from education savings accounts to pay tuition at the school of their choice—public, private or sectarian. I find it greatly disconcerting that President Clinton used the threat of a veto to force Congress to eliminate a provision which would have granted equal educational opportunity to all students.

MEDICARE SUBVENTION FOR MILITARY RETIREES

I am pleased that the conferees retained the Senate provision to authorize a pilot program to demonstrate the cost-effectiveness of allowing Medicare reimbursement to military medical facilities that treat Medicare-eligible military retirees. This provision will significantly decrease costs to both the federal government and military retirees.

The provision authorizes the Secretary of Defense and the Secretary of Health and Human Services to establish a demonstration project to reimburse the Secretary of Defense from the Medicare trust funds for health care services furnished to Medicare-eligible military retirees or dependents. The demonstration project, beginning on January 1, 1998, is limited to six sites within the military TRICARE regions. The TRICARE enrollment fee would be waived for persons enrolled in the managed care option of TRICARE and the minimum benefits would include at least the Medicare benefits. The demonstration project is expected to cost $55 million in 1998, $65 million in 1999, and $75 million in 2000.
Sec. 4758. Exempts Kent Community Hospital Complex and Saginaw Community Hospital in Michigan from classification as an institution for mental disease through December 31, 2007.

Sec. 9301. Requires that the Federal share of food-related disaster assistance for Kittson, Marshall, Polk, Norman, Clay, and Wilkin Counties in Minnesota be at least 90 percent.

REPORT LANGUAGE

States conferees' intention that HHS grant waivers of transitional rules for Medicare HMO programs to the Wellness Plan in Southeastern Michigan and the Watts Health Foundation.

NOTICE OF DECISION OF THE BOARD OF DIRECTORS

Mr. THURMOND. Mr. President, the Board of Directors of the Office of Compliance has issued its first decision on appeal. The case involved an alleged violation of the Worker Adjustment and Retraining Notification Act (``WARN'') provisions made applicable by the Congressional Accountability Act of 1995. Pursuant to section 416(d) of the act and section 204(d) of the Office's regulations, the Board has exercised its discretion to make the decision public. It will be simultaneously available at the Office of Compliance and of the Office's Internet Website. I ask unanimous consent that the decision of the Board of Directors be printed in the Record.

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

OFFICE OF COMPLIANCE


Before the Board of Directors; Glen D. Nager, Chair; James N. Adler; Jerry M. Hunter; Lawrence Z. Lorber; Virginia A. Seitz, Members.

DECISION OF THE BOARD OF DIRECTORS

These cases, consolidated on appeal, arise out of the privatization of the internal postal operations of the House of Representatives. Appellants are nine former employees of the Office of Compliance, who served in House Postal Operations (the ``HPO'') under the Chief Administrative Officer (the ``CAO'') of the House. Appellants lost their jobs as a result of the privatization of the House's internal mail functions. They subsequently filed claims with the Office of Compliance for assistance in responding to the notices of the privatization that they received did not satisfy the requirements of the Worker Adjustment and Retraining Notification Act (the ``WARN Act''), as applied by section 205 of the Congression Accountability Act of 1995 (the ``CAA''), 2 U.S.C. § 3135, and the Board's implementing regulations.

Pursuant to decisions 405 of the CAA, 2 U.S.C. § 1405, a Hearing Officer was appointed who heard all nine cases. Eight of the cases, in which the parties were represented by the same counsel, were consolidated for one hearing; the case of appellant Schmelzer, which raised the same issues, was heard in a separate hearing by the same Hearing Officer. In all nine cases, decisions issued on the same day, the Hearing Officer determined, among other things, that the CAO had given legally sufficient notice to all appellants and, finding no violation of the Act, ordered entry of judgment in favor of the CAO in each case. Decision of the Hearing Officer in Gerald J. Schmelzer, Appellant, v. Office of the Chief Administrative Officer, U.S. House of Representatives (the ``Schmelzer Decision'') at 59-61. Decision of the Hearing Officer in Avis Quick et al. v. Office of the Chief Administrative Officer, U.S. House of Representatives (the ``Quick Decision'') at 59-61. (All citations hereinafter to the Hearing Officer's Decision or Findings of Fact shall be to Schmelzer, unless otherwise stated.)

The Hearing Officer found that a memorandum that the Office of the CAO distributed to HPO employees on December 13, 1995 (the ``December 13, 1995 memorandum'') constituted written notice which substantially complied with the CAA's notice requirements, even though it was technically deficient, principally because it did not state the specific date on which appellants' employment would terminate, as required by the Board's regulations. The Hearing Officer concluded, however, that in the particular circumstances of this case, the technical defects of the memorandum were not fatal because the general memorandum did not contain an indication of the termination date and because that date had been communicated in a series of meetings attended by the appellants, was widely publicized, was generally well-known, and was readily ascerturable by HPO employees.

Decision at 59. These appeals followed.

The Hearing Officer determined that the December 13, 1995 memorandum "needs to be read in context" in order to decide whether the omission on the closing date of the HPO compelled a finding of violation. Decision at 53, and, to that end, he considered the long and public process leading up to the privatization of the HPO, including a series of updating memoranda and employee meetings which predated the terminations occasioned by the privatization of the HPO by sixty days or more. He found the following facts to be relevant.

The CAO's first plan to privatize HPO functions was submitted to the Committee on House Oversight and Government Reform (the "Committee") on February 28, 1995, and, at the Committee's request, the CAO twice submitted revised plans over the next several months. See Findings of Fact at 5. The Hearing Officer found that, during this period, the possible privatization of HPO operations was "a subject of discussion and interest" among HPO employees.

On June 14, 1995, the Committee directed the CAO to issue a request for proposals ("RFP") to contract out House mail functions, and, on that same day, CAO managers distributed a memorandum to HPO staff informing them of the Committee's action and assuring them that any selected vendor would "interview all interested current employees for possible employment with the vendor." House Comm. on House Oversight, 104th Cong., 1st Sess., Resolution, "Postal Operations." The Hearing Officer found that, at this point, the "level of interest" of HPO employees in the possibility of future employment with the vendor, House Comm. on House Oversight, 104th Cong., 1st Sess., Resolution, "Postal Operations." The Hearing Officer found that, at this point, the "level of interest" of HPO employees in the possibility of privatization "increased." Decision at 5.

An RFP was published on Commerce Business Daily during August, and, on September 8, 1995, the Office of the CAO distributed another memorandum to HPO employees. See id. at 6. The memorandum of September 8, 1995 stated that it was written in response to employee inquiries: "many of you have requested an update on the status of the RFP to outsource Postal Operations." Id. The memorandum reiterated that the winning bidder would "interview all interested Postal Operations employees for possible employment." Id. The memorandum also gave employees a schedule for the transition to the privatization of HPO. See Findings of Fact at 6. The bids were due in by September 15, 1995 and that review and recommendation on award of the contract was due to the Committee at the end of November. See id. The September 8 memorandum concluded by telling employees when the privatization was due to take place: "[t]he new facilities management company is scheduled to begin operations in mid-December." Id. The memorandum also offered to answer any "additional questions" the employees might have.

On December 13, 1995, the Committee adopted a resolution directing that "all functions of House Postal Operations shall be subcontracted to Pitney Bowes Management Services, Inc. ("PBMS" or "Pitney Bowes") and that the new facilities management company is scheduled to begin operations the next day." Id. On Tuesday, February 13, 1996 and authorizing the CAO to contract with Pitney Bowes Management Services, Inc. ("PBMS" or "Pitney Bowes") and that the new facilities management company is scheduled to begin operations the next day. See Findings of Fact at 4. On that same day, after the Committee meeting, in response to the Committee's action, CAO management asked all HPO employees who were present at work to attend either of two meetings. It was at these meetings that CAO officials distributed the December 13, 1995 memorandum, which announced to employees the award of the contract to Pitney Bowes and explained that the contractor would distribute applications for employment the next day and would make its hiring decisions in January, 1996. See Decision at 7. The memorandum also promised that "boost programs, and employee assistance programs would be provided." Id. to make the transition from employment with the U.S. House of Representatives as smooth as possible. Id. The memorandum also explained at the December 13 meeting that the new facilities management company was due to the Committee at the end of November, Valentine's Day, was the target date for Pitney Bowes to begin operations. See id. at 57.

Appellant Schmelzer acknowledged knowing received a copy of the December 13, 1995 memorandum at one of the meetings, as did one of the other appellants. See id. at 46, Quick Decision at 48. All of the other appellants likewise attended one of the meetings.

On the next day, December 14, 1995, further meetings were convened, at which Pitney Bowes met with the employees and distributed applications. The applications from the CAO or of Pitney Bowes spoke, and it was stated at several points that Pitney Bowes would begin serving as the House's mail delivery contractor on Valentine's Day, February 14, 1996. See Findings of Fact at 4. Quick Findings of Fact at 5. All appellants attended one of these meetings, except for one who submitted a written statement in support of its. See Findings of Fact at 4. Quick Findings of Fact at 5. The September 8, 1995 individual letters were hand-delivered to all HPO employees present.

1 The December 13, 1995 memorandum is reproduced as Appendix A to this opinion.

2 The September 8, 1995 memorandum is reproduced as Appendix B to this opinion.

3 The December 13, 1995 Committee Resolution is reproduced as Appendix C to this opinion.
at work. Each letter stated that Pitney Bowes would assume mail delivery functions on February 14, 1996, and that the recipient’s employment with the House would terminate at closing on January 29, 1996. All but two of the appellants were at work on January 22 and received the letter on that day. The two other appellants received their letters on January 29 and January 30, when they each returned to work. See Findings of Fact at 5; Quick Findings of Fact at 6-7. The legal sufficiency of the notice provided by these letters is not challenged.

Both before and after the Committee’s December 13, 1995 decision to terminate all functions of the HPO, the CAO offered an array of outplacement and transition services to the House employees. See Decision at 9-10. These included establishing an outplacement service office, which assisted employees with resume writing and preparing job applications, as well as offering coaching on how to interview. See Transcript in Quick at 179-181. A job bank listing sources both inside the Congress and outside, as well as a bank of computers and telephones for employee use, were also provided. See id. Staff of the outplacement service office furnished information on “Ramstack” rights, health insurance, and other employee benefits, as well as other transition advice. See id.; Transcript in Schmelzer at 114. In addition to the services provided by the CAO, the House of Representatives, through its service provider for the District of Columbia Employment Services to present two workshops for postal employees. See Transcript in Quick at 152-183. Appellant Schmelzer, among others, made use of the outplacement and other services provided by the CAO and the HPO employees. See Findings of Fact at 5.

Appellants’ employment with the House of Representatives ended when HPO functions ceased at close of business on February 13, 1996. Overall, of the 113 employees affected by the privatization, three remained employed by the House of Representatives under the CAO, and Pitney Bowes extended offers of employment to 90 of the HPO employees, of whom about two-thirds accepted offers of employment to 90 of the HPO employees. See also Decision at 9-10. The letter in which the hearing officer made an initial determination that the HPO was in fact closed, a statement to that effect; (2) The expected date when the office closure or mass layoff will occur; (3) An indication whether or not bumping rights exist; (4) The name and telephone number of an employing office official to contact for further information.

Courts construing these notice requirements have, in light of the notice provisions of the Act, distinguished the situation in which an employer has failed to provide any written notice, and the situation in which written notice was provided, but the notice failed to meet the technical requirements of the regulations. See, e.g., Carpenters Dist. Council v. Dillard Department Stores, 19 F.3d 690 (7th Cir. 1994), cert. denied, 115 S. Ct. 933 (1995); accord Saxion v. Titan-C-Mfg. Inc., 86 F.3d 553, 561 (8th Cir. 1996); Marques v. Teles Ranch, 867 F. Supp. 1438, 1462 (D. Colo. 1994); and United Automobile Aerospace & Agricultural Implement of America Local 1077 v. Shady Side Stamping Corp., 1991 WL 340191 (D.D.C. 1991). See also 2 U.S.C. §1405(h).

The Hearing Officer appropriately was guided by these cases, which we also find to be persuasive. In Dillard, the court considered the adequacy of notices that gave inaccurate termination dates, noted that “neither the regulations nor the Act itself addresses how courts are to treat notices that are determined to be defective or inadequate. As such, neither the Act nor the regulations suggest that defective notice is automatically treated as though no notice had been provided at all.” 15 F.3d at 1270 n.19 (citation omitted). Similarly, the Saxion court, quoting Dillard with approval in a case in which the notice failed to give a termination date, among its other technical deficiencies, concluded: “We are not persuaded that the technical deficiencies presented in the March 13 letter required the district court to proceed as if there had been no notice at all.” 86 F.3d at 561. Likewise, in Marques, the court again quoted Dillard with approval, and construed the Department of Labor regulations as providing that “technical deficiencies or omissions in notice do not invalidate notice or result in WARN inapplicability.” 867 F. Supp. at 1457 n.2. In that case, the court found adequate a WARN notice provided to seasonal workers during their seasonal lay-off, despite its lack of date, because, in that particular context, the notice could only be read as referring to a permanent layoff beginning in the upcoming harvest season. Id. at 1461. Finally, in

The CAO has raised the question whether the Board’s WARN Act regulations can fairly be applied to the December 13, 1995 notice since these regulations did not go into effect until January 23, 1996. In light of our disposition of the case, the Board need not address that question. Under the unique circumstances of this case, is without precedential value. We note, however, that the Board’s regulations are, as required by section 102 [of the CAA] * * *.” 2 U.S.C. §1405(h).
Shadyside Stamping Corp., the court, analyzing whether notices that, among other things, failed to provide precise termination dates, were nonetheless adequate, found relevant information to be provided by the employer was produced or at least well known.” 1991 WL 34091 at star pages 7 (emphasis added). Thus, all four cases stand for the proposition that omitting technical information, Plaintiffs clearly knew that it was going to be closed.” Id. Finally, in Marques, 867 F. Supp. at 1445, the court analyzed the notice in light of whether the purpose of the notice provision was met. What was because none of the omissions in the notice caused harm to the employees, the technical deficiencies did not give rise to liability. The court found that, despite the lack of a specific separation date, the time frame could be determined from the notice and surrounding circumstances. The omission of bupping rights was immaterial since employees did not enjoy such rights. Id. Further, “although there was no name and number of a company official to contact for further information, Plaintiffs clearly knew and understood how to contact Defendants because Plaintiffs had done so every season to determine operations in the case at hand.” Id. Thus, the deficiencies in the written notice did not undermine the purpose of the Act because employees either already knew the information from other contexts or could infer it from the notice and surrounding circumstances, because it was irrelevant to their situation. In summary, courts have balanced the notice requirements with an eye to practicalities: “Fairly read, the regulations require a practical and realistic appraisal of the information given to affected employees.” Kalwaytis, 78 F.3d at 121-22. Evaluating the notices received by employees from that perspective, the courts in Marques, Saxion, and Dillard found that the omissions in the written notices did not undermine the purpose of the Act. See, e.g., Dillard, 15 F.3d. at 1286; Marques, 867 F. Supp. at 1445. In making that determination, courts have consistently looked at all the communications provided by employers to determine whether, when viewed in context, one or more written communications qualified as notice under the WARN Act and applicable regulations. See Kalwaytis v. Preferred Meal Systems, Inc., 70 F.3d 117, 121-22 (3d. Cir. 1995); Kan. City, 73 F.3d 1007, 1011 (8th Cir. 1995); Dillard, 15 F.3d. at 1286-87; Saxion, 86 F.3d at 561; Marques, 867 F. Supp. at 1445-46. Cf. also Oil, Chemical and Atomic Workers Int'l Union, Local 618, 543 F. Supp. 1011, 1015-16 (E.D. Mo. 1982), aff'd 705 F.2d 274 (8th Cir. 1983). We also conclude that the substantial compliance standard adopted by the Hearing Officer is an appropriate standard to be used in determining if a violation has occurred. Indeed, all cases construing a written WARN notice that is technically inadequate but satisfies the purposes of WARN ought to be treated differently than either the failure to give notice or the giving of notice intended to evade the purposes of the Act.” 54 Fed. Reg. 16042, 16043 (April 20, 1989) (Response to Comments, section 639.1(d) WARN Enforcement). See, e.g., In the early days of WARN implementation substantial compliance with regulatory requirements was also applied to notice that unions must provide during the transition period adopted by the Board there noted: “[i]n the absence of the issuance of such interim regulations, covered employees, employers, and the Office of Compliance staff itself would be forced to operate in regulatory uncertainty. * * * [E]mployers and the Office of Compliance staff do not know whether any deficiencies in the notice would be found applicable in particular circumstances absent the procedures suggested here.” In comparative circumstances, the Department of Labor concluded that “* * * in the early days of WARN implementation substantial compliance with regulatory requirements should be interpreted with ‘WARN.’” 53 Fed. Reg. 48884-85 (1988) (notice adopting interim interpretive rules of Dec. 2, 1988). Courts construing WARN notices issued during the transition period adopted the substantial compliance standard. See, e.g., Shadyside Stamping Corp., 1991 WL 34091, at star pages 7-9 (noting that the substantial compliance standard may be satisfied if the information missing from the notice was otherwise provided by the employer or was readily available to employees). How can this information be used to determine the implications of the changes made? With these principles in mind, we turn to the notice provided to employees in this case. The Board agrees with the Hearing Officer that the December 13, 1995 memorandum, as set out in the following two of the four elements required by section 639.7(d) of the Board’s regulations, that is, a statement
to the effect that House Postal Operations is to be permanently closed and the name and telephone number of an official to contact for further information. See sections 639.7(d)(4). The December 13, 1995 memorandum also failed to state explicitly the expected date of the office closing and the expected date when employment with PBMS, as required by section 639.7(d)(2). However, as the Hearing Officer concluded, [[g]iven that the December 13, 1995 memorandum provides some indication of the privatization date (i.e., reasonably soon after completion of the interview process in January 1996), given that the date was fixed and since the memorandum stated in a variety of oral and written ways, and given that employees had a wealth of readily available means to ascertain the date, . . . (the failure to provide a finding of violation)." Decision at 58. While the December 13, 1995 memorandum was technically deficient in its failure to provide the date required by section 639.7(d)(2) of the Board’s WARN Act regulations, the information missing from the notice was otherwise provided to employees by the CAO and also was readily available to them from a number of sources, at least sixty days in advance of the employees’ termination, such that the purposes of the statute were satisfied. See Marques, 867 F. Supp. at 1445–46; see also Saxion, 86 F.3d at 561; see also Shadyside Stamping Corp., 1991 WL 340191 at star pages 7-8.

Examining the record, moreover, the Board does not find that the omission of the termination date from the CAO’s otherwise timely notice deprived employees of adequate notice for the purposes of the statute. J udged in the totality of the circumstances, the CAO took appropriate steps under the WARN Act, as interpreted by the CAA, to provide adequate notice to employees for the making of the transition to new employment. In the spirit of the purposes of the WARN Act, as interpreted by the Board’s regulations, the CAO voluntarily gave employees early notice that the Committee on House Oversight was contemplating privatizing the HPO. The CAO’s June memorandum was updated by notice in September in a memorandum that provided an actual schedule for the privatization process, based on information then available. It is in this context that the December 13, 1995 memorandum must be read to determine whether the omission of the date deprived employees of adequate and sufficient notice of their date of termination.

The December 13 memorandum states that the “reorganization of employment with PBMS will be completed in January, 1996.” From that information, employees could expect that the contractor would begin operations shortly thereafter. As a result, in fact, PBMS did. That conclusion is supported by the fact that the earlier memorandum of September 8, 1995 had notified employees that they could expect to begin operations in mid-December, so that employees were already on written notice that the contractor would take over shortly. While it is true that on December 13, 1995, that the earlier deadline had slipped, the fact remains that, through the September 8, 1995 memorandum, employees were given written notice of a likely termination date, and were given updated information about the contractor’s plans on December 13, 1995, over sixty days before termination.

Looking at the September 8, 1995 memorandum together with the December 13, 1995 memorandum, the Board finds this to be a situation in which employees received multiple notices whose technical deficiencies do not merit a finding of liability. See, e.g., BMS, 790 F. Supp. at 1286–87 & n.19; cf. American Home Products, 790 F. Supp. at 1444–45, 1450–53; Shadyside Stamping Corp., 1991 WL 340191 at st. 3, 14. The December 13 memorandum together with the September 8 memorandum, the Board therefore concludes that there is substantial evidence in the record supporting the Hearing Officer’s conclusion that, at least sixty days before the closing of the HPO, all appellants either knew the dates on which their employment with the House would terminate and PBMS would take over or were on notice that the December 13, 1995 meeting that took place at least sixty days before the closing of the HPO, at which these dates were discussed. Thus, the notification purposes of the statute were met and the technical deficiencies in the December 13, 1995 memorandum. See Marques, 867 F. Supp. at 1445–46; see also Saxion, 86 F.3d at 561; Dilard, 78 F.3d at 1221.

The only case cited by appellants as compelling a different result, American Home

"We note that the December 13, 1995 memorandum was part of the CAO’s response to the Committee’s direction to “immediately provide sixty days notice to existing employees affected by the Committee resolution of December 9, 1995, authorizing the contract to privatize the HPO."

CONGRESSIONAL RECORD — SENATE S8501

July 31, 1997
Products, does not. In that case, employees were provided with only seven days actual notice of the date of their layoff and they had no other source of information from which to learn the date. The situation is markedly different from the case here, where the employees were provided with multiple written notices and where with the information readily available to the employees, reasonably assured sixty days actual notice of the employees' termination date. Thus, we affirm the Hearing Officer's conclusion that, in the totality of the circumstances, the employees were provided with adequate notice under the requirements of the CAA and the applicable regulations.

Appellants in Quick also argue on appeal that the Hearing Officer erred in concluding that the December 13 memorandum constituted a reasonable method of delivery, and that the memorandum handout of that memorandum with the individual delivery of the January 22, 1996 termination notice, with signed receipt. This contention is without merit. Section 639.8 of the Board's Regulations allows the use of “[a]ny reasonable method of delivery” and terms signed receipts "optional." Under the circumstances here, we agree with the Hearing Officer that delivery of the December 13 memorandum at the meetings of the employees was a reasonable method of delivering the memorandum to the employees. This is not the case in which the employer failed to provide notice or provided notice intended to evade the purposes of the notice requirements of the CAA. See Department of Labor Preamble to the WARN Act Regulations, 54 Fed. Reg. 16042, 16043 (April 20, 1989) (Response to Comments, section 639.1(d) WARN Enforcement). To the contrary, Four separate memoranda were provided to employees. Four meetings informing employees of the privatization were held in the space of two days. The Committee itself was cognizant of the need to provide timely notice to the employees. Its resolution of December 13, 1995 directed the CAO to provide sixty days notice to existing employees immediately.

Indeed, the House tried in many additional ways, in the spirit of the underlying purposes of the WARN Act, to ease the transition to privatization. The Committee required, as a condition of the contract, that the contractor interview all current House employees affected by the issuance of the contract. The Office of the CAO went beyond the suggestions in section 639.7(d) of the Board's regulations for providing transition information useful to these employees. An array of transition and support services were offered, including a job bank, help with job applications, and resume writing, computer training courses, stress management training, and making arrangements for outplacement seminars for the employees. These efforts further belie any suggestion that the CAO was attempting to evade the purposes of the WARN Act.

In sum, the record is clear that the privatization of the HPO was not the type of stealth plant closing which leaves employees adrift and which the Act, and its inclusion in the CAA, were meant to prevent. There was a public debate and a public decision regarding the privatization of House Postal Operations. As you know, the Committee on House Oversight directed the CAO to fully implement the provisions of the Committee Resolution adopted on June 14, 1995 entitled "Employee Assistance with respect to the contract arising from CAO Solicitation 95-R-003."

Resolved further, that the Chief Administrative Officer shall report to the Committee, no later than the tenth day of each month, beginning in January 1996 on the status of implementation of the House Postal Contract entitled "Employee Assistance with respect to the contract arising from CAO Solicitation 95-R-003."

Resolved further, that the Committee directs the CAO to immediately provide sixty days notice to existing House employees affected by the issuance of the contract arising from CAO Solicitation 95-R-003.

Member Seitz, with whom Chairman Nager joins, concurring in the judgment:

I agree with the majority opinion's conclusion that the Hearing Officer's decision should be affirmed because appellants received notices which, in combination, substantially complied with WARN Act requirements. The path I followed to this conclusion diverges somewhat from that of the majority, and so I briefly describe my reasoning.

The doctrine of substantial compliance considers whether a defendant in technical noncompliance with a statutory requirement has taken action sufficient to meet the purposes of the statutory issue. See, e.g., Hickel v. Oil Shale Corp., 400 U.S. 48 (1970) (annual work assessment requirements of federal mining laws); Kent v. United Omaha Life Ins. Co., 96 F.3d 933, 937 (7th Cir. 1996) (notice requirements in regulations under the Employee Retirement Income Security Act); Donato v. Metropolitan Life Ins. Co., 29 F.3d 592, 597 (7th Cir. 1994); Straub v. A.P. Green, 38 F.3d 448, 452-53 (9th Cir. 1994) (service of process requirements under Foreign Service Immunities Act). If federal law is followed substantially, it carries out the intent for which [the law] was adopted," a defendant is said to have substantially complied with WARN Act requirements. 96 F.3d 803, 807 (6th Cir. 1996) (Donato v. Metropolitan Life Ins. Co.); 906 F.2d 1201, 1204 (6th Cir. 1990) (Straub v. A.P. Green); 96 F.3d 933, 937 (7th Cir. 1996) (Kent v. United Omaha Life Ins. Co.).

Member Seitz also joins in those parts of the concurrence discussing substantial compliance, with the exception of footnote 3.
The substantial compliance doctrine is closely related to the de minimis doctrine which is that a writing is best calculated fully compliant written notice delivered in the job market. The regulations require that an employing office here, the Office of the CAO of the House of Representatives, substantially complied with section 205(a) of the Board's implementing regulations, (or, put differently, whether its violation of the legal requirements was de minimis). When a plant or other entity is confronted with the important questions for employees and their families are whether they are going to lose their jobs and, if so, when. And, although the CAO provided an employee assistance program, the purpose of the written notice requirement may be fulfilled, but not always trivial, for which the courts do not think a legal remedy should be provided. The standard is that the CAO substantially complied with the WARN Act's legal requirements, and that, in these unique circumstances, the omission from the written notice was de minimis. The hearing officer determined that actual notice was provided. This is a remarkable testament to the extraordinary health of our Nation's economy.

In 1992, unemployment stood at 7.5 nationwide and 9.6 percent in California. Robust economic growth spurred by responsible economic policy has caused unemployment to decline to historically low levels. This bill cuts taxes for millions of American working families. In fact, this bill contains the largest tax decrease in 16 years. These tax cuts are directed where they are needed most, at middle class working families, promoting savings for retirement and education. The $500 per child tax credit will give parents an extra helping hand in providing for their children. These are tax cuts that I wholeheartedly support.

I am especially pleased that this bill makes important investments in health care for uninsured children. I believe the $24 billion provided in the bill for children's health care may be the most significant health policy achievement in over 30 years.

I am very pleased that the conference on the Tax Reconciliation bill rejected an unwise proposal to raise the Medicare eligibility age. I believe that retaining health coverage for our senior citizens must remain a national priority.

Two important priorities of mine were also included in the final reconciliation bill. My 401(k) Protection Act, which helps secure the retirement savings of millions of Americans will soon become law. Finally, I am pleased that the conference included my Computer Donation Incentive Act, which provides tax benefits for the donation of computers to elementary and high school students.

I am proud to support this bill and am confident that it will add to the strong economic growth our Nation has enjoyed over the past six years.
PENDING NOMINATION OF MARGARET MORROW TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA

Mr. LEAHY. Mr. President, as we adjourn until September, I once again note my dissatisfaction with the lack of progress made in confirming the many fine women and men whom President Clinton has nominated to the federal judiciary.

This year the Senate has confirmed only one nomination on the recess before the August recess during a period of 108 vacancies. Thus, when the Senate returns in September it will remain on the snail-like pace that the Republican leadership has maintained throughout the year of confirming one judge per month. Meanwhile, vacancies have continued to mount and the delays in filling vacancies continue to grow.

It is discouraging to once again have to call attention to the fact that some 40 nominations pending before the Judiciary Committee—nominees who have yet to be accorded even a hearing during this Congress. Many of these nominations have been pending since the very first day of this session, having been held over by the President after having been held up during last year's partisan stall. Thus, the Committee has not yet worked through the backlog of nominees left pending from last year. Several of those pending before the Committee had hearings or were reported favorably last Congress but have been passed over so far this year, while the vacancies for which they were nominated as long as 27 months ago persist.

Those who delay or prevent the filling of these vacancies must understand that they are delaying or preventing the administration of justice. We can pass all the crime bills we want, but you cannot lock up criminals if you do not have judges. The mounting backlogs of civil and criminal cases in the emergency districts, in particular, are growing taller by the day.

I was delighted when the Senate moved promptly on the nomination of Alan Gold before the J ully recess, but his is the only nomination that has been confirmed promptly all year. There is no excuse for the Senate's delay in considering the nominations of such outstanding individuals as Professors Fletcher, Paez, McKeown, Ann L. Aiken, and Ms. Susan Oki Mollway, to name just a few of the outstanding nominees who have all been pending all year without so much as a hearing. Professor Fletcher and Ms. Mollway had both been reported last year. Judge Paez and Ms. Aiken had hearings last year but have been passed over so far this year.

We are way behind even farther behind the pace established by the 104th Congress. By this time two years ago, Senator Hatch had held seven confirmation hearings involving 31 judicial nominees, and the Senate had proceeded to confirm 26 federal judges. The record this year does not compare: Four hearings instead of seven; nine judges confirmed instead of 26.

I recently received a copy of a letter dated July 11, 1997, to President Clinton and the Republican Leader of the Senate by seven presidents of national legal associations. These presidents note the "looming crisis in the Nation brought on by the extraordinary number of vacant federal judicial positions" and the "injustice of this situation for all of society." They point to "[d]angerously crowded dockets, suspended civil case dockets, burgeoning criminal caseloads, overburdened judges, and chronically undermanned courts" as circumstances that "undermine our democracy and respect for the supremacy of law." I agree with these distinguished leaders that we must without further delay "devote the time and resources necessary to expedite the nomination process for federal judicial nominees." The President is doing his part, having sent us 14 nominations in the last two days. The Senate should start doing its part.

I want to turn briefly to the long pending nomination of Ms. Margaret Morrow to be a District Court judge for the Central District of California. Mr. Morrow was first nominated on May 9, 1996—not this year but May of 1996. She was confirmed to a judicial hearing and was unanimously reported to the Senate by the Judiciary Committee in June 1996. Her nomination was, thus, first pending before the Senate more than a year ago. This was one of a number of nominations caught in the election year shutdown.

She was renominated on the first day of this session. She had her second confirmation hearing in March. She was then held off the Judiciary agenda before the Senate vacation hearing before the President after having been held up during last year's partisan stall. Thus, the Committee has not yet worked through the backlog of nominees left pending from last year. Several of those pending before the Committee had hearings or were reported favorably last Congress but have been passed over so far this year, while the vacancies for which they were nominated as long as 27 months ago persist.

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I am appalled at the treatment that Margaret Morrow has received before the Senate and have spoken about her on the Senate floor on many occasions. It is long past time for the Senate to take up this nomination, debate it and vote on it. In my view, the Senate should certainly have done so before adjourning for a month-long recess.

Margaret Morrow was the first woman President of the California Bar Association and also a past president of the Los Angeles County Bar Association. She is exceptionally well-qualified nominee who is currently a partner at Arnold & Porter and has practiced for 23 years. She is supported by Los Angeles' Republican Mayor Richard Riordan and by Robert Bonner, the former head of DEA under a Republican Administration. Representative James Rogan attended her second confirmation hearing to endorse her.

Margaret Morrow has devoted her career to the law, to getting women involved in the practice of law and to making lawyers more responsive and responsible. Her good works should not be punished but commended. Her public service ought not be grounds for delay. She does not deserve this treatment. This type of treatment will drive good people away from government service.

The President of the Woman Lawyers Association of Los Angeles, the President of the Women's Legal Defense Fund and the President of the Los Angeles County Bar Association, the President of the National Conference of Women's Bar Association and other distinguished attorneys from the Los Angeles area have all written the Senate in support of the nomination of Margaret Morrow. They write that: “Margaret Morrow is widely respected by attorneys, judges and community leaders of both parties” and she “is exactly the kind of person who should be appointed to such a position and held up as an example for young women across the country.” I could not agree more.

Mr. President, the Senate should move expeditiously to confirm Margaret Morrow.

I ask unanimous consent that the two letters to which I have referred be printed in the Record at the conclusion of my statement.

There being no objection, the letters were ordered to be printed in the Record, as follows:

[Letters from various organizations and individuals in support of Margaret Morrow's nomination are included here.]

N. Lee Cooper, President, American Bar Association.
L. Lawrence Boze, President, National Bar Association.
Hugo Chaviano, President, Hispanic National Bar Association.
Paul Chan, President, National Asian Pacific American Bar Association.
Howard Twiggis, President, Association of Trial Lawyers of America.
Sally Lee Foley, President, National Association of Women Lawyers.
Juliet Gee, President, National Conference of Women's Bar Associations.


Hon. Patrick Leahy, Russell Senate Office Building, Washington, DC.

Dear Senator Leahy: We write to you to protest the treatment which one of President Clinton’s nominees for the Federal District Court is receiving. We refer to Margaret Morrow, who has been nominated for the United States District Court in the Central District of California. As of today we have been waiting a full year for her confirmation.

Margaret Morrow has qualifications which set her apart as one uniquely qualified to be a federal judge. She is a magna cum laude graduate of Bryn Mawr College and a cum laude graduate of Harvard Law School. She has a 23-year litigation practice with an emphasis in complicated commercial and corporate litigations with extensive experience in federal courts. She has received a long list of awards and recognition as a top lawyer in her field, her community and her state.

Margaret Morrow is widely respected by attorneys, judges and community leaders of both parties. Many have written to you. Because of her outstanding qualifications and broad support, it is hard to understand why she has not moved expeditiously through the confirmation process.

Margaret Morrow is a leader and a model among women lawyers in California. She was the second woman President of 25,000 member Los Angeles Bar Association and the first woman President of the largest mandatory bar association in the country, the 150,000 member State Bar of California.

Margaret Morrow is exactly the kind of person who should be appointed to such a position and held up as an example to young women across our country. Instead she is subjected to multiple hearings and seemingly endless rounds of questions, apparently without good reason.

We urge you to send a message that exceptionally well qualified women who are community leaders should apply to the U.S. Senate for federal judgships. We urge you to move her nomination to the Senate floor and to act quickly to confirm her.

Nancy Hoffmeier Zamora, Esq., President, Women Lawyers Association of Los Angeles.
Judith L. Geltman, Esq., President, Women's Legal Defense Fund.
Steven Nissen, Esq., Executive Director & General Counsel, Public Counsel.
Sheldon H. Sloan, Esq., President, Los Angeles County Bar Association.
Abby Leibman, Esq., Executive Director, California Women's Law Center.
Juliet Gee, Esq., President, National Conference of Women's Bar Associations.

S. 625—THE AUTO CHOICE REFORM ACT OF 1997

Mr. Nickles. Mr. President, I am happy to join as a cosponsor to S. 625, the Auto Choice Reform Act of 1997. This bill enjoys widespread bipartisan support for the choice that it offers every American when choosing car insurance. Under this bill, families and individuals will be able to exchange the right to bring certain lawsuits for a substantial savings on their automobile insurance. This bill will allow consumers the right to purchase a low-cost policy that will cover medical bills and lost wages but not pain and suffering damage claims. These policies will also give the purchasers immunity from natural justice in automobile insurance. The current State liability systems will remain intact as a choice for individuals who would prefer the freedom
to sue and be sued for pain and suffering damages.

American taxpayers stand to save a total of $45 billion nationwide. This savings would go directly into the pockets of every insured person at no cost to the taxpayers. The Joint Economic Committee has projected that the auto choice option will save Oklahomans $420 million in automobile insurance premiums and will put $186 back into the pockets of every person with a car. This is the equivalent of an instant tax cut for every insured person.

The New York Times stated that with this bill: “Everyone would win—except the lawyers that live off the current liability system. In fact, trial lawyers take in an estimated $17 billion a year from auto accident cases. USA Today reported that 35 cents of every auto premium dollar goes to lawyers.

This bill has been labeled a “model of federalism.” Each State has the right to opt out of auto choice if the State insurance commissioner finds that residents fail to receive at least a 30 percent bodily injury savings. Trial lawyers will not be able to collect $200 in unnecessary premiums just to cover these fraudulent schemes. A recent survey shows low income families particularly hard since about one-third of a family’s disposable income is consumed by car insurance costs. Auto choice will put that money back into the accounts of every insured person at no cost to the taxpayers.

There is mounting evidence that the current auto liability insurance system has become prey to rampant fraud and abuse, which is constantly fed by inflated pain and suffering claims. FBI Director Louis Freeh estimated that the average household pays an additional $200 in unnecessary premiums just to cover these fraudulent schemes. This hits low income families particularly hard since about one-third of a family’s disposable income is consumed by car insurance costs. Auto choice will put that money back into the pockets of taxpayers to help pay for needed expenses, providing long overdue relief to all who choose this option and keep its current auto liability system.

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The New York Times stated that with this bill: “Everyone would win—except the lawyers that live off the current liability system. In fact, trial lawyers take in an estimated $17 billion a year from auto accident cases. USA Today reported that 35 cents of every auto premium dollar goes to lawyers.

This bill has been labeled a “model of federalism.” Each State has the right to opt out of auto choice if the State insurance commissioner finds that residents fail to receive at least a 30 percent bodily injury savings. Trial lawyers will not be able to collect $200 in unnecessary premiums just to cover these fraudulent schemes. A recent survey shows low income families particularly hard since about one-third of a family’s disposable income is consumed by car insurance costs. Auto choice will put that money back into the accounts of every insured person at no cost to the taxpayers.

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contributes of individuals to the society in which we all live.

(10) In 1993, the legislature and Governor of New Mexico created the Hispanic Cultural Division within the Office of Cultural Affairs. One of the principal responsibilities of the Hispanic Cultural Division is to oversee the planning, construction, and operation of the New Mexico Hispanic Cultural Center.

(11) The mission of the New Mexico Hispanic Cultural Center is to create a greater appreciation and understanding of Hispanic culture.

(12) The New Mexico Hispanic Cultural Center will serve as a local, regional, national, and international venue for the study and advancement of Hispanic culture, expressing both the rich history and the forward-looking aspirations of Hispanics throughout the world.

(13) The New Mexico Hispanic Cultural Center will be a Hispanic arts and humanities showcase to display the works of national and international artists, and to provide a venue for educators, scholars, artists, children, elders, and the general public.

(14) The New Mexico Hispanic Cultural Center will sponsor arts and humanities programs, including programs related to visual arts of all forms (including drama, dance, and traditional and contemporary music), research, literary arts, genealogy, oral history, publications, and special events such as, festivals, culinary arts demonstrations, film/video productions, storytelling presentations and education programs.

(15) The New Mexico Hispanic Cultural Center will sponsor arts and humanities programs, including programs related to visual arts of all forms (including drama, dance, and traditional and contemporary music), research, literary arts, genealogy, oral history, publications, and special events such as, festivals, culinary arts demonstrations, film/video productions, storytelling presentations and education programs.

(16) Phase I of the New Mexico Hispanic Cultural Center complex is scheduled to be completed by August 31, 1996 and will consist of an art gallery with exhibition space and a museum, administrative offices, a restaurant, a ballroom, a gift shop, an amphitheater, a research and literary arts center, and other components.

(17) Phase II of the New Mexico Hispanic Cultural Center complex is planned to include a performing arts center (containing a 700-seat theater, a stage house, and a 300-seat film/video theater), a 150-seat black box theater, an art study building, a culinary arts building, and a research and literary arts building.

(18) It is appropriate for the Federal Government to pay for the Federal share of the costs of constructing the New Mexico Hispanic Cultural Center because Congress recognizes that the New Mexico Hispanic Cultural Center has the potential to be a premier facility for performing arts and a national repository for Hispanic arts and culture.

(b) Definitions.—In this section:

(1) CENTER.—The term "Center" means the Hispanic Cultural Center, within the complex known as the New Mexico Hispanic Cultural Center.

(2) HISPANIC CULTURAL DIVISION.—The term "Hispanic Cultural Division" means the Hispanic Cultural Division of the Office of Cultural Affairs of the State of New Mexico.

(c) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(d) CONSTRUCTION OF CENTER.—The Secretary shall award a grant to New Mexico to pay for the Federal share of the costs of the design, construction, furnishing, and equipping of the New Mexico Hispanic Cultural Center. The construction will be located at a site to be determined by the Hispanic Cultural Division, within the complex known as the New Mexico Hispanic Cultural Center.

(e) USE OF FUNDS FOR DESIGN, CONSTRUCTION, FURNISHING, AND EQUIPMENT.—The funds received under a grant awarded under subsection (c) shall be used only for the design, construction, management and inspection, furnishing, and equipment of the Center.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary for this section a total of $17,800,000 for fiscal year 1998 and succeeding fiscal years. Funds appropriated pursuant to the preceding sentence shall remain available until expended.

Mr. DOMENICI. Mr. President, tonight we are passing the Kennedy Center garage bill with an amendment authorizing the Hispanic Cultural Center's Performing Arts Center. On a day when we pass the monumental spending bill and a tax cut I am pleased to see we are also authorizing this cultural center.

We could not be here today passing the cultural center bill if it were not that Senator Chafee was willing to be so helpful to me. He let me attach this amendment to the Senate-passed needed legislation for the Kennedy Center. I want to thank Senator Chafee for his tremendous cooperation and legislative skills. I want to thank him for helping accomplish a very important project for the State of New Mexico. Next year marks the 400th anniversary of the first Hispanic settlement in the United States and it happened to be located in New Mexico.

Many celebrations are planned around the State, but this cultural center will be a permanent addition and showcase.

Mr. President, I am eager to present my colleagues with a wonderful plan to honor and perpetuate the Hispanic culture of America. Next year, 1998, is the 400th anniversary of Hispanic presence in New Mexico. In 1588, Juan de Oñate conquered New Mexico and founded the second city of the United States, San Gabriel de los Españoles. This was the first permanent Spanish settlement in New Mexico. From New Mexico, Juan de Oñate traveled across the desert to California where he founded San Francisco in 1605.

On the occasion of the 400th anniversary of Spanish presence, New Mexico will be beginning a new era of Spanish pride and cooperation with other cultures. In New Mexico, we are very proud of our cultural relations between the Indian, Spanish, and Anglo people. It is now time to pay special tribute to the Spanish people of New Mexico and the United States.

In preparing for the 400th anniversary celebrations, the State of New Mexico has invested over $17.7 million toward the establishment of Phase I of the New Mexico Hispanic Cultural Center. In addition, the city of Albuquerque has donated 10.9 acres and an historic 22,000 square foot building.
Twelve acres of “bosque” land near the Rio Grande have also been donated by the Middle Rio Grande Conservancy District. Private contributions are also helping to meet the Hispanic Cultural Center goals.

I am asking my colleagues to match these New Mexico contributions with the funds to build the critical Hispanic Performing Arts Center at an estimated cost of $17.8 million. I believe the people of New Mexico have done a stellar job in committing their own resources. The Hispanic Performing Arts Center will be the product of very hard work by many years and, when completed, will be just the perfect contribution to a budding national treasure in its critical formative stages. I urge my colleagues to support the funding for the Hispanic Performing Arts Center in Albuquerque, NM, in honor of the 400th anniversary of Spanish culture, and in hopes of seeing the preservation and enhancement of this culture flourish into its 500th year.

Mr. BINGAMAN. Mr. President, I rise to speak about a subject that is very important to the people of New Mexico; not just the Hispanic community, but people of all ethnicities that value the rich, hispanic traditions of our state.

Today, I am proud to co-sponsoring with my colleague from New Mexico, Senator DOMENICI, legislation that will finally make possible the creation of an Hispanic Cultural Center. The Center has been in the planning stages for many years and, when completed, will be the product of very hard work by numerous people in New Mexico. I would like to thank Senator DOMENICI for his work and Senator KENNEDY, Senator BOND, and Senator GORTON for their efforts to make this Center a reality, and I congratulate them.

Mr. President, the United States and New Mexico have enjoyed an enriched legacy of Hispanic tradition and culture. New Mexico especially can be proud of strong Hispanic participation in politics, government, economic development, and cultural expression. Hispanic presence in the United States reaches back to 1539, and in New Mexico to 1598. Hispanic influence on our society can be seen all across our state, in our architecture, food, clothing, literature, music, family tradition, and even the names of many of our towns and cities: names like “Alamogordo,” “Raton,” “Quemado,” and “Penasco.” Since the time that Don Juan de Onate first settled New Mexico in 1598, Hispanic families have been a part of the New Mexico landscape.

Regrettably, too many Federal Government officials have done too little to recognize that the Hispanic community has been present on this continent for 500 years and has been an integral fiber in our Nation's fabric. The Hispanic culture has made and continues to make many valuable contributions to our society as a whole. Hispanics make up the fastest growing minority group in this country. The Census Bureau reports that Hispanics presently account for 11 percent of our Nation's population, and that number will have accounted for 44 percent of the national population growth.

Certainly, the Center will promote a better understanding of Hispanics, and, more importantly, will serve as a showplace for New Mexico. New Mexico is a place where many cultures, including Anglo, Native American, and African American, live and work together in magnificent harmony. This legislation is an important first step by our Federal Government to long-delayed recognition.

There is still much work to be done to make this Center a reality, however. Construction on the facility will begin, and the location of the Center is presently being determined. I strongly encourage all concerned parties to work together to ensure that the spirit of the Center remains intact.

Again, Mr. President, on behalf of the people of New Mexico, I thank the distinguished Senator for his leadership.
(a) FINDINGS.—Congress makes the following findings:

(1) The United States has an enriched legacy of Hispanic influence in politics, government, economic development, and cultural expression.

(2) The Hispanic culture in what is now the United States can be traced to 1528 when a Spanish expedition from Cuba to Florida was shipwrecked on the Texas coast.

(3) The Hispanic influence in New Mexico is particularly dominant and a part of daily living for all the citizens of New Mexico, who are a diverse composite of racial, ethnic, and cultural peoples.

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(5) Based on the 1990 census, there are approximately 650,000 Hispanics in New Mexico, the majority having roots reaching back ten or more generations.

(6) There are an additional 200,000 Hispanics living outside of New Mexico with roots in New Mexico.

(7) The New Mexico Hispanic Cultural Center is a living tribute to the Hispanic experience and will provide all citizens of New Mexico, the Southwestern United States, the entire United States, and around the world, an opportunity to learn about, participate in, and enjoy the unique Hispanic culture, and the New Mexico Hispanic Cultural Center will assure that this 400-year-old culture is preserved.

(8) The New Mexico Hispanic Cultural Center will teach, showcase, and share all facets of Hispanic culture, including literature, performing arts, visual arts, culinary arts, and language arts.

(9) The New Mexico Hispanic Cultural Center will promote a better cross-cultural understanding of the Hispanic culture and the contributions of individuals to the society in which we all live.

(10) The legislature and Governor of New Mexico created the Hispanic Cultural Division as a division within the Office of Cultural Affairs. One of the principal responsibilities of the Hispanic Cultural Division is to oversee the planning, construction, and operation of the New Mexico Hispanic Cultural Center.

(11) The completion of the New Mexico Hispanic Cultural Center is to create a greater appreciation and understanding of Hispanic culture.

(12) The New Mexico Hispanic Cultural Center will serve as a local, regional, national, and international site for the study and advancement of Hispanic culture, expressing both its historical and the forward-looking aspirations of Hispanics throughout the world.

(13) The New Mexico Hispanic Cultural Center will sponsor arts and humanities programs that are open to the general public.

(14) The New Mexico Hispanic Cultural Center will provide a venue for presenting the historic and contemporary representations and achievements of the Hispanic culture.

(15) The New Mexico Hispanic Cultural Center will sponsor arts and humanities programs that are open to the general public.

(16) Phase I of the New Mexico Hispanic Cultural Center complex is scheduled to be completed by August of 1998 and is planned to consist of a 1,500-seat theater, a 300-seat education center, an art studio building, and a 300-seat performing arts building.

(17) Phase II of the New Mexico Hispanic Cultural Center complex is planned to include a performing arts center (containing a 700-seat theater, a 300-seat film/video theater, a 150-seat black box theater, an art studio building, and a research and literary arts building).

(18) It is appropriate for the Federal Government to share in the cost of constructing the New Mexico Hispanic Cultural Center because Congress recognizes that the New Mexico Hispanic Cultural Center has the potential to be a premier facility for performing arts and a national repository for Hispanic arts and culture.

(b) DEFINITIONS.—In this section:

(C) CENTER.—The term “Center” means the Center for Performing Arts, within the complex known as the Hispanic Cultural Center, which Center for Performing Arts is a central facility in Phase II of the New Mexico Hispanic Cultural Center complex.

(D) HISPANIC CULTURAL DIVISION.—The term “Hispanic Cultural Division” means the Hispanic Cultural Division of the Office of Cultural Affairs of the State of New Mexico.

(B) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(c) CONSTRUCTION OF CENTER.—The Secretary shall award a grant to New Mexico to pay for the Federal share of the costs of design, construction, furnishing, and equipping of the Center for Performing Arts that will be located at a site to be determined by the Hispanic Cultural Division, within the complex known as the New Mexico Hispanic Cultural Center.

(d) GRANT REQUIREMENTS.—

(1) IN GENERAL.—In order to receive a grant awarded under subsection (c), New Mexico shall submit to the Secretary, within 30 days of the date of enactment of this section, a copy of the New Mexico Hispanic Cultural Center Program document dated January 1996 and shall exercise due diligence to expeditiously execute, in a period not to exceed 90 days after the date of enactment of this section, the memorandum of understanding as described in subparagraph (A) and (B) below.

(2) MEMORANDUM OF UNDERSTANDING.—The memorandum of understanding described in paragraph (1) shall provide—

(A) the date of completion of the construction of the Center;

(B) that Antoine Predock, an internationally recognized architect, shall be the supervising architect for the construction of the Center;

(C) that the Director of the Hispanic Cultural Division shall award the contract for architectural engineering and design services in accordance with the New Mexico Procurement Code;

(D) that the contract for the construction of the Center—

(i) shall be awarded pursuant to a competitive bidding process; and

(ii) shall be awarded not later than 3 months after the solicitation for bids for the construction of the Center.

(e) USE OF FUNDS FOR DESIGN, CONSTRUCTION, FURNISHING, AND EQUIPMENT.—The funds received under a grant awarded under subsection (c) shall be used only for the design, construction, management and inspection, furnishing, and equipment of the Center.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section a total of $17,800,000 for fiscal year 1998 and succeeding fiscal years. Funds appropriated pursuant to this section may be used only for the startup and operating expenses of the New Mexico Hispanic Cultural Center.

(G)[ip] 12 acres of “Bosque” land adjacent to the New Mexico Hispanic Cultural Center complex for use by the New Mexico Hispanic Cultural Center.

(H) The $30,000 donation by the Sandia National Laboratories and Lockheed Martin Corporation to support the New Mexico Hispanic Cultural Center and the program activities of the New Mexico Hispanic Cultural Center.

(i) USE OF FUNDS FOR DESIGN, CONSTRUCTION, FURNISHING, AND EQUIPMENT.—The funds received under a grant awarded under subsection (c) shall be used only for the design, construction, management and inspection, furnishing, and equipment of the Center.

(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section a total of $17,800,000 for fiscal year 1998 and succeeding fiscal years. Funds appropriated pursuant to this section may be used only for the startup and operating expenses of the New Mexico Hispanic Cultural Center.

(k) USE OF FUNDS FOR DESIGN, CONSTRUCTION, FURNISHING, AND EQUIPMENT.—The funds received under a grant awarded under subsection (c) shall be used only for the design, construction, management and inspection, furnishing, and equipment of the Center.

(l) DEFINITION.—In this section:
CONGRESSIONAL RECORD – SENATE

JULY 31, 1997

S 8511

July 31, 1997

(1) CENTER.—The term “Center” relates to the Center for Historically Black Heritage at Florida A&M University.

(2) SECRETARY.—The term “Secretary” means the Secretary of the Interior Acting through the director of the Park Service.

(c) CONSTRUCTION OF CENTER.—The Secretary shall award a grant to the State of Florida, Federal share of the costs design construction, furnishing and equipping the Center at Florida A&M University.

(4) GRANT REQUIREMENTS.—

(a) IN GENERAL.—In order to receive the grant awarded under subsection (c), Florida A&M University, shall submit to the Secretary a proposal.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—To receive a grant under subsection (b), the Secretary shall make a grant to Brown University in Providence, Rhode Island.

(2) FEDERAL SHARE.—The Federal share of the costs described in subsection (b) shall be 20 percent.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section a total of $3,000,000, to remain available until expended.

(a) DEFINITIONS.—In this section:

(MUSEUM) The term “Museum” means the Haffenreffer Museum of Anthropology at Brown University in Providence, Rhode Island.

(2) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(b) RELOCATION AND EXPANSION OF HAFFENREFFER MUSEUM OF ANTHROPOLOGY.

(a) IN GENERAL.—The Secretary shall make a grant to Brown University in Providence, Rhode Island, to pay the Federal share of the costs associated with the relocation and expansion of the Museum, including the design, construction, construction, renovation, restoration, furnishing, and equipping of the Museum.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $3,000,000, to remain available until expended.

SEC. 7. RELATION AND EXPANSION OF HAFFENREFFER MUSEUM OF ANTHROPOLOGY.

(a) DEFINITIONS.—In this section:

(MUSEUM) The term “Museum” means the Haffenreffer Museum of Anthropology at Brown University in Providence, Rhode Island.

(2) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(b) RELOCATION AND EXPANSION OF MUSEUM.

The Secretary shall make a grant to Brown University in Providence, Rhode Island, to pay the Federal share of the costs associated with the relocation and expansion of the Museum, including the design, construction, construction, renovation, restoration, furnishing, and equipping of the Museum.

(c) GRANT REQUIREMENTS.—

(1) IN GENERAL.—To receive a grant under subsection (b), the Museum shall submit to the Secretary a proposal for the use of the grant.

(d) FEDERAL SHARE.—The Federal share of the costs described in subsection (b) shall be 20 percent.

SEC. 8. ENVIRONMENTAL RESEARCH CENTER.

(a) IN GENERAL.—The Secretary of the Interior shall make a grant to J unia College for the construction of environmental research facilities and structures at Raystown Lake, Pennsylvania.

(b) COORDINATION.—As a condition to receipt of the grant authorized in subsection (a), officials of J unia College shall coordinate with the Baltimore District of the Army Corps of Engineers.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated $5,000,000 to carry out this section.

SEC. 9. FORT PECK DAM INTERPRETIVE CENTER.

(a) IN GENERAL.—The Secretary of the Interior shall design, construct, furnish and equip an historic, cultural, and paleontologic interpretive center and museum to be located at Fort Peck Dam, Montana.

(b) COORDINATION.—In carrying out subsection (a), the Secretary of the Interior shall coordinate with officials of the Bureau of Reclamation, Bureau of Land Management, United States Army Corps of Engineers and the Fort Peck Dam Interpretive Center and Museum.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to...
PERMITTING INDIVIDUALS WITH DISABILITIES FULL ACCESS TO THE SENATE FLOOR

Mr. WYDEN. Mr. President, I take the floor tonight to discuss a resolution that I have introduced with Senator WARNER to permit individuals with disabilities full access to the floor of the U.S. Senate. I believe that this resolution will be approved later tonight and has been reviewed by both the majority and the minority. I anticipate that it will be incorporated into the final business of the U.S. Senate during the wrap-up session before the session concludes.

Mr. President, this resolution that I offer tonight will close the book on discrimination against individuals with disabilities on the floor of the U.S. Senate.

Earlier this year, after a visually impaired professional on my staff was barred from bringing her guide dog onto the floor, the Senate adopted a resolution providing for temporary case-by-case entry to the floor for those professionals with disabilities. This was a good step—an important step. But it still left some room for discrimination.

The legislation that will be considered by the Senate tonight will ensure that as a matter of formal Senate rule there is no discrimination permitted against individuals with disabilities. There will no longer be a double standard in the U.S. Senate. Senate staffers with disabilities who have the privilege of the Senate floor will be permitted to bring onto the Senate floor supporting aids and services such as canes, service dogs, interpreters, or assistive devices. This is an important day for the Senate, for people with disabilities, and for our whole country because it makes clear that the U.S. Congress ought to follow the laws that apply to everyone else in our country.

I especially want to recognize the hard work of the chairman of the Rules Committee, Senator JOHN WARNER, in moving this resolution forward. As every Member of this body knows, he has an enormous workload. He was extremely gracious to me in working on this resolution and gain bipartisan support for it.

I would also like to pay a special tribute to the senior Senator from the State of West Virginia, Senator BYRD, whose expert knowledge of the Senate rules was of enormous benefit in drafting this new resolution.

As a relatively new Senator, I have great esteem for the constant care Senator BYRD uses to guard the traditions and prerogatives of this body. I am of the view that every U.S. Senator owes a debt of gratitude to the Senator from West Virginia for his constant vigilance with respect to ensuring the rights of all on the Senate floor.

Mr. President, this is an important resolution. It is justice long overdue. Earlier this year, a congressional fellow in my office was denied access to the Senate floor because she uses a guide dog. That guide dog is a working dog; a guide dog that serves as the eyes for a visually impaired person. The people of this country were offended, and they sent a message that this type of discrimination is unacceptable to them.

My office, like many others in the U.S. Senate, were inundated with calls, mail, and e-mail. There was one letter I received that recounted a bit of history that I would like to briefly share.

The letter that was sent to me told a story about the Senate in the 1930s when there were some Members who disapproved of a guide dog coming onto the Senate floor. The individual then who needed the assistance of the guide dog was Senator Schall of Minnesota. The letter described the Senator’s first entry into the Chamber with his guide dog and how the other Senators rose, one by one, and then in large numbers applauded him. The Senate galleries followed suit until the whole Senate was just one gigantic standing ovation.

The letter goes on to say that Senator Schall stopped by his seat, turned and listened to the ovation from all around him and was touched as the ovation continued and continued. Waving to the crowd, the Senator took his seat and commanded his guide dog, Lux, to lie down. The guide dog then curled up under the Senator’s desk, tucking his body so it would not be in the way of any Senator who passed by. The May 22, 1933, issue of the CONGRESSIONAL RECORD documents how strongly the American public reacted to the news of the death of Senator Schall’s beloved guide dog, Lux, who died after being separated a few days from the Senator when he thought it would be inappropriate to take the dog with him to attend the funeral of another Senator. Senator Schall said then:

This rule takes the generally accepted definition of an individual with a disability, defined as one who has a physical or mental impairment that substantially limits one or more of the major life activities of such individual, and says it is not possible to discriminate against that individual in this Chamber.

In closing, Mr. President, I want to observe that there are 40 million Americans with disabilities. Under the law, they are guaranteed the same rights as all other Americans in terms of access to jobs, insurance, transportation, and telecommunications technology. They are guaranteed special treatment. They are guaranteed just equal access. That is what this resolution is all about, equal access.

Finally, Mr. President, many lessons have been learned from this experience. I believe that the Senate and our country are more aware and sensitive to the many issues facing individuals with disabilities. We have seen that rules can and should be updated to meet the changing needs of our society. I believe that the Senate and our country as a whole are better off as a result of the consideration of this resolution and the strong bipartisan support that has developed here and in our country.

Mr. President, I think this is an important day for the Senate, because it was a day which ensures that our country is a bit more fair, a bit more sensitive to the needs of those with disabilities. I commend my colleagues on both sides of the aisle who have helped me so much, particularly Senators WARNER and BYRD.

Mr. President, I ask unanimous consent that Senators BYRD, REID, KERRY, CHAFEE, AKAKA, KENNEDY, MURRAY, BINGHAMAN, MURKOWSKI, FENGOld, HATCH, DURBIN, and HARKIN be added as cosponsors.

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

CONDEMNATION OF JERUSALEM BOMBING

Mr. REED. Mr. President, yesterday, while thousands of innocent men, women and children shopped in Mahane Yehuda market in Jerusalem, the peace of that sunny afternoon was shattered when two bombs filled with screws and nails detonated. Fifteen people were killed, close to 200 persons...
July 31, 1997

CONGRESSIONAL RECORD – SENATE

S8513

were injured. Later that day, the Israeli Cabinet voted to break off all contact with the Palestinian Authority, jeopardizing hopes that had soared just days ago when Israelis and Palestinians had agreed to resume peace talks for the first time since March.

I have always been a strong supporter of the peace process, and there is no doubt in anyone’s mind that this is a complicated issue and peace will only be secured after prolonged negotiations and compromises on both sides. No one expects it to be easy.

However, the first step simply must be to end the violence. Terrorist acts such as yesterday’s bombing simply cannot be tolerated. There is no reason, no excuse, no possible justification for killing innocent civilians shopping in a street market. It is an act of terrorism, nothing more, nothing less.

Peace cannot be secured until the citizens of the Middle East are certain that they are safe. They will not feel safe until they trust each other, and they will not trust each other until their actions match their words and deeds. Yasser Arafat said he condemns this terrorism. He said it is an act against the peace process. Yet, it is more than likely that a known terrorist group detonated those bombs in the market. These terrorist groups have never had to account for their violent deeds.

The Palestinian Authority must match its words of condemnation with acts. It must take tangible steps to increase security activity and security cooperation. It must be committed to bringing those who are responsible for this unconscionable act of terrorism to justice. Only when it is clear that these acts of terrorism will no longer be tolerated will they cease. Only when they cease can we take another step down that very long road to peace.

I extend my condolences to the families of those who were killed. It is my sincere hope that the last time that the people of Israel and the people of Palestine will endure the suffering and fear that terrorist acts bring.

I yield back the remainder of my time.

Ms. MOSELEY-BRAUN addressed the Chair.

The PRESIDING OFFICER (Mr. Sessions). The Senator from Illinois.

RESULTS OF BALANCING THE BUDGET

Ms. MOSELEY-BRAUN. Mr. President, this is people-oriented legislation, and I am pleased to be able to say that it is bipartisan legislation that invests in our children and in $66.5 billion, or 10% lower, this year. Critics argued at the time that the bill would plunge our country into a recession, that it would stoke inflation, and that it would throw hundreds of thousands of people out of work. A few months later, individuals who supported the bill later lost their elections because of that support. Those Members of Congress chose statesmanship over politics, and today I think it is important to pay tribute to their foresight.

The legislation that we passed this afternoon builds on what we achieved in 1993. It nonetheless represents an enormous accomplishment, one in which every individual has had to take justifiable pride. The United States is once again leading the way to get its fiscal house in order while investing in families, children and in students and in economic growth. By contrast, in Europe, which is not as advanced as a percentage of their gross domestic product are triple what ours is—and even higher—and they have no solution in sight. Again, I believe that we have shown the way to achieve fiscal responsibility and social fairness to the world.

As a Member of the Senate Finance Committee, I am pleased that this bill reflects a number of my own particular priorities. First, it helps young college graduates to repay their student loans by making the interest deductible once again. We all know how rapidly college costs have increased and are increasing and how many students start out their working careers with huge student loan debts. The proposal that Senator GRASSLEY and I worked together on will make a real difference to graduates as they begin to start their careers to begin their families. They will be able to do better on those loans. And given sometimes that those loans can be as high as $80,000 and $90,000, this should be a benefit to young people who want to pursue education.

Second, the bill contains a version of the proposal that I offered in the Senate that will help to create new economic activity and new jobs at thousands of abandoned commercial and industrial sites around the world.

These areas are the last front of brownfields sites in our communities, property that had formerly been used by business but which has become environmentally contaminated or polluted and then abandoned. By allowing those individuals who want to clean up these polluted areas and use them for new businesses, by allowing them to expense the costs and their environmental cleanup rather than having to capitalize those expenses over a period of years, it will create a brand new incentive to bring this property back into the economic mainstream, to create jobs, to clean up the environment, and to restore and reclaim parts of our communities all over this country.

Third, this bill will begin to address a problem that I have spoken about on the Senate floor many times, the crumbling schools around America. Since I have come to the Senate, I have worked to forge a new Federal and local State and local partnership to rebuild our Nation’s crumbling schools. We cannot lift our kids up if our schools are falling down, and I am pleased that this bill has taken the first step in that direction by creating a new category of interest-free bonds for communities to use to rehabilitate their schools. High poverty districts will be able to issue $800,000 in bonds to repair their schools, to pay for new teacher training, new equipment purchases and other expenses needed for revitalization of educational facilities.

I think that is an important step in the right direction. It does not begin to do all that we need to do, but it is a step.

The bill also increases the small issuer arbitration rebate exemption for certain school facilities funds which provide some small rural schools with relief from the burdensome administrative requirements associated with the issuance of tax-free bonds. And so even though this funders under this approach to rebuilding the schools. Although these proposals, frankly, are dwarfed by the $112 billion in school construction need...
that the General Accounting Office has documented for us, I think these two provisions send a message that Congress believes there is a Federal role for rebuilding our Nation’s schools and for cooperating and supporting State and local governments to do what they deem appropriate in terms of giving our young people the education and facilities they need in which to learn. This is not about interfering with local control in any way. We just want to begin to engage as a national community to provide support for States and local governments to do what they deem appropriate in terms of giving our young people the education and facilities they need in which to learn.

I believe it is inexcusable that in our country, the wealthiest nation in the world, every day 14 million children go to schools with broken windows, leaking pipes and overcrowded rooms, and I appreciate the leadership that is being demonstrated in this area.

I look forward to continue with Congressman Rangel on the House side, who made this one of his top priorities. I look forward to working closely with him and my other colleagues to create a true partnership among the Federal, State, and local governments, again, to get our school facilities in shape, to bring them up to code and to give our young people the kinds of facilities that they deserve for a 21st century education.

I want to take particular note, also, of the changes that were made to the proposal for the $500-per-child tax credit. The bill provides real help to hard-working American families, and I am particularly pleased that millions of families with incomes as low as $15,000 a year, families who pay thousands of dollars in payroll taxes but who have little or no income tax liability, they will now be able to take advantage of the $500-per-child tax credit. Those low-income families are doing exactly what everyone says they should do. They are working hard and they are raising their children. They deserve this tax relief, and I am very pleased that, at the insistence of President Clinton, they will receive it as part of the compromise achieved in this bipartisan legislation.

In addition, this bill takes many other steps to expand opportunity and economic growth. The Hope Scholarship will provide families with a tuition tax credit to help families carry the burdens of college costs. After the first 2 years of college, a tax credit of 20 percent of college tuition costs up to $10,000 annually will be available to students and their families. Moreover, employers’ ability to deduct the employees’ college tuition will be preserved in this legislation. That is an important kind of incentive, I think, to keep for our country.

Lastly, students will not be forced to pay taxes on the scholarships and fellowships they receive for their hard work. I, again, believe these are positive steps in the right direction.

The bill further ensures that children will no longer have to go without adequate health care. The bill contains the single largest investment in health care for children since the passage of Medicaid in 1965. It invests an unprecedented $24 billion to provide meaningful health coverage for almost half of the Nation’s uninsured children.

At the same time, it also protects something called EPSDT. That stands for Early Periodic Screening Diagnostic and Testing, which is very important in terms of the quality of services that children, pre and early eye and ear examinations and the like. It preserves a basic level of benefits and services for children under Medicaid, the Medicaid Program, and gives States the additional flexibility at the same time to assuage that those children are covered with health insurance for the entire year, as opposed to the trend that we see now in which they come on and go off of the Medicaid Program. So children will have more insurance because of it, but, again, we should see this afternoon that they have ever enjoyed in this country before. I think that is important.

Turning to the Medicare Program for seniors, I, like many other Members, had reservations. Frankly, about the bill that we initially passed out of the Senate. I was one of the two members of the Senate Finance Committee who did not vote for the means testing or the age changes or the copayments on Medicare, simply because we had not looked at the issues enough, and because I think those changes simply shifted the program costs to beneficiaries rather than truly protecting Medicare. Rather than allowing us to bring more people into health coverage, it was pushing people out of the health care system.

I am pleased we have not rushed to judgment in terms of changing Medicare. Despite our success in stripping the preemption from the original Senate bill, the conferences have decided to retain that. I think that is unfortunate. But it is an issue that was folded in this legislation, and, again, the benefits of the bill weighed against these changes are something we will have to take up separately. So, while we did not Byrd-rule the issue on Pennington at this time, I understand there is legislation that I strongly will support in regards to that issue of unemployment compensation and security.

The agreement also puts on the long-term Medicare solvency issue. Again, the commission will have to take up that issue. I look forward to their deliberation.

One last thing having to do with my State specifically, and those parts of the country that we like to call the heartland. We were very interested in the ethanol tax credit. Ethanol has an important place in our energy future in this country. I believe we should be aggressively moving to promote its use. This legislation kind of keeps the ethanol tax credit, but it also shows that it is currently, instead of extending it into the future in ways that I thought would have been more appropriate.

The conference agreement also makes major improvements in the Medicare managed care payment rate changes. While I continue to believe that moving to a 50-percent national/50-percent local payment rate blend moves too far away from recognizing local cost differentials, guaranteeing a minimum payment update is a marked improvement over the provisions as they even came out of our committee. So, again, the conference agreement strikes a more equitable balance between encouraging managed care growth in rural areas and under-insured areas and preserving the existing managed care enrollment.

The legislation also retains a number of important aspects from the original Senate bill, including prevention services, if you will, coverage of diabetes self-management training for colorectal cancer screening, mammography screens without the deductible requirement. We had to fight and raise the point that the deductible on mammograms was absolutely inappropriate, so the investment in mammograms without deductibles will benefit an additional 2 million women.

Again, a recent study in the New England Journal of Medicine shows that a copayment causes a threefold drop in the number of women getting mammograms. So, providing this screening without deductible is vitally important to the health of American women.

My praise for this legislation does not mean that I do not continue to have some major concerns about certain aspects of the bill. There are several non-worker-friendly provisions that I believe move completely in the wrong direction. One of those provisions has to do with overruling of the court decision in the Pennington case, which came out of my State of Illinois. Despite our success in stripping the preemption from the original Senate bill, the conferences have decided to retain that. I think that is unfortunate. But it is an issue that was folded in this legislation, and, again, the benefits of the bill weighed against these changes are something we will have to take up separately. So, while we did not Byrd-rule the issue on Pennington at this time, I understand there is legislation that I strongly will support in regards to that issue of unemployment compensation and security.

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There were a number of us—in fact, 70 Members of the Senate voted for the more extensive treatment and support for ethanol. Again, that came out in the conference and that is regrettable. But we will continue to fight this front on behalf of ethanol. I have every expectation and confidence that we will be successful in the long run.

There are a lot of other provisions such as capital gains and estate tax provisions that I have not taken the time to discuss here today. I will not take the additional time to do so now. Instead, I just want to make it clear that I strongly supported the overall bill and the bipartisan approach that made it possible. It was that cooperation, that coming together, that building on our strength with the view and the interests of all the American people, that allowed us to have this victory today.

We did the right thing for America's children. We did the right thing for America's students, our families, and we are doing the right thing for the next generation of Americans. Achieving fiscal responsibility and social fairness simultaneously is something that many said could not happen. We have done it with this legislation that we passed, and I think every Member of this body who voted for it has reason to be proud of the work of this Congress.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

THANKS AND APPRECIATION TO DAN DUKES AND CELESTE EMBREY

Mr. LOTT. Mr. President, I would like to take a moment to recognize two young people who served on my staff through all the long hours and difficult days of the last year.

After I was elected majority leader, the next morning at 9 o'clock, I was in the majority leader's office, but I only had about a third or half of the staff that I needed. I had some interns from my State of Mississippi, some college students who had been working with me just through the summer. I asked them to stay and help us, and they have been with me the last year.

They filled positions that are very vital. They did a great job.

Dan Dukes of Como, MS, has been like my alter ego. He has been with me throughout the day and, on occasions, when I had to go downtown, he has just done a fantastic job.

He has been personal assistant, shepherding my appointments, finding my lost notebooks, and keeping up with my headlong dashes from meeting to meeting.

Dan has had the patience of a saint and the attention to detail of a seasoned Hill staffer. It is an understatement to say that I will miss him as he returns home to finish his studies at the University of the South in Sewanee, TN.

This is one of those occasions when we say goodbye to a young man with every expectation that we will see him often—and hearing about him too. I have the same feeling about him as I once had about a youngster on my staff by the name of Peter King, who now represents the Third District of our State.

I want to express to him publicly my appreciation for filling in the way he did and doing a great job.

I also want to recognize Celeste Embrey of Southaven, MS, who has been one of the two receptionists in my front office who answered the thousands of calls that have come in, some of them not always very complimentary. She has done it with just charm and grace. In fact, she does just a great job that the President of pro tempore, the Senator from South Carolina, comes by to check on her several times each week to make sure she is doing all right. She appreciates that, and I appreciate that.

Even my colleagues who do not know her by name know well her unfailing smile, her enthusiastic greeting, her ability to make everyone feel at home. If you have enjoyed the atmosphere of true southern hospitality in my office, you have Celeste to thank. But you cannot fully appreciate what she has done for us until you overhear her conversations with callers—whether from Mississippi or around the country.

She has always dealt with their complaints and handled their questions with a concern and patience that go beyond the call of duty.

Celeste is a junior in high school, and though there will soon be another person at her desk in my outer office, there will still be a void in our staff. I will have to get her new phone number so that any of us who miss the brightness of her welcome and the cheer of her voice can keep in close touch.

Dan and Celeste are the kind of young people who keep up our faith in the rising generation. I am proud of them. I hope they will always be proud to have been part of the Lott team.

I want to say to these two very fine young people, I really appreciate their work. I am proud of them, and I wish them Godspeed in whatever they do in the years to come.

NOMINATIONS TO REMAIN IN STATUS QUO

Mr. LOTT. Mr. President, as in executive session, I ask unanimous consent that all nominations received by the Senate during the 105th Congress, first session, remain in status quo, notwithstanding the August-September adjournment of the Senate and the provisions of rule XXXIII, paragraph 6 of the Standing Rules of the Senate. Without objection, it is so ordered.

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.
basketball team. Dave's retirement means he will be able to do more of the things he loves, including spending time with his wife, Wanda, and his daughter, Suzanne.

Mr. President, I ask that you and my colleagues join me in paying tribute to the career of Dave Nakdimen. It surely has been a memorable one.

Mr. President, in the world of television news it is extremely difficult to develop expertise in covering politics. Most of the political reporters that we deal with are who are really talented in covering what the occupant of the Chair and myself do everyday tend to be in print journalism.

There is one real exception to that: Dave Nakdimen. Dave was the only expert political reporter I ever met in local television. He had a distinguished career. We will all miss him greatly.

Chair and myself do everyday tend to be in print journalism.

Mr. President, I wish Dave Nakdimen well in his retirement years. I ask unanimous consent that an article from The Courier-Journal be printed in the CONGRESSIONAL RECORD. There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Louisville Courier-Journal, July 11, 1997]

WAVE'S NAKDIMEN IS RETIRING AFTER 3 DECADES

(By Tom Dorsey)

Today is the last day on the job for WAVE reporter Dave Nakdimen after 36 years. I plopped down here in 1961 and have been in the business, "said Nakdimen. The soft-spoken journalist with the dry sense of humor has been a fixture on the local TV scene.

"He's a wonderful guy and clever writer," said WAVE colleague Jack Hays. "If I had a question on anything—but especially politics—I knew he'd know the answer."

Nakdimen, 64, probably holds the record for the most years as a TV reporter in Louisville. He remembers covering political races in which candidates ran as segregationist. He recalls interviewing the Rev. Dr. Martin Luther King Jr. during an open-housing march in the 1960s.

After the interview Nakdimen discovered that the sound system wasn't working. "So when King came around the block again, we asked him if he'd do the interview over and he was nice enough to do it."

On another day Nakdimen was assigned to do one of those worst-intersection-in-town stories.

"As I was standing there shooting the film, an accident happened right in front of me that perfectly illustrated the traffic problem," Nakdimen said. "I ran back to the van, not knowing what a great story I had, opened the camera and found there was no film in it."

Most days went better than that for the man who was born in St. Charles, Va. He grew up in London, Ky., listening to election-night returns and political conventions on radio.

That's what got him interested in the news. When he graduated from London High School, he went on to study journalism at the University of Kentucky, where he graduated in 1965.

His first job was writing sports for the Lexington Leader, the former afternoon newspaper. He almost connected with a job at The Courier-Journal. Along the way he became engaged to his future wife, Wanda. She was a nurse who was doing a job in Louisville, so he found one here too.

"WAVE (radio and TV) was looking for somebody to cover City Hall," he said. "I didn't know what I was doing and never will in my life, but I decided to take a shot at it."

The rest is history—36 years of it on the job and in the marriage.

The first two weeks on the job, he met David Brinkley and Ronald Reagan. "It was fun to talk with John Wayne, sit down with George Bush or chase Hubert Humphrey around," he said.

But there were other stories, too, many of them tragic. "I think the Standard Gravure (1969 shooting in the country) was the only story I will never forget." The 1974 tornado that ravaged large parts of Louisville is a close second.

What's changed the most about TV news?

"Oh, it's the technology without a doubt," Nakdimen said. When he began working at WAVE, stories were covered with a Polaroid camera. Film came along a few years later, but it was grainy black and white.

"Color followed, then small, live cameras and satellites and now digital television is on the way," he said.

"There's so much production to a TV news cast today, especially with the emphasis on live coverage. It's a far cry from the news he saw as a boy.

Nakdimen Remembers NBC's John Cameron Swayze and CBS' Douglas Edwards doing 15-minute nightly newscasts in television's early days. "They just sat in front of a camera and read the news; it was pretty much radio on TV," he said.

In many ways the last 36 years has zippered by like a tape on fast-forward. But Nakdimen won't be leaving it all behind.

"I'll still be doing a once-a-week commentary for WAVE and some political and election analysis to keep my hand in," he said.

Would Nakdimen do those 36 years over again?

"I think so. I really enjoyed it. It was a lot of hard work, but it was a lot of fun too." Mr. MCCONNELL. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tem, Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tem, Mr. President. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

LOTT. Mr. President, I appreciate the cooperation of all Senators on both sides of the aisle, as we have cleared these lists. When we get through today, we hope to have cleared most of the Executive Calendar. We have some that are still being held for matching nominations, some reservations on both sides. But when we get through here, I believe we will have cleared all that is on the calendar, except maybe those that have just been reported today and maybe just eight or nine others that we are still working on.

I appreciate, again, the support that we have had from Senators on both sides and from the Democratic leader.

Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations on the Executive Calendar: Nos. 121 through 127, 133, 146 through 170, 171, 172, 173, 174, 175 through 178, 179, 182 through 185, 201, 203, 204, 205 through 223, 225 through 232, and all nominations placed on the Secretary's desk in the Foreign Service.

I finally ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of George Munoz, to be president of OPIC. I understand that before the Senate considers the above nominations, there are several Senators who may like to speak.

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

I might note, Mr. President, we are still trying to clear some other nominations. There may be another opportunity before the night is over to clear some other nominations. Some of these nominations did not actually get reported from the committees until today. We are scrambling to try to see if we can get them confirmed so they can begin their service during the August recess. Therefore, that completes my unanimous consent request.

The PRESIDING OFFICER. Is there objection?

MR. DASCHLE. Mr. President, reserving the right to object, I first want to commend the distinguished majority leader for his work in helping us clear the Executive Calendar.

There is a lot of work done with this unanimous consent request. And we have attempted to work together to do as much as is possible. I regret, frankly, that there are still a number of nominees, as the majority leader has mentioned, that are not covered by this unanimous-consent request. And I am hopeful that over the next few hours we may still allow for the confirmation of a number of those who are still pending.

As the leader indicated, some of those were just reported out of committee today, I guess most particularly; Mr. President, I am concerned that there are a number of judicial nominees that have been on the calendar for many, many months. And I
hope that we can reach some accommodation with regard to those nominees as well.

It has been requested of me, and I am happy to do so, that we would ask unanimous consent that the majority leader, Mr. Lott, be allowed to make the four other judicial nominations on the Executive Calendar and the five that were reported from the Judiciary Committee today. That would complete our work with regard to the judicial committees. Many of those, as I have said, have been pending now for a long period of time. And it would mean a good deal to a lot of Members, and certainly to the families of these judicial nominees, if they could be included. And so I ask unanimous consent at this time.

Mr. LOTT. Mr. President, I have to object to that request. But I note to the Senator from South Dakota—again, I understand why he would need to make that request. And I appreciate his concern. I observe that we have moved several judges in this group of nominations, some of them that have been pending literally back to last year, including some circuit judges, and that there are only four remaining that are on the calendar. I think we may be able to clear some more, one or two more of those early when we come back in session.

I think a couple of them, we may have to call them up and have a vote. I am willing to call them up and have a debate and a vote on them as we did with regard to Mr. Klein at the Justice Department. I think that these holds can only last so long. And we have to call them up and have a vote one way or the other.

The other nominations were only reported today. I think there are several of them that we can do quickly. A couple of them I know there is no problem with, but there are some others we just have not had a chance to discuss with the chairman and run them through our hotline and get them cleared. But we will be down to very few of these judges. And I hope to keep moving along as they come out of committee, including the ones that we moved here today. I believe they included the four I mentioned, and maybe there is one other one in sort of a unique category that we did approve. But we will keep working on it. And something more may even happen before the night is out. That goes to that.

Mr. DASCHLE. Mr. President, if I could just respond very briefly, I just say to the majority leader, I understand his explanation. And I will not object to the unanimous-consent request because obviously this is a great deal of work on the Executive Calendar. And I appreciate his cooperation on those for which he can be helpful.

I say that there are a large number of nominations that are still pending in committee. And it will be our desire to clear the committees of the pending nominations as well when we return following the August recess. And I intend to work with the leader and with our chairman to ensure that they all are provided the opportunity to be considered and then ultimately confirmed on the Senate floor. I hope we can do that. And I have had the assurances by the majority leader that it is his intention as well to work forward to working with him to make that happen.

So I will not object. I yield the floor.

Mr. LOTT. Mr. President, I thank the Senator for doing that. I do note that we had 10 pages of nominations. When the night is over, those that were on the calendar will be down to one page. And some of those have holds on both sides of the aisle. We are working at trying to move those. So I appreciate your cooperation.

Mr. President, I yield the floor at this time. The PRESIDING OFFICER. Is there objection to the majority leader's request?

Without objection, it is so ordered.

The nominations were considered and confirmed en bloc as follows:

THE JUDICIARY

Thomas W. Thress, Jr., of Georgia, to be United States District Judge for the Northern District of Georgia.

Eric L. Clay, of Michigan, to be United States Circuit Judge for the Sixth Circuit.

Arthur Gajarsa, of Maryland, to be United States Circuit Judge for the Federal Circuit.

Ann C. Kinser, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years.

DEPARTMENT OF COMMERCE

Robert S. LaRussa, of Maryland, to be an Assistant Secretary of Commerce.

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)

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

Jose-Marie Griffiths, of Tennessee, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2001.

DEPARTMENT OF STATE

David J. Scheffer, of Virginia, to be Ambassador at Large for War Crimes Issues.

Ralph Frank, of Washington, a Career Member of the Senior Foreign Service, to be Counselor, to be reappointed as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Nepal.

John C. Holzman, of Hawaii, a Career Member of the Senior Foreign Service, to be Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Canada.

Gordon D. Giffin, of Georgia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Bangladesh.

J. Miley Gonzalez, of New Mexico, to be Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Colombia.

Linda J. Zacchino, of Arizona, to be Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to South Africa.

Linda Jane Zack Tarr-Whelan, of Virginia, to be Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Japan.

Karl Frederick Inderfurth, of North Carolina, to be Assistant Secretary of State for South Asian Affairs, to be Assistant Director for South Asian Affairs.

Lida M. Mosley, of Florida, to be Under Secretary for Civilian Personnel Management.

Julie B. Brown, of Illinois, to be Under Secretary for Health, Education, and Welfare.

Richard Sklar, of California, to be Representative of the United States of America to the United Nations for U.N. Management and Reform, with the Rank of Ambassador.

A. Peter Burleigh, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be the Deputy Representative of the United States of America to the Kingdom of Saudi Arabia and the status of Ambassador Extraordinary and Plenipotentiary, vice Edward William Gnehm, Jr.

DEPARTMENT OF DEFENSE

Rudy deLeon, of California, to be Under Secretary of Defense for Personnel and Readiness.

DEPARTMENT OF THE INTERIOR

Kathleen M. Karpan, of Wyoming, to be Director of the Office of Surface Mining Reclamation and Enforcement.

UNITED STATES ENRICHMENT CORPORATION

Kneeland C. Youngblood, of Texas, to be a Member of the Board of Directors of the United States Enrichment Corporation for a term expiring February 24, 2002. (Reappointment)

DEPARTMENT OF THE INTERIOR

Robert G. Stanton, of Virginia, to be Director of the National Park Service. (New Position)

Patrick A. Shea, of Utah, to be Director of the Bureau of Land Management, vice Jim Bacas.

DEPARTMENT OF TRANSPORTATION

J. nee Garvey, of Massachusetts, to be Administrator of the Federal Aviation Administration for the term of five years.

NATIONAL COUNCIL ON DISABILITY

Gina McDonald, of Kansas, to be a Member of the National Council on the Corporations for a term expiring September 17, 1998.

Bonnie O’Day, of Minnesota, to be a Member of the National Council on Disability for a term expiring September 17, 1998. (Reappointment)

NATIONAL INSTITUTE FOR LITERACY ADVISORY BOARD

Paul Simon, of Illinois, to be a Member of the National Institute for the Literacy Advisory Board for a term expiring September 22, 1998.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Louis Caldera, of California, to be a Managing Director for the Corporation for National and Community Service.

DEPARTMENT OF THE INTERIOR

J. Ray Rappaport Clark, of Maryland, to be Director of the United States Fish and Wildlife Service.

DEPARTMENT OF JUSTICE

Calvin D. Buchanan, of Mississippi, to be United States Attorney for the Northern District of Mississippi for the term of four years.

Thomas E. Scott, of Florida, to be United States Attorney for the Southern District of Florida for the term of four years.

DEPARTMENT OF AGRICULTURE

Shirley Robinson Watkins, of Arkansas, to be a Member of the Board of Directors of the Commodity Credit Corporation.

Shirley Robinson Watkins, of Arkansas, to be Under Secretary of Agriculture for Food, Nutrition, and Consumer Services.

I. Miley Gonzalez, of New Mexico, to be Under Secretary of Agriculture for Research, Education, and Economics.

Catherine E. Woteki, of the District of Columbia, to be Under Secretary of Agriculture for Food Safety. (New Position)

Aurora Schumacher, of Massachusetts, to be Under Secretary of Agriculture for Farm and Foreign Agricultural Services.
August Schumacher, J., of Massachusetts, to be a Member of the Board of Directors of the Commodity Credit Corporation.

IN THE AIR FORCE

The following-named officer for appointment to the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C. section 601:


The following-named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C. section 601:


The following-named officer for appointment in the United States Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C. section 601:


Edward William Gnehm, J.r., of Georgia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Director General of the Foreign Service.

James W. Pardew, J.r., of Virginia, for the Rank of Ambassador during his tenure of service, as U.S. Special Representative for Military Stabilization in the Balkans.

Stanley O. Roth, of Virginia, to be an Assistant Secretary of State.

Marc Grossman, of Virginia, a Career Member of the Senior Foreign Service, Class of Counselor, to be an Assistant Secretary of State.

James P. Rubin, of New York, to be an Assistant Secretary of State.

Bonnie R. Cohen, of District of Columbia, to be an Under Secretary of State.

David Andrews, of California, to be Legal Adviser of the Department of State.

Wendy Ruth Sherman, of Maryland, to be Counselor of the Department of State, and to have the rank of Ambassador during her tenure of service.

John Christian Kornblum, of Michigan, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Russian Federation.

Maura Harty, of Florida, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Paraguay.

James F. Mack, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Guyana.

Anne Marie Sigmund, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kyrgyz Republic.

Keith C. Smith, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Lithuania.

Daniel V. Speckhard, of Wisconsin, a Career Member of the Senior Executive Service, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Bosnia and Herzegovina.

R ichard Dale Kauzlarich, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Belarus.

Philip Lader, of South Carolina, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to France.

Nomination Placed on the Secretary’s Desk.

IN THE FOREIGN SERVICE

Foreign Service nomination of Marilyn E. Hulbert, which was received by the Senate and appeared in the Congressional Record of January 28, 1997.

Foreign Service nominations beginning with the nomination of John R. Swallow, and ending George S. Dragich, which nominations were received by the Senate and appeared in the Congressional Record of April 25, 1997.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

George Munoz, of Illinois, to be President of the Overseas Private Investment Corporation.

STATEMENTS ON THE NOMINATION OF JANE GARVEY

Mr. MCCAIN. Mr. President, I rise in support of Jane Garvey’s confirmation as Administrator of the Federal Aviation Administration [FAA]. It is our responsibility to move forward with this nominee now. The Administration waited at least 7 months to name a successor to former FAA Administrator David Hinson. We cannot afford to let this critical aviation safety post remain vacant any longer.

Ms. Garvey will be the first FAA Administrator to serve in the five-year term we established in last year’s FAA reauthorization bill. The responsibilities and the challenges she faces are daunting. Ms. Garvey needs our full support in meeting these challenges head-on. Both she and the traveling public deserve no less.

My reservations about Ms. Garvey’s abilities are no secret. Her President’s real aviation experience is a 2-year stint as director of the Boston Logan airport. It is almost unfair for the Administration to have thrust Ms. Garvey into such a highly accountable safety position without requisite aviation expertise. Ms. Garvey’s principal area of expertise is surface transportation. Representatives from the highway sector praise her several years of public service, both at the Massachusetts Department of Public Works and as Assistant Administrator of the Federal Highway Administration.

In both of these positions, Ms. Garvey had responsibilities associated with the Central Artery/Third Harbor Tunnel project in Boston. This may be a project that is now proceeding according to schedule, and within revised budget estimates. Let us not forget, though, that the cost estimates for the project have been revised from an estimated $2 billion to a cost that exceeds $10 billion. While it’s true that the federal government, of course, is picking up most of the tab, I do not hold Ms. Garvey entirely responsible for this boondoggle. Neither do I think she can distance herself entirely from this monument to pork-barrel politics.

Ms. Garvey’s involvement in this project holds particular significance in light of the history of mismanagement of large acquisition projects at the FAA.

I, obviously cannot, nor do I intend to, credit Ms. Garvey with any of these problems at the FAA. I simply make the point that her association with the Central Artery/Third Harbor Tunnel project is not a ringing endorsement of her ability to manage large FAA acquisition programs within budget.

Much of the FAA’s misfortune has been attributed to the culture of its bureaucracy. Ms. Garvey receives high marks for her superior management abilities. Perhaps she is just the breath of fresh air we need at the FAA, to make sure that the Agency remains the premier aviation safety Agency in the world.

Again, I wish Ms. Garvey every success, and I pledge to do whatever I can to support her in her new role. I urge that we move forward expeditiously in confirming Ms. Garvey as the next FAA Administrator.

I want to assure Ms. Garvey that the Commerce Committee and the Aviation Subcommittee will be watching very carefully and closely, because she does come to this job highly qualified, and that was made clear during her hearings. I believe the President of the United States has the ability to nominate people he wants for important positions. I believe, therefore, that we should move forward expeditiously with Ms. Garvey’s nomination. At the same time, I have grave and severe reservations. And, also, at the same time, I will do everything I can to see that she succeeds in her new and most daunting task.

Mr. President, I yield the floor.

Mr. GORTON. Mr. President, I rise in support of Jane Garvey’s confirmation as Administrator of the Federal Aviation Administration [FAA].

As the new FAA Administrator, Ms. Garvey is facing significant challenges. These challenges include ensuring that air travel is safe, that the modernization of the air traffic control system is done on time and on budget, and that airport development keeps pace with the expected significant increases in passenger traffic. Ms. Garvey also faces a significant challenge to independently assess aviation funding needs, and to speak out as to what the true needs are.
We are counting on Ms. Garvey to provide strong leadership. Many positive statements have been made about her tenure at the Federal Highway Administration, and about her outstanding management skills and strong finances. If that is the case, we will serve Ms. Garvey well in running the FAA, and in working with the Congress.

I have heard a great deal about the need to change how things are done at the FAA. Some of Ms. Garvey’s past accomplishments indicate that she is up to the task. I understand that one of her most noteworthy accomplishments at the Federal Highway Administration was to help implement innovative financing options to accelerate completion of highway projects and to leverage federal funds. Through her efforts, unnecessary restrictions were cleared away, and program flexibility was provided that allowed good ideas to be introduced. Such actions show that she is thinking beyond business as usual, and see opportunities to make improvements. Such creativity is needed at the FAA.

I am sure that no one needs to be reminded that aviation safety is the paramount responsibility of the FAA. I expect Ms. Garvey to take whatever reasonable action is necessary to see that the FAA is proactive, and makes whatever changes are needed before, not after, an airline accident occurs. The public expects and deserves nothing less.

Ms. Garvey will be the first FAA Administrator to have a fixed 5-year term. The Congress established this term so that the FAA would have the continuity and direction that its complex, technical, and costly programs require. Ms. Garvey has made a public commitment that she will stay for the full 5 years of her term. I would encourage her to keep this commitment. I hope she will work tirelessly to address the needs of the nation’s aviation system, and to see that it continues to be the safest, most efficient system in the world. I wish Ms. Garvey great success. I would join with Senator MCCAIN in urging this body to quickly confirm Ms. Garvey as the next Administrator of the FAA. Thank you, Mr. President.

Mr. HOLLINGS. Mr. President, I rise today in support of the President’s nomination of a new Administrator of the Federal Aviation Administration [FAA], Ms. Jane Garvey. We have waited several months for this nomination, and I want to thank my distinguished colleague and Chairman, Senator MCCAIN, for bringing Ms. Garvey’s nomination up for a vote so expeditiously.

I want to point out Ms. Garvey’s impressive public service record. She has held several important positions with both state and federal Governments. I find it encouraging to find someone with Ms. Garvey’s leadership capabilities dedicating her career to public service. All too often society’s best and brightest leave public service for more lucrative pursuits. But with Ms. Garvey, we have one of the best making a significant contribution for the good of the public. I applaud Ms. Garvey for that.

Ms. Garvey comes to us after receiving high marks for her work as Deputy Administrator of the Federal Highway Administration. During her tenure, Ms. Garvey has demonstrated that she is an impressive leader. This nation deserves a nominee like Ms. Garvey to lead the FAA.

The FAA’s job is to safely operate the national air system. When it comes to safety, there is always room for improvement. Improving the system is a monumental task, and Ms. Garvey certainly has her work cut out for her.

The FAA also plays an important role in developing and promoting airport development. Airport development is a critical component in promoting the growth of aviation. In my home state of South Carolina—suffers. Infrastructure development fuels travel and tourism and enables communities to attract new business to all of South Carolina.

Because of Ms. Garvey’s extensive background at the highway department, I expect she will bring creativity and ingenuity to the Airport Improvement Program. The program is a critical component of our nation’s transportation infrastructure, and I am enthusiastic about Ms. Garvey’s ability to manage this program well.

I want to conclude by commending the people at the FAA. All day, every day, they ensure that millions of Americans reach their destinations safely. I am proud to be working with Ms. Garvey to address the needs of the nation’s aviation system, and to see that it continues to be the safest, most efficient system in the world. I wish Ms. Garvey great success. I would join with Senator MCCAIN in urging this body to quickly confirm Ms. Garvey as the next Administrator of the FAA. Thank you, Mr. President.

Mr. KERRY. Mr. President, on June 24, I had the privilege of introducing Ms. Jane Garvey of Massachusetts to the Senate Commerce Committee as President Clinton’s nominee to be next administrator of the Federal Aviation Administration. On that day I proclaimed that she has the experience, the intellect and the management skills necessary to prepare the FAA for the challenges of the 21st Century.

Since my introduction, the Chairman and other members of this Committee have put forth questions, both verbally and in writing, on a range of issues pertaining to Ms. Garvey’s past experience and to the important challenges facing the FAA. In my view, her answers have, indeed, borne out my glowing introduction and have demonstrated beyond any doubt that she will be an excellent Administrator of the FAA. And, indeed, Ms. Garvey’s nomination comes to the floor with the unanimous support of the Commerce Committee.

Mr. President, the challenges before the FAA are enormous. Among other things, the next Administrator will need to effectively modernize the nation’s air traffic control system to keep pace with America’s growing air travel needs. She will also be charged with efficiently procuring and deploying the next generation of explosive detection equipment to protect our nation’s citizens from rogue elements who seek to indiscriminately harm air travelers. Action on these and other matters are essential to ensuring the safety and security of all American citizens. To address these matters and guide the world’s largest aviation agency into the 21st Century, the President sought a strong and capable leader with proven and tested management skills. In my view, the President could not have made a better choice.

Jane Garvey has long been recognized in Massachusetts and in Washington as a top-quality public servant with superior management skills. Jane Garvey directed the Massachusetts Department of Public Works, the 8th largest state highway program in the nation, where she supervised the state’s multibillion-dollar highway construction program. Jane Garvey also served as Massachusetts Director of Aviation, managing airport operations at Logan Airport in Boston and directing the planning of Logan’s $1 billion modernization. Upon coming to Washington where Jane has been Deputy and Acting Administrator of the Federal Aviation Administration, she oversaw an agency with a $20 billion dollar budget and offices in every state. At each step in her impressive career, Jane Garvey has received praise from government and industry officials alike. In my view, there can be no doubt that Jane Garvey has the vision and proven administrative experience to manage the FAA.

However, aside from her managerial expertise, Jane Garvey has also developed a reputation as a safety first. Over the past four years, Jane Garvey has been a recognized leader in moving safety to the top of Federal Highway’s agenda. Hazardous highway-rail grade crossings are being eliminated; truck safety standards are being upgraded; and infrastructure investments and high-tech intelligent transportation systems are emphasizing safety first. In fact, as Massachusetts Director of Aviation, Jane oversaw the deployment of prototype safety systems to prevent runway collisions and a communications center that integrated operations with safety and weather information. Jane Garvey has
consistently made public safety her highest priority, and she will take this commitment to safety with her to the FAA. She is the best choice to ensure that our nation’s passenger air system remains the world’s safest as air traffic continues to increase.

Finally, Jane Garvey understands the value and promise of technology. She presently oversees nearly a half-billion dollars annually in Federal Highway technology research and development including the deployment of intelligent transportation systems that apply advanced computer and communications technologies to travel. At Logan Airport, Jane Garvey managed the deployment of modernized air traffic control systems and made the airport a testing ground for such innovative technologies as radar-linked runway-guide guard lights and converging runway display aids.

Jane Garvey’s management experience combined with her understanding of technologies strikes me as an excellent working relationship. By working together, I urge my colleagues to unanimously support this nomination.

Mr. FORD. Mr. President, I rise today in support of the President’s nomination of a new Administrator of the Federal Aviation Administration [FAA], Ms. Jane Garvey. Ms. Garvey comes to us with over a decade of distinguished public service. From 1991 to 1993, Ms. Garvey served as director of aviation for the Massachusetts Port Authority. Before that, Ms. Garvey served as director of transportation and associate commissioner for the Massachusetts Department of Public Works from 1983 to 1991. Ms. Garvey’s experience in public office is impressive. That experience will prove invaluable in her ability to manage a complex agency like the FAA.

Over the last several years, Linda Daschle and David Hinson worked hard to change the direction of the FAA. Ms. Garvey, if confirmed, will need to continue those efforts. Ms. Garvey’s involvement with the cost overruns for the central artery/third harbor tunnel project in Boston. I want to take a moment to address the chairman’s concerns. Let me suggest that, from what I have been able to piece together, Ms. Garvey took several proactive steps to try and keep that project within budget. First and foremost, a significant reason for the cost overrun is because of inflation. The original cost estimate of $2.6 billion was based on 1982 dollars, which, at the time, was a standard method for calculating project costs at FHWA. The project in its original form needed to be completed for $10.2 billion. That is an increase of approximately $41 billion is a result of inflation.

The scope of the project has changed over the past 15 years as well. The total cost of the job now includes several new interchanges, additional pavement work, bridge work, in addition to the cost of relocating a toll plaza. Many of these items were not funded by the highway administration, but were still included in the total cost of the project. Ms. Garvey has noted that as deputy administrator for FHWA, these additional costs would not be borne by the Federal Government—the State of Massachusetts must assume these costs.

It strikes me that—from what the committee has been able to gather—that Ms. Garvey has been proactive in trying to contain the costs of this project. For example, Ms. Garvey, while deputy at FHWA, imposed caps that limited Federal spending on this project. This is the kind of proactive leadership we need to ensure that Federal resources are used wisely.

I believe Ms. Garvey’s experience with the central artery/third harbor tunnel project. One of those efforts is the replacement of several critical air traffic control computer systems. This effort must run smoothly and within budget, and the nominee’s leadership will provide much needed guidance in achieving this critical objective.

Another major project underway at the FAA is the transition to a global positioning system [GPS]. By moving to GPS, the industry expects to save billions of dollars every year from more efficient navigation. Like replacing the air traffic control systems, the transition to GPS must also be managed smoothly. I expect Ms. Garvey’s dedication and leadership will help FAA succeed in this effort.

Let us also not forget the critical role FAA plays in ensuring that air transportation remains the safest way to travel. Every day, 365 days a year, tens of thousands of aircraft make their way safely thanks in part to the national air traffic control system. The FAA manages this system admirably, but there is always room for improvement. I anticipate Ms. Garvey will bring her ingenuity and creativity to the task of improving safety. If approved, I pledge to work with Ms. Garvey to make air travel as safe as it can be.

I know Ms. Garvey holds a similar philosophy on safety—and I also know Ms. Garvey and Mr. Slater have an excellent working relationship. By working together, I expect the team of Ms. Garvey and Mr. Slater to effectively manage a safe and efficient national air system.

Ms. Garvey comes to us having won high marks as Deputy Director for the Highway Administration. Those who worked with her at FHWA and those from outside the Agency all credit Ms. Garvey with strong leadership, dedication, and ingenuity. I urge my colleagues to support this nomination. Thank you, Mr. President.

STATEMENT ON THE NOMINATION OF ERIC L. CLAY

Mr. LEAHY. Mr. President, I am delighted that the majority leader has decided to take up the nomination of Eric Clay to be a United States Circuit Judge for the Federal Circuit. Mr. Clay is a well-qualified nominee.

The Judiciary Committee unanimously reported his nomination to the Senate on May 22, 1997. The sixth circuit desperately needs Eric Clay to help manage its growing backlog of cases. In fact, the sixth circuit has three vacancies, two of which have been designated judicial emergencies by the Judicial Conference of the United States.

We first received Eric Clay’s nomination in March 1996. He was accorded a hearing in the last Congress on March 26, 1996, and was reported by the Judiciary Committee to the full Senate on April 25, 1996. Unfortunately, his nomination was never acted upon because of the Presidential election year slowdown of judicial confirmations in 1996.

The President renominated Eric Clay on the first day of this Congress for the same vacancy on the sixth circuit, which vacancy has existed since September 1994. This is one of the judicial emergency vacancies that we should have filled last year. This vacancy has persisted for more than 2½ years. He has the support of both Senators from Michigan, a Republican and a Democrat. He had a confirmation hearing on May 7 and the committee considered and unanimously reported his nomination to the Senate. This important nomination was held without action on the Senate Executive Calendar for over 2 months by the Republican leadership.

I am delighted for Mr. Clay and his family that his nomination is finally being confirmed and am confident that he will make a fine member of the sixth circuit.

STATEMENT ON THE NOMINATION OF ARTHUR GAJARSA

Mr. LEAHY. Mr. President, I am delighted that the Majority Leader has decided to take up the nomination of Arthur Gajarsa for the Federal Circuit Judgeship. Mr. Gajarsa is a well-qualified nominee.

We first received Eric Clay’s nomination in March 1996. He was accorded a hearing in the last Congress on March 26, 1996, and was reported by the Judiciary Committee to the full Senate on April 25, 1996. Unfortunately, his nomination was never acted upon because of the Presidential election year slowdown of judicial confirmations in 1996.

The President renominated Eric Clay on the first day of this Congress for the same vacancy on the sixth circuit, which vacancy has existed since September 1994. This is one of the judicial emergency vacancies that we should have filled last year. This vacancy has persisted for more than 2½ years. He has the support of both Senators from Michigan, a Republican and a Democrat. He had a confirmation hearing on May 7 and the committee considered and unanimously reported his nomination to the Senate. This important nomination was held without action on the Senate Executive Calendar for over 2 months by the Republican leadership.

I am delighted for Mr. Clay and his family that his nomination is finally being confirmed and am confident that he will make a fine member of the sixth circuit.
We first received Arthur Gajarsa's nomination in April 1996. He was ac-
corded a hearing in the last Congress on June 25, 1996, and was unanimously 
reported by the Judiciary Committee to the full Senate 2 days later. Unfortu-
nately, his nomination was never acted upon because of the Presidential elec-
tion year shutdown of judicial con-
firmations in 1996.

The President renominated Arthur 
Gajarsa on the first day of this Con-
gress for the same vacancy on the Fed-
eral court. This vacancy has existed 
since November 1995. This vacancy has 
persisted for more than 1½ years. He has 
the support of both Senators from 
Maryland. He had a confirmation hear-
ing on May 7 and the Committee con-
sidered and unanimously reported his 
nomination to the Senate 2 weeks 
later. This nomination has been pend-
ing on the Senate Calendar since May 
22. Apparently, after these 2 months on 
the Senate Executive Calendar without 
an action for confirmation, the Republi-
can leadership is pre-

dared to allow the Senate to approve 
this nomination.

I am delighted for Mr. Gajarsa and 
his family that he is finally being con-

firmed. He will make a fine judge.

STATEMENT ON THE NOMINATION 
OF THOMAS W. THRASH, J. R.

Mr. LEAHY. Mr. President, I am deli-
ighted that the majority leader has 
decided to take up the nomination of 
Thomas W. Thrash, J. R., to be a United 
States District Judge for the Northern 
District of Georgia. Mr. Thrash is a 
well-qualified nominee.

The Judiciary Committee unin-

erprisingly reported his nomination to the 
Senate on May 22, 1997. The Northern 
District of Georgia Sixth Circuit des-

erately needs Thomas Thrash to help 
manage its growing backlog of cases.

We first received Thomas Thrash's 
nomination in May 1996. He was ac-
corded a hearing last Congress on July 
31, 1996, but his nomination fell victim 
to the Presidential election year con-
firmation shutdown of 1996. The Presi-
dent renominated him on the first day 
of this Congress for the same vacancy 
on the District Court for the Northern 
District of Georgia, which vacancy has 
exists since March 1996. He had a con-
firmation hearing on May 7 where he 
was supported by both Senator 
CLELAND and Senator COVERDELL 
and was reported to the Senate by the Judi-
cracy Committee 2 weeks later. This is 
another of the nominations that has 
languished on the Senate Executive 
Calendar since long before the July 4 
recess. I am glad that the Republican 
leadership has allowed this nomination 
to go forward. I congratulate Mr. 
Thrash and his family on his confirma-
tion.

STATEMENT ON THE NOMINATION OF PHILIP 
LADER

Mr. THURMOND. Mr. President, I rise 
on behalf of Mr. Philip Lader to be 
Ambassador. Philip Lader is a man of 
integrity and honor whom I hold in 
high esteem. He has a deep respect for 
the British people and their beautiful 
country. I know that he, along with his 
wife Linda, and their two young daugh-
ters Mary Catherine and Whittaker 
will represent the United States well 
at the Court of St. James and will make 
us all very proud.

Mr. President, I rise today in strong 
support of the confirmation of Mr. 
Philip Lader to be the U.S. Ambassador 
to the United Kingdom of Great Brit-
ain and Northern Ireland. I have known 
Mr. Lader and his family for years, and 
I believe he will work hard to maintain 
and strengthen the long and valuable 
friendship between our two nations.

Although he was born in New York, 
and was educated at Duke University, 
the University of Michigan, Harvard, 
and Oxford, Mr. Lader has called South 
Carolina home for many years. It is in 
South Carolina where he established 
himself as a leader in business and edu-
cation. He was associated for 10 years 
with Sea Pines Co., a developer and op-
erator of award-winning recreational 
communities on Hilton Head Island.

In addition, he has held the following 
business positions: president of Busi-
ness Executives for National Security; 
founding director of the South Carolina 
Jobs/Economic Development Author-
ity; director of First Union National 
Bank (S.C.) and First Carolina Bank; 
director of the South Carolina Cham-
ber of Commerce; chairman of the 
South Carolina Governor's Council on 
Small and Minority Business; and a 
member of the U.S. Senate Commerce 
Committee's Travel and Tourism Advi-
sory Committee. In 1981, he founded 
Renaisance Weekend, a family retreat 
for innovative leaders.

In education, he served as president 
of Winthrop College in Rock Hill, SC, 
from 1983 to 1985. During his tenure, 
Winthrop was awarded the National 
Gold Medal for improvements in pro-
grams. Academically, he has 
served as chairman of the South Caro-
olina Rhodes Scholarship Committee, 
trustee of three colleges, and director 
of the Alumni Association at Duke 
University. He has taught courses at 
many universities and has been award-
ed honorary doctorates by five institu-
tions.

Mr. President, for the past several 
years, Phil Lader has been utilizing his 
himself as a leader in business and edu-
cation. He most recently served as Admin-
istrator of the Small Business Adminis-
tration. Prior to that, he was Assistant 
to the President and White House 
Deputy Chief of Staff. He has also been 
Deputy Director for Management at 
the Office of Management and Budget 
and has been chairman of the National 
Performance Review's Policy Commit-
tee, the President's Management Coun-
cil, and the President's Council on 
Integrity and Eficiency. In addition, he 
has served on the National Economic 
Council, the President's Export Coun-
cil, the Community Empowerment 
Board, and the Board of Governors of 
the American Red Cross. Currently, he is a member of the Council on Foreign 
Relations.

Mr. President, all of the business, 
academic, and Government experience 
that I have just described are tremen-
dous assets Mr. Lader will bring to the 
Court of St. James. Mr. Lader has even more to offer this posi-
tion, both professionally and person-
ally. Professionally, he was executive 
vice president of Sir James Gold-
smith's U.S. holding company, which 
was responsible for the development 
and sales of lands previously owned by 
Crown Zellerbach and Diamond Inter-
national Corporations. He was also 
President of Bond University, the first 
private university in Australia, a Brit-
ish Commonwealth nation.

Personally, the Lader family has 
strong ties to the United Kingdom, par-

cularly England and Scotland. He 
studied English constitutional history 
at Oxford University and is an Honor-
ary Fellow of Pembroke College at Ox-
ford. Further, the ancestors of his love-
ly wife, Linda, emigrated from Henley-
on-Thames, just west of London. In 
fact, her late stepmother, Catherine 
Marshall, was the author of "A Man 
Called Peter," the biography of her 
husband, the Scottish Presbyterian 
Minister Peter Marshall, who served as 
the U.S. Senate Chaplain from 1947 
until his death in 1949. Mrs. Lader is a 
trustee of the American University in 
London.

Phil Lader is a man of integrity and 
honor whom I hold in high esteem. He 
has a deep respect for the British peo-
ples and their beautiful country. I know 
that he, along with his wife Linda and 
their two young daughters, Mary Cath-
eryne and Whittaker, will represent 
the United States well at the Court of St. 
James and will make us all very proud.

Mr. President, I reiterate my strong 
support for the confirmation of Phil 
Lader to be Ambassador to the United 
Kingdom of Great Britain and Nor-
thern Ireland. I have no doubt that he 
will rise up to the challenge that he 
made to the Foreign Relations Com-
mittee earlier this week and devote his 
time and energy "not only to the sa-
lient matters of diplomacy, but also to 
the arts and letters, the streets and 
fields, the industries and entre-
preneurs, those who innovate and those 
in need, all of which preserve and 
strengthen the heritage and common 
causes of America and the United King-
dom."

Mr. President, I yield the floor.

STATEMENT ON THE NOMINATION OF FELIX 
ROHATYN

Mr. WARNER. Mr. President, I was 
privileged to be on the floor at the 
time the distinguished majority leader 
put forth the Executive Calendar, 
including the name of Felix Rohatyn to 
be the United States Ambassador to 
France. I had the privilege of introduc-
ing Mr. Rohatyn to the Committee on 
Foreign Relations. And together with 
his lovely wife, Elizabeth, I assure the
Senate that they will make an extraordinarily capable team to represent our Nation. And now, Mr. President, I am going to do something that is unusual. I ask unanimous consent that Mr. Rohatyn's statement and exhibit be printed in the RECORD.

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

Statement by Felix G. Rohatyn Before the Subcommittee on European Affairs of the Senate Foreign Relations Committee, July 29, 1997

Mr. Rohatyn: Mr. Chairman and members of the Senate Foreign Relations Committee.

I amhome to appear before you today to seek your consent to President Clinton's nomination of me to serve as the next American Ambassador to France. It is also a very emotional experience, for many reasons.

Let me begin by expressing to you, Mr. Chairman, my appreciation for your courtesies and those of your staff. You have been gracious and helpful to me and to my family in assisting us through this rather daunting process.

I am, as you know, a refugee who came to this country from Nazi-occupied Europe in 1942. As long as I can remember, going back to the time when I was an American living in Paris, was my dream. I was fortunate to achieve that dream, and America has more than fulfilled all of my expectations. To represent, at this time, my adopted country as her Ambassador to France would be the culmination of my career; to have been nominated to represent my country in France, a country where I spent large parts of my childhood and with which I have had a lifelong relationship, both professional and personal, seems to me more than I could have ever hoped for.

I have been fortunate in having had a long and active career in investment banking. Over the last 40 years or so I have provided financial advice to a number of domestic and foreign corporations, mainly involving their activities in mergers and acquisitions. I have also, over the years, served on the boards of directors of a number of large multinational corporations. My business activity has included a number of negotiations through which French companies made significant investments in the U.S. and vice versa. This, coupled with my former firm's having an affiliate in Paris, has allowed me to maintain close personal relationships with a number of French business leaders, as well as with leaders from the world of culture, media and the arts. I have also over the years known a number of senior government leaders who have had the honor of being decorated by the French government.

I believe that my business experience, as well as my relationship with French leaders and my knowledge of France in general, will enable me to represent my country effectively if you choose to consent to my nomination.

I also believe that our relationship with France is extraordinary important. Aside from the history of allied cooperation going back to World War II, and more recently in the Gulf War, we sit side by side with France in the U.N. Security Council, in NATO, and in every other major international institution; our soldiers are participating together today in NATO's important peacekeeping operation in Bosnia. France is an important trading partner and one of the largest foreign direct investors in the United States; we are the largest foreign investor in France. While we have many differences with France, in a variety of areas, I believe that, most importantly, France is a democracy which is our friend and with whom we share substantial values. France, like some other European countries, is going through a difficult period of adjustment to the changes demanded by the new economic forces. France's success in dealing with her problems is important not only in the context of our bilateral relationship, but also in the context of the future architecture of Europe. The U.S. has, for the last 50 years, encouraged the political and economic integration of Europe. France's role in such integration is critical. Mr. Chairman, it is with the great privilege of serving my city and my state at a time when New York City was in considerable difficulty. I hope that you will give me the opportunity, by consenting to my nomination, to represent my country's interests at a time and in a place which is important to the U.S. I can assure you will serve me do this honor. I will make every effort to do so effectively.

Statement on the Nomination of Jamie Rappaport Clark

Mr. Chairman, the Subcommittee on European Affairs of the Senate Foreign Relations Committee, this morning, by unanimous consent, authorized me to hand over the nomination.

Mr. CHAFEE. Mr. President, I would like to make a few remarks about the nomination of Jamie Rappaport Clark to be Director of the United States Fish and Wildlife Service. The President nominated Ms. Clark on July 9, and I am pleased to report that last Thursday, July 24, the Committee on Environment and Public Works reported out the nomination.

Jamie Clark is an outstanding candidate for the tasks at hand. She has worked with the Environment Committee staff and Committee members' staff on the Endangered Species Act and other tough issues. I have heard nothing but glowing reports of her ability to work with the Administration. I can assure you that she will serve well, if confirmed. Throughout her educational and professional experiences, she has been involved on a daily basis with the principles of fish and wildlife management. Jamie Clark has worked with the Fish and Wildlife Service for over 8 years, both at the regional level and at headquarters. For the past 4 years of her tenure with the Service, she has held the position of Associate Director of Ecological Services.

Prior to joining the Fish and Wildlife Service, Jamie Clark was the lead technical authority for fish and wildlife management on U.S. Army installations worldwide. From 1984 until 1988, she managed the Natural and Cultural Resources Program for the National Guard. She also was a research biologist for the U.S. Army Medical Research Institute and worked for the National Institute for Urban Wildlife as a wildlife biologist.

Jamie Clark's educational background is equally impressive and suits her well to the position of Fish and Wildlife Service Director. She holds a master's degree (MS) in Wildlife Ecology from the University of Maryland and a bachelor's degree (BS) in Wildlife Biology.

If confirmed, Jamie Clark will be responsible for developing and carrying out policies to conserve, protect, and enhance the Nation's fish and wildlife and their habitats. A number of challenging tasks fall on the shoulders of the Fish and Wildlife Service Director, including the management of the National Wildlife Refuge System; the implementation of the Endangered Species Act; fish hatchery management; recreational fishing programs; management of non-indigenous and exotic species; conservation and management of migratory waterfowl and wild birds; and the list of responsibilities goes on.

The Fish and Wildlife Service is an agency with the wonderful but difficult task of serving as an advocate for fish and wildlife. It must protect these public resources in the face of much criticism and question. The Service is charged with fulfilling its own mission in light of competing and sometimes conflicting mandates. It also must address the contentious issues of private property rights, water rights, and takings. The Service has done a remarkable job in recent years of developing initiatives that deal with many of these issues. The internal guidance documents for permits; the new safe harbor, candidate conservation and no-surprises' policies; the policy for Native American rights; and the streamlining initiatives for federal agencies have all led to better implementation of the Endangered Species Act, better public relations, and ultimately better protection for the species.

I am confident that Jamie Clark has the experience, insight, and the strength to lead the Fish and Wildlife Service to continue these initiatives and develop new ones through the challenges ahead. Thank you.

Statement on the Nomination of Edward Gnehm, Jr.

Mr. ENZI. Mr. President, it is a great personal pleasure for me to express my congratulations to Ambassador Edward Gnehm, Jr. as the Senate completes its action on his nomination to be Director General of the Foreign Service. I have known Edward, or Skip, as his friends call him, since the days when we were in college together. He and I were college roommates for 3 years. Skip has been a brother to me since we first met. I know him better than any investigator could hope—and there isn't anything I know wouldn't share, from his sense of humor to his work ethic. Skip has always put God and Country first. He has lived a motto that says, "If what you did yesterday still seems important, you haven't done enough today."

It doesn't seem all that long ago, we were both attending George Washington University here in the Nation's Capital. We used to dream about the future. I can tell you, we never dreamed that some day, we both be before a congressional panel, me as the junior Senator from Wyoming, and Skip as the President's nominee for a key State Department post.
CONGRESSIONAL RECORD – SENATE

July 31, 1997

Through the years, we have kept track of each other. I have been very proud, but not surprised, that Skip has gone on to accomplish great things in his career with the State Department. I’ve lived around the world through my brother.

Skip has been a man of integrity, a man of high character, and a man of consistent principle. He has always held the belief that our foreign policy should be driven by the interests of the American people. He has always worked hard to ensure that our foreign policy is consistent with the values and principles that we hold dear.

Skip is a man who has always been willing to take on tough assignments. He has served in some of the most challenging and difficult environments around the world. He has been a leader, and he has always been willing to speak his mind. I believe that Skip will bring the same level of integrity and commitment to his new role as Deputy Secretary of State.

Throughout his career, Skip has been a man who has always been willing to work hard to ensure that our foreign policy is consistent with the values and principles that we hold dear.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The PRESIDING OFFICER. Without objection, the nominations considered and confirmed en bloc are as follows:

FEDERAL RETIREMENT THRIFT INVESTMENT PROGRAM

James H. Atkins, of Arkansas, to be a Member of the Federal Retirement Thrift Investment Board for a term expiring September 25, 2002.

OFFICE OF PERSONNEL MANAGEMENT

Janice R. Lachance, of Virginia, to be Deputy Director of the Office of Personnel Management.

POSTAL RATE COMMISSIONER

George A. Omas, of Mississippi, to be a Commissioner of the Postal Rate Commission for a term expiring October 14, 2000.

Mr. LOTT. I yield the floor.

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

The nominations considered and confirmed en bloc are as follows:

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George A. Omas, of Mississippi, to be a Commissioner of the Postal Rate Commission for a term expiring October 14, 2000.

Mr. LOTT. I yield the floor.
pursuant to Public Law 94-304, as amended by Public Law 99-7, appoints the following Senators to the Commission on Security and Cooperation in Europe:

The Senator from Wisconsin [Mr. FEINGOLD], the Senator from Florida [Mr. GRAHAM], the Senator from New Jersey [Mr. LAUTENBERG], and the Senator from Nevada [Mr. REID].

AUTHORITY FOR COMMITTEES TO REPORT

Mr. WARNER. Mr. President, I ask unanimous consent that on Tuesday, August 19, committees have between the hours of 11 a.m. and 2 p.m. in order to file reported legislative and executive matters.

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

PROVIDING FOR A CONSULTANT FOR THE PRESIDENT PRO TEMPORE

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. 1120, which was introduced earlier today by Senators LOTT and DASCHLE.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:
A bill (S. 1120) providing for a consultant for the President pro tempore.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. WARNER. Mr. President, I further ask unanimous consent that the bill be read a third time and passed, and the motion to reconsider be laid upon the table.

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

The bill (S. 1120) was deemed read the third time and passed, as follows: S. 1120

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

Section 101(a) of the Supplemental Appropriations Act, 1977 (2 U.S.C. 63h-6a)) is amended by inserting after the first sentence the following: "The President pro tempore of the Senate is authorized to appoint and fix the compensation of 1 consultant, on a temporary or intermittent basis, at a daily rate of compensation not in excess of that specified in the first sentence of this subsection."

EARTHQUAKE HAZARDS ACT
AMENDMENTS

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate now proceed to consideration of Calendar No. 141, S. 910.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:
A bill (S. 910) to authorize appropriations for carrying out the Earthquake Hazards Reduction Act of 1997 for fiscal years 1998 and 1999, and for other purposes, which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. AUTHORIZATION OF APPROPRIATIONS.

Section 12 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706) is amended—
(1) in subsection (a)(7)—
(A) byinserting "'and" after "after "1995,"; and
(B) by inserting before the period at the end of that subparagraph the following: "in order to:

SEC. 2. AUTHORIZATION OF REAL-TIME SEISMIC HAZARD PREDICTION SYSTEM DEVELOPMENT, AND OTHER ACTIVITIES.

(a) AUTOMATIC SEISMIC WARNING SYSTEM DEVELOPMENT.

(1) DEFINITIONS.—In this section:

(A) DIRECTOR.—The term "Director" means the Director of the United States Geological Survey.

(B) HIGH-RISK ACTIVITY.—The term "high-risk activity" means an activity that may be adversely affected by a moderate to severe seismic event (as determined by the Director). The term includes high-speed rail transportation.

(C) REAL-TIME SEISMIC WARNING SYSTEM.—The term "real-time seismic warning system" means a system that issues warnings in real-time from a network of seismic sensors to a set of analysis and communications centers, directly to receivers related to high-risk activities.

(2) IN GENERAL.—The Director shall conduct a program to develop a prototype real-time seismic warning system. The Director may enter into such agreements or contracts as may be necessary to carry out the program.

(3) UPGRADE CRITERIA.—In carrying out a program under paragraph (2), the Director shall provide for, and carry out, such communications engineering and development as is necessary to facilitate—

(A) the timely flow of data within a real-time seismic hazard warning system; and

(B) the issuance of warnings to receivers related to high-risk activities.

(4) PROCUREMENT OF COMPUTER HARDWARE AND COMPUTER SOFTWARE.—In carrying out a program under paragraph (2), the Director shall provide such computer hardware and computer software as may be necessary to carry out the program.

(5) REPORTS ON PROGRESS.—

(A) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the Director shall prepare and submit to Congress a report that contains a plan for implementing a real-time seismic hazard warning system.

(B) ADDITIONAL REPORTS.—Not later than 1 year after the date on which the Director submits the report under subparagraph (A), and annually thereafter, the Director shall prepare and submit to Congress a report that summarizes the progress of the Director in implementing the plan referred to in subparagraph (A).

(6) AUTHORIZATION OF APPROPRIATIONS.—In addition to the amounts made available to the Director under section 12(b) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706(b)), there are authorized to be appropriated to the Department of the Interior, to be used by the Director to carry out paragraph (2), $3,000,000 for each of fiscal years 1998 and 1999.

(b) SEISMIC MONITORING NETWORKS ASSESSMENT.

(1) IN GENERAL.—The Director shall provide for an assessment of regional seismic monitoring networks in the United States. The assessment shall address—

(A) the need to update the infrastructure used for collecting seismological data and for research and monitoring of seismic events in the United States;

(B) the need for expanding the capability to record strong ground motions, especially for urban area engineering purposes;

(C) the need to measure accurately large magnitude seismic events (as determined by the Director);

(D) the need to acquire additional parametric data; and

(E) projected costs for meeting the needs described in subparagraphs (A) through (D).

(2) RESULTS.—The Director shall transmit the results of the assessment conducted under this subsection to Congress not later than 1 year after the date of enactment of this Act.

(c) EARTH SCIENCE TEACHING MATERIALS.—

(1) DEFINITIONS.—In this subsection:

(A) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" has the meaning given that term in section 1401 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 1401).

(B) SCHOOL.—The term "school" means a nonprofit institutional day or residential school that provides education for any of the grades kindergarten through grade 12.

(2) TEACHING MATERIALS.—In a manner consistent with the requirement under section...
5(b)(5) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704(b)(5)) and subject to Teachers shall conduct a project to improve the seismic hazard assessment of seismic zones.

(c) UNITED STATES GEOLOGICAL SURVEY.—Section 5(b)(4) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704(b)(4)) is amended—

(1) by striking ``and'' at the end of subparagraph (B); and

(3) by adding at the end the following:

``(B) an estimate of the number and types of improvements that will be made, and integrate new, innovative testing approaches to the research infrastructure in a systematic manner.’’.

(d) NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.—Section 5(b)(5) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704(b)(5)) is amended—

(1) by striking ‘‘and’’ at the end of subparagraph (B); and

(3) by adding at the end the following:

``(D) work with the National Science Foundation, the Federal Emergency Management Agency, and the National Institute of Standards and Technology to develop a comprehensive plan for earthquake engineering research to effectively use existing testing facilities and laboratories (in existence at the time of the development of the plan), upgrade facilities and equipment as needed, and integrate new, innovative testing approaches to the research infrastructure in a systematic manner.’’.

To speed the process of moving this important legislation forward, I offer a technical amendment which brings the funding authority for USGS to the same level reflected in the House of Representatives version of this bill. The adoption of this amendment should reduce the time it will take for this important legislation to become law.

Mr. President, I believe that the passage of this legislation will continue of the good work that these four agencies have been undertaking—work that saves property, but most importantly, saves American lives.

Mr. President, I rise today in support of passage of S. 910, a bill to reauthorize appropriations for the Earthquake Hazards Reduction Act. Catastrophic earthquakes are inevitable in the United States. Scientists consider California to be the most likely location for major earthquakes; however, all or parts of 39 states—populated by more than 70 million people—have been classified as having major or moderate seismic risk. Earthquakes are not uncommon in Alaska, Idaho, Utah, and Nevada. Major earthquakes east of the Rockies are infrequent but can prove devastating. In 1811-12, three huge earthquakes rocked the New Madrid area of Missouri, near St. Louis and Memphis. These earthquakes were so powerful that they changed the course of the Mississippi River and rang bells in Boston. In 1886, an earthquake leveled my hometown of Charleston. Estimates of the strength of the Charleston quake range from 7.0 to 7.6 on the Richter Scale. Of particular interest and concern about the east coast quakes is the threat of earthquakes occurring during the period of the project, the Director shall prepare and submit to Congress a report concerning the findings of the project.

(b) FEDERAL EMERGENCY MANAGEMENT AGENCY.—The Federal Emergency Management Agency shall conduct an assessment of the need for additional Federal disaster response training capabilities that are applicable to earthquake response.

(3) by adding at the end the following:

``(B) an estimate of the number and types of improvements that will be made, and integrate new, innovative testing approaches to the research infrastructure in a systematic manner.’’

Mr. President, I believe that the passage of this legislation will continue of the good work that these four agencies have been undertaking—work that saves property, but most importantly, saves American lives.

By adoption of this amendment should reduce the time it will take for this important legislation to become law.

Mr. President, I believe that the passage of this legislation will continue of the good work that these four agencies have been undertaking—work that saves property, but most importantly, saves American lives.
possibility of unpredictable seismic activity in the United States.

What we do know, though, is that the loss of life and property from earthquakes can be considerable. For example, the January 17, 1994, earthquake at Northridge, CA, was classified as only "moderate" in magnitude. Nonetheless, 57 people died, and injuries totaled over 6,500. In addition, insurance payments for this moderate event were over $5 billion, and the Federal supplemental aid program totaled another $9 billion. The Northridge has become the second most expensive natural disaster in American history, exceeded only by Hurricane Andrew. Reducing damage from earthquakes would not only save lives but also save both private insurers and the Federal Government considerable amounts of money.

That is what NEHRP—National Earthquake Hazards Reduction Program—does. Established by the Earthquake Hazards Reduction Act of 1977, NEHRP is a Federal interagency program designed to help minimize the loss of life and property caused by earthquakes. It supports scientific research on the origins of earthquakes, and funds engineering research to improve buildings and other structures more seismically resistant. NEHRP also disseminates this technical information to the states, and helps states and localities prepare for earthquakes.

NEHRP focuses on helping states prepare for earthquakes. It coordinates Federal disaster response programs that help states after a major event.

The Northridge earthquake illustrates both NEHRP's accomplishments and what some observers believe is continuing problems.

The most important accomplishment was the survival of most of the buildings and highway overpasses which were built to meet new seismic codes or retrofitted to meet those codes. For example, a Federal bridge in California using standards developed after the late 1970s performed very well. The most dramatic story concerns the retrofit of older highway overpasses. After the Loma Prieta earthquake in Northern California in 1989, university researchers and Federal engineers, using NEHRP funds, undertook a crash program to develop new ways to retrofit older highway bridges and began applying those retrofit techniques to overpasses in California. In contrast, At Northridge, six major highway bridges collapsed. While further study is needed, it appears that the older overpasses that were retrofitted survived, while those that did not did not fail.

Northridge also illustrated some continuing problems such as the strength of "lifelines"—water line, natural gas pipelines, electrical lines, and so forth. Little research has been done to date on how to make these facilities more earthquake-resistant. Dramatic film from Northridge showed flooded streets with shooting jets of burning natural gas and illustrated how easily these lines are broken.

Mr. President, S. 910 will authorize the funding needed to continue the work that has been done by the four participating agencies in NEHRP—the Federal Emergency Management Agency, the U.S. Geological Survey, the National Science Foundation, and the Institute of Standards and Technology—and will allow them to address problems like ruptured lifelines that continue to plague disaster response teams.

This bill also will require new assessments of our early warning systems, and our earthquake emergency training facilities to ensure that the warning systems and training facilities are up to date, properly operating, and responsive. In assessing the current conditions of the seismic monitoring networks, the agencies are expected to pay greater attention to understudied areas like the western seaboard where catastrophic seismic events have occurred in the past, and are predicted to occur in the future—yet are more difficult to understand.

This is a good bill. I commend the Senator from Tennessee for his diligence in this area, and I encourage my colleagues to support passage of this measure today.

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

The PRESIDING OFFICER. The amendment (No. 1054) was agreed to.

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

The PRESIDING OFFICER. The amendment (No. 1054) was agreed to.

Mr. WARNER. Mr. President, I ask unanimous consent that the bill be considered read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at the appropriate place in the RECORD.

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

The bill (H.R. 1198) was deemed read the third time and passed.

WARNER CANYON SKI HILL LAND EXCHANGE ACT OF 1997

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 136, H.R. 1944.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1944) to provide for a land exchange involving the Warner Canyon Ski Area and other land in the State of Oregon.

Mr. WARNER. Mr. President, I urge the Senate to pass the bill H.R. 1944, authorizing an exchange of lands between the U.S. Forest Service, the U.S. Fish and Wildlife Service, and Lake County, OR.

My colleague from Oregon, Senator Smith, joined me in introducing S. 891 on June 11. The chairman of the Energy and Natural Resources Committee, Senator Murkowski, was extremely helpful and the bill was included in a hearing on various land exchange bills on June 18th.

The U.S. House passed the companion measure, sponsored by the chairman of the House Agriculture Committee, Congressman Smith, on July 22. The Energy Committee reported the House bill yesterday, and I greatly appreciate the Chairman's excellent work to bring the bill to floor for final passage today.

This legislation will go far to keep the Warner Canyon Ski Area of Lakeview, OR, in business. If ever there was such a thing as a community ski area, this is it. It is low tech. It is run by a nonprofit local organization. This legislation is clearly in the public interest of Lakeview, OR, and the Nation.
The bill has important benefits to the Hart Mountain Antelope Refuge, as well. Management of our National Wildlife Refuges can be burdened when there are privately owned lands inside of a refuge boundary, and this measure allows the refuge to take ownership to more than 300 acres of county-owned lands inside the refuge. With this acquisition we move closer to the permanent protection of this important Oregon wildlife refuge.

I was pleased to be joined in this effort by Senator Gordon Smith, and I urge its passage.

Mr. WARNER. Mr. President, I ask unanimous consent that the bill be considered read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill appear at the appropriate place in the RECORD.

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

The bill (H.R. 194) was deemed read the third time and passed.

REGARDING SENATE FLOOR ACCESS FOR INDIVIDUALS WITH DISABILITIES

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 110, which was reported by the Rules Committee.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 110) to permit an individual with a disability with access to the Senate floor to bring necessary supporting aids and services.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. WYDEN. Mr. President, I first wish to thank the chairman of the Rules Committee, the Senator from Virginia [Mr. WARNER], for his cooperation in moving forward with such an extremely important matter. Because of its significance, I think it would be useful for us to engage in a colloquy to enlighten the Senate further as to the intent of this resolution.

It is my understanding that the purpose of this resolution is to clarify that individuals with disabilities who have been given the privilege of access to the Senate floor under rule XXIII of the Standing Rules of the Senate may bring necessary supporting aids or services onto the floor. This will ensure that the staff of a Senator wishes to have on the floor will not be denied the privilege of the floor because the staffer happens to use a guide dog or a wheelchair. This resolution is intended to be broadly interpreted to cover all individuals with disabilities. Is my understanding correct that this is the purpose of this resolution?

Mr. WARNER. That is correct. By adopting this resolution, the Senate hopes to be a model for the country in its treatment of individuals with disabilities. The Senate intends to be non-discriminatory and accommodate the needs of individuals with disabilities who may use supporting aids or services. For purposes of this resolution, individuals with disabilities are those who have a physical or mental impairment that substantially limits one or more of the major life activities, and supporting aids and services are not intended to be limited to the illustrative examples provided in the resolution.

Mr. WYDEN. I have one final question: is my understanding correct that this undue burden language is intended to apply only in extreme circumstances, such as where significant architectural modifications might be necessary?

Mr. WARNER. That is correct. This modifying language would apply only in extreme circumstances.

Mr. WYDEN. I again want to express my appreciation to the Senator from Virginia, the chairman of the Rules Committee, for his commitment to this issue and thank the Rules Committee for moving this resolution to the floor.

Mr. WARNER. Mr. President, I ask unanimous consent that the resolution be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The resolution (S. Res. 110) was agreed to as follows:

S. Res. 110

Resolved, That an individual with a disability who has or is granted the privilege of the Senate floor under rule XXIII of the Standing Rules of the Senate may bring necessary supporting aids and services (including service dogs, wheelchairs, and interpreters) on the Senate floor, unless the Senate Sergeant at Arms determines that the use of such supporting aids and services would place a significant difficulty or expense on the operations of the Senate in accordance with paragraph 2 of rule 4 of the Rules for Regulation of the Senate Wing of the United States Capitol.

RELIEF OF JOHN WESLEY DAVIS

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 584.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 584) for the relief of John Wesley Davis.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. WARNER. Mr. President, I ask unanimous consent that the bill be read three times, passed, and the motion to reconsider be laid upon the table, and any statements relating thereto be included in the RECORD at the appropriate place as if read.

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

The bill (H.R. 584) was deemed read the third time and passed.

INDIAN INDEPENDENCE DAY: A NATIONAL DAY OF CELEBRATION OF INDIAN AND AMERICAN DEMOCRACY

Mr. WARNER. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 102, and the Senate proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:


The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. WARNER. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered. The resolution (S. Res. 102) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. Res. 102

Whereas India is the world’s largest democracy and shares with the United States the system in which the supreme power to govern is vested in the people;

Whereas the people of India drew upon the values of the rule of law creating a representative democracy;

Whereas India and the United States share a common bond of being former British colonies;

Whereas India’s independence was achieved pledged to the principles of fairness, dignity, peace, and democracy;

Whereas these and other ideals have forged a close bond between our two nations and their peoples;

Whereas August 15, 1997 marks the 50th anniversary of the end of the struggle which freed the Indian people from British colonial rule; and

Whereas it is proper and desirable to celebrate with the Indian people, and to reaffirm...
the democratic principles on which our two great nations were born: Now, therefore, be it
Resolved, That August 15, 1997 is designated as "Independence Day: A National Day of Celebration of Indian and American Democracy." The President is requested to issue a proclamation calling upon the people of the United States to observe the day with appropriate ceremonies and activities.

PROVIDING FOR AUTHORIZATION OF APPROPRIATIONS IN EACH FISCAL YEAR FOR ARBITRATION IN UNITED STATES DISTRICT COURTS

Mr. WARNER. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. 996, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (S. 996) to provide for the authorization of appropriations in each fiscal year for arbitration in United States district courts.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 1055

(Purpose: To provide for the reauthorization of report requirements to enhance judicial information dissemination, and for other purposes)

Mr. WARNER. Mr. President, I send an amendment to the desk on behalf of Senator BIDEN and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment (No. 1055) was agreed to.

The amendment is as follows:

At the end of the bill, add the following new section:

SEC. 2. ENHANCEMENT OF JUDICIAL INFORMATION DISSEMINATION.

Section 103(b)(2) of the Civil Justice Reform Act of 1990 (Public Law 101-650; 104 Stat. 5096; 28 U.S.C. 471 note) is amended—

(1) by inserting "(A)" after "(2)";

(2) by striking "sections 471 through 478" and inserting "sections 472, 473, 474, 475, 477, and 478"; and

(3) by adding at the end the following new subparagraph:

"(B) The requirements set forth in section 476 of title 28, United States Code, as added by subsection (a), shall remain in effect permanently.".

Mr. BIDEN. Mr. President, the Civil Justice Reform Act of 1990 established a process for developing new discovery and case management procedures designed to reduce costs and delay in Federal litigation.

My amendment to S. 996 would make permanent one very successful reform from the Civil Justice Reform Act—the requirement that a list of each Federal judge's 6-month-old motions and 3-year-old cases be published and disseminated twice every year.

According to the Rand Institute for Civil Justice, this public reporting requirement led to a 25 percent reduction in the number of cases pending more than 3 years in the Federal system, even though the total number of cases filed during the study period actually increased—proving again that "sunlight is the best disinfectant."

This very effective reporting requirement will expire in December unless Congress acts. With my amendment, I seek to extend this reporting requirement.

This amendment marks the first step in implementing the findings of the studies called for by the original Civil Justice Reform Act. The Rand study of the pilot projects set up by the act found that early judicial supervision of the discovery process can both reduce delay and litigation costs. These and other procedural reforms ought to be incorporated into the everyday practices of our Federal bench to produce savings for the taxpayers and increase the efficiency of our Federal courts.

I intend to continue working with my colleagues on the Judiciary Committee, as well as the Judicial Conference, to search for and implement improvements in our Federal civil justice system.

Mr. WARNER. Mr. President, I ask unanimous consent that the amendment be agreed to and the motion to reconsider be laid upon the table.

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

The amendment (No. 1055) was agreed to.

Mr. WARNER. Mr. President, I ask unanimous consent that the bill, as amended, be read three times, passed, and the motion to reconsider be laid upon the table.

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

The bill (S. 996), as amended, was passed as follows:

S. 996

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

SECTION 1. ARBITRATION IN DISTRICT COURTS.

Section 905 of the Judicial Improvements Act of 1988 (Public Law 100-527; 104 Stat. 2800; 28 U.S.C. 471 note) is amended—

(1) by striking "(A)" after "(2)";

(2) by inserting "National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the Federal Register and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice, stating that the Iraqi emergency is to continue in effect beyond August 2, 1997, to the Federal Register for publication.

The crisis between the United States and Iraq that led to the declaration on August 2, 1990, of a national emergency has not been resolved. The Government of Iraq continues to engage in activities inimical to the stability in the Middle East and hostile to United States interests in the region. Such Iraqi actions pose a continuing unusual and extraordinary threat to the national security and vital foreign policy interests of the United States. For these reasons, I have determined that it is necessary to maintain in force the broad authorities necessary to apply economic pressure on the Government of Iraq.

WILLIAM J. CLINTON.

REPORT RELATIVE TO THE NATIONAL EMERGENCY WITH RESPECT TO IRAQ—MESSAGE FROM THE PRESIDENT—PM 59

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States submitting sundry treaties and nominations which were referred to the appropriate committees.

The nominations received today are printed at the end of the Senate proceedings.

REPORT RELATIVE TO THE CONTINUATION OF IRAQI EMERGENCY—MESSAGE FROM THE PRESIDENT—PM 58

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States of America, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1621(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the Federal Register and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice, stating that the Iraqi emergency is to continue in effect beyond August 2, 1997, to the Federal Register for publication.
from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:
I hereby report to the Congress on the developments since my last report of February 2, 1997, concerning the national emergency with respect to Iraq that was declared in Executive Order 12722 and matters relating to United Nations Security Council resolution 986 of April 14, 1995.

The intended use of the petroleum and petroleum products that have been exported to or purchased by Iraq from the United States is to be used for humanitarian purposes. The Secretary General of the United Nations, in his report of August 1, 1997, notes that the humanitarian goods purchased with UNSCR 986 oil revenues to all the people of Iraq. The resolution also provides for the payment of compensation to victims of Iraqi aggression and for the funding of other U.N. activities with respect to Iraq.


In April 1995, the U.N. Security Council adopted UNSCR 661, by which the United Nations Security Council resolved that Iraq is in material breach of its obligations under international law as a result of its continued violation of Security Council resolutions 425, 498, 507, 511, 520, 521, 598, 687, 696, and 713, which are concerned with Iraq's acquisition and use of weapons of mass destruction.

On August 8, 1996, the UNSC committee established pursuant to UNSCR 661 (“the 661 Committee”) adopted procedures to be employed by the 661 Committee in implementation of UNSCR 986. On December 9, 1996, the Secretary General released the report requested by paragraph 13 of UNSCR 986, making UNSCR 986 effective as of December 10, 1996.

There have been no amendments to the Iraq Sanctions Regulations, 31 C.F.R. Part 575 (the “ISR” or the “Regulations”) administered by the Office of Foreign Assets Control (OFAC) of the Department of the Treasury during the reporting period.

4. The Office of Foreign Assets Control has issued a total of 706 specific licenses for transactions related to Iraq or Iraqi assets since August 1990. Licenses have been issued for transactions such as the filing of legal action against Iraqi governmental entities, legal representation of Iraq, and the exportation to Iraq of donated medical supplies and intangible goods. Additional administrative proceedings have been initiated and others await commencement.

5. The expense incurred by the Federal Government in the 6-month period from February 2 through August 1, 1997, that are directly attributable to the exercise of powers and authorities conferred by the declaration of a national emergency with respect to Iraq are reported to be about $1.2 million, most of which represents wage and salary costs for Federal personnel. Personnel costs were largely centered in the Department of the Treasury (particularly in the Office of Foreign Assets Control, the U.S. Customs Service, the Office of the Under Secretary for Enforcement, and the Office of the General Counsel), the Department of State (particularly the Bureau of Economic and Business Affairs, the Bureau of Near Eastern Affairs, the Bureau of International Organizations, the Bureau of Political-Military Affairs, the Bureau of Intelligence and Research, the U.S. Mission to the United Nations, and the Office of the Legal Affairs and Economic and Business Affairs, the Bureau of Near Eastern Affairs, the Bureau of International Organizations, the Bureau of Political-Military Affairs, the Bureau of Intelligence and Research, the U.S. Mission to the United Nations, and the Office of the Legal Affairs.

6. The expense incurred by the Federal Government in the 6-month period from February 2 through August 1, 1997, that are directly attributable to the exercise of powers and authorities conferred by the declaration of a national emergency with respect to Iraq are reported to be about $1.2 million, most of which represents wage and salary costs for Federal personnel. Personnel costs were largely centered in the Department of the Treasury (particularly in the Office of Foreign Assets Control, the U.S. Customs Service, the Office of the Under Secretary for Enforcement, and the Office of the General Counsel), the Department of State (particularly the Bureau of Economic and Business Affairs, the Bureau of Near Eastern Affairs, the Bureau of International Organizations, the Bureau of Political-Military Affairs, the Bureau of Intelligence and Research, the U.S. Mission to the United Nations, and the Office of the Legal Affairs.
6. The United States imposed economic sanctions on Iraq in response to Iraq's illegal invasion and occupation of Kuwait, a clear act of brutal aggression. The United States, together with the international community, is maintaining economic sanctions against Iraq because the Iraqi regime has failed to comply fully with relevant United Nations Security Council resolutions. Security Council Resolutions on Iraq call for Iraq's elimination of its weapons of mass destruction, its recognition of Kuwait and the inviolability of the Iraq-Kuwait boundary, the release of Kuwaiti and other third-country nationals, compensation for victims of Iraq aggression, long-term monitoring of weapons of mass destruction capabilities, the return of Kuwaiti assets stolen during Iraq's illegal occupation of Kuwait, renunciation of terrorism, an end to internal Iraqi repression of its own citizens, withdrawal of occupation forces, facilitation of access of international relief organizations to all those in need in all parts of Iraq. Seven years after the invasion, a pattern of defiance persists: a refusal to account for missing Kuwaiti detainees; failure to return Kuwaiti property worth millions of dollars, including military equipment that was used by Iraq in its movement of troops to the Kuwaiti border in October 1994; sponsorship of assassinations in Lebanon and in northern Iraq; incomplete declarations to weapons inspectors; and refusal of unimpeded access by these inspectors; and ongoing widespread human rights violations. As a result, the U.N. sanctions remain in place; the United States will continue to enforce those sanctions under domestic authority.

The Baghdad government continues to violate basic human rights of its own citizens through the systematic repression of minorities and denial of humanitarian assistance. The Government of Iraq has repeatedly said it is not bound by UNSCR 668. The Iraqi military routinely harasses residents of the north, and has attempted to “Arabize” the Kurdish, Turcomen, and Assyrian areas in the north. Iraq has not relented in its artillery attacks against civilian centers in the south, or in its burning and draining operations in the southern marshes, which have forced thousands to flee to neighboring states.

The policies and actions of the Saddam Hussein regime continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States, as well as to regional peace and security. The U.N. resolutions affirm that the Security Council must be assured of Iraq's peaceable intentions in judging its compliance with all resolutions. Because of Iraq's failure to comply fully with these resolutions, the United States will continue to apply economic sanc-

CONGRESSIONAL RECORD – SENATE

The enrolled joint resolution was signed subsequently by the President pro tempore (Mr. Thurmond).

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–2669. A communication from the Director of the U.S. Office of Personnel Management, transmitting, pursuant to law, a rule entitled "Federal Employees Health Benefits Program: Coverage of Domestic Partners and Change Enrollment" received on July 21, 1997, to the Committee on Governmental Affairs.

EC–2670. A communication from the Director of the U.S. Office of Personnel Management, transmitting, pursuant to law, a report on Physicians Comparability Allowances; to the Committee on Governmental Affairs.

EC–2671. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the report entitled "1997 Federal Financial Management Status Report and Five-Year Plan"; to the Committee on Governmental Affairs.

EC–2672. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the report entitled "Fiscal 1996; to the Committee on Governmental Affairs.

EC–2673. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, the report of the Panama Canal Commission's financial statements for fiscal year 1995 and 1996; to the Committee on Governmental Affairs.

EC–2674. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a list of General Accounting Office reports for June 1997; to the Committee on Governmental Affairs.

EC–2675. A communication from the Inspector General of the Corporation for National and Community Service, transmitting, pursuant to law, the report entitled "Annual Report and Five-Year Plan"; to the Committee on Governmental Affairs.

EC–2676. A communication from the Director of Benefits, Farm Credit Bank of Texas, transmitting, pursuant to law, the annual report for the pension plan for calendar year 1996; to the Committee on Governmental Affairs.

EC–2677. A communication from the Employee Benefits Manager, Farm Credit Bank, transmitting, pursuant to law, the annual report for the pension plan for calendar year 1996; to the Committee on Governmental Affairs.

EC–2678. A communication from the Counsel of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 12-95 adopted by the Council on June 3, 1997, to the Committee on Governmental Affairs.

EC–2679. A communication from the Special Counsel, transmitting, pursuant to law, the annual report of the Special Counsel for fiscal year 1996; to the Committee on Governmental Affairs.

EC–2680. A communication from the Deputy Associate Administrator for Acquisition Policy, U.S. General Services Administration, Office of Governmentwide Policy, transmitting, pursuant to law, a report of a rule relative to D.C. Act 12-95 (RIN3000-AG30), received on July 16, 1997; to the Committee on Governmental Affairs.

MESSAGES FROM THE HOUSE

At 9:46 a.m., a message from the House of Representatives, delivered by one of its reading clerks, Mr. Hays, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:


At 4:18 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2044) to provide for reconciliation pursuant to subsections (b)(2) and (d) of section 105 of the concurrent resolution on the budget for fiscal year 1998.

At 5:26 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H. J. Res. 90. Joint resolution waiving certain enrollment requirements with respect to specified bills of the One Hundred Fifth Congress.

The message also announced that the House agrees to the following concurrent resolution providing for an adjournment of the two Houses.


ENROLLED JOINT RESOLUTION SIGNED

A message from the House of Representatives, delivered by one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 90. Joint resolution waiving certain enrollment requirements with respect to specified bills of the One Hundred Fifth Congress.
EC-2681. A communication from the Executive Director, Committee for Purchase from People Who Are Blind or Severely Disabled, transmitting, pursuant to law, a rule relative to adhesives and components of coatings, received on July 30, 1997; to the Committee on Labor and Human Resources.

EC-2693. A communication from the Acting Assistant Secretary for Occupational Safety and Health, U.S. Department of Labor, transmitting, pursuant to law, a rule relative to longshoring and marine terminals (RIN1218-AA54), received on July 27, 1997; to the Committee on Labor and Human Resources.

EC-2694. A communication from the Director, Defense Procurement, Acquisition and Technology, Department of Defense, transmitting, pursuant to law, a report relative to the Defense Federal Acquisition Regulation Supplement (RIN1990±AA61), received on July 27, 1997; to the Committee on Armed Services.

EC-2695. A communication from the Secretary of Defense, transmitting, pursuant to law, a report relative to training military medical personnel; to the Committee on Armed Services.

EC-2696. A communication from the Director, Defense Finance and Accounting Service, Department of Defense, transmitting, pursuant to law, a report relative to cost comparison study; to the Committee on Armed Services.

EC-2697. A communication from the Chief, Office of Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, information relative to cost comparison; to the Committee on Armed Services.

EC-2698. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report relative to military base realignment and closure; to the Committee on Armed Services.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CHAFFEE, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute: S. 399. A bill to amend the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 to establish the United States Institute for Environmental Conflict Resolution and to authorize appropriation for environmental conflict resolution and training, and for other purposes (Rept. No. 105-61).

By Mr. WARNER, from the Committee on Rules and Administration, without amendment: S. Res. 110. A bill to permit an individual with a disability to access with the Senate floor to bring necessary supporting aids and services.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HATCH, from the Committee on the judiciary:

Frank M. Hull, of Georgia, to be United States Circuit J judge for the Eleventh Circuit.

Joseph F. Bataillon, of Nebraska, to be United States District J judge for the District of Nebraska.

Robert Charles Chambers, of West Virginia, to be United States District J judge for the Southern District of West Virginia.

Christopher Doney, of Connecticut, to be United States District J judge for the District of Connecticut.


Sharon J. Zealey, of Ohio, to be United States Attorney for the Southern District of Ohio for the term of four years.

James Allan Hurd, of the Virgin Islands, to be United States Attorney for the District of the Virgin Islands for the term of four years.

Sophia H. Hall, of Illinois, to be a Member of the Board of Directors of the State J justice Institute for a term expiring September 17, 2002. (Reappointment)

(These above nominations were reported with the recommendation that they be confirmed.)

By Mr. THOMPSON, from the Committee on Governmental Affairs:

James H. Atkins, of Arkansas, to be a Member of the Federal Retirement Thrift Investment Board for a term expiring September 25, 2000. (Reappointment)

George A. Omas, of Mississippi, to be a Commissioner of the Postal Rate Commission for a term expiring October 14, 2000. (Reappointment)

J anice R. Lachance, of Virginia, to be Deputy Inspector General for the Office of Personnel Management.

(These above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to questions in writing and testify before any duly constituted committee of the Senate.)

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. 1056. A bill to authorize the use of certain public housing operating funds to provide tenant-based assistance to public housing residents; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. ROBERTS (for himself, Mr. BINGMAN, Mr. BROWNBACK, Mr. CAMPBELL, Mr. DOMENICI, and Mr. INOUYE):

S. 1055. A bill to enhance the administrative authority of the respective presidents of Haskell Indian Nations University and the Southwestern Indian Polytechnic Institute, and for other purposes; to the Committee on Indian Affairs.

By Mr. KERREY (for himself and Mr. GRASSLEY): S. 1056. A bill to restructure the Internal Revenue Service, and for other purposes; to the Committee on Finance.

By Mr. MOYNIHAN (for himself and Mr. D'AMATO): S. 1057. A bill to reduce acid deposition under the Clean Air Act in the eastern United States, and for other purposes; to the Committee on Environment and Public Works.

By Mr. DURBIN: S. 1058. A bill to provide for the debarment or suspension from Federal procurement and nonprocurement activities of persons that violate certain labor and safety laws; to the Committee on Governmental Affairs.

By Mr. DASCHLE (for himself and Mr. J OHNSON):

INFRASTRUCTURE AND TRANSPORTATION

By Mr. WYDEN: S. 1059. A bill to authorize the construction of a harbor pump at the Port of Seattle, to be funded from the Harbor Maintenance Reserve Fund, and for other purposes; to the Committee on Commerce, Science, and Transportation.
S. 1099. A bill to authorize the Secretary of the Army to acquire such land in the vicinity of Pierre, South Dakota, as the Secretary determines is adversely affected by the full winter range and to provide for the Committee on Environment and Public Works.

By Mr. AKAKA (for himself, Ms. COL- LOGH, Mr. HUTCHINSON, Ms. LANDRIEU, Mr. BUMPERS, Mr. FORD, Mr. BINGMAN, and Mr. HOLLINGS):

S. 1101. A bill to amend the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, the legislation approving such covenant, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. JEFFORDS (for himself and Mr. LEAHY):

S. 1102. A bill to amend the Harmonized Tariff Schedule of the United States to provide rates of duty for certain ski footwear with textile uppers; to the Committee on Finance.

By Mr. CRAIG (for himself, Mr. MURKOWSKI, Mr. REID, Mr. BRYAN, Mr. BURDINE, Mr. BURNS, Mr. HATCH, Mr. THOMAS, Mr. CAMPBELL, Mr. STEVENS, and Mr. KEMPTHORNE):

S. 1103. A bill to amend the general mining laws to provide a reasonable royalty for mineral activities on Federal lands; to establish rock mining sites on Federal lands, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. JEFFORDS (for himself and Mr. COATS):

S. 1111. A bill to require the Secretary of the Treasury to mint coins in commemoration of Native American history and culture; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. GRASSLEY (for himself, Mr. DURBIN, Mr. HATCH, Mr. DEWINE, Mr. HAGEL, and Mr. WARNER):

S. 1120. A bill to exempt certain temporary judgeships in the Federal judiciary; to the Committee on the Judiciary.

By Mr. JEFFORDS (for himself, Mr. ROGERS, Mr. MUKILSKY, Mr. INOUYE, Mr. DASCHLE, Mr. KERRY, Mr. BOXER, Mrs. FEINSTEIN, Mr. DODD, Mr. WELLSTONE, Mr. HARKIN, and Mr. LEAHY):

S. 1113. A bill to extend certain temporary judgeships in the Federal judiciary; to the Committee on the Judiciary.

By Mr. COCHRAN (for himself and Mr. DASCHLE, Mr. SHELBY, Mr. ROCKEFELLER, Mr. WARNER, Mr. ROBB, Mr. INHOFE, Mr. INOUYE, Mr. COCHRAN, and Mr. CONRAD):

S. 1115. A bill to amend title 9, United States Code, to improve one-call notification process, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. ROTH (for himself and Mr. COOVERDELL):

S. 1116. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives for education; to the Committee on Finance.

By Ms. SNOWE:

S. 1117. A bill to amend Federal elections law to provide for campaign finance reform, and for other purposes; to the Committee on Rules and Administration.

By Mr. MURKOWSKI:

S. 1118. A bill to amend the Land and Water Conservation Fund for purposes of establishing a Community Recreation and Conservation Endowment with certain escrowed oil and gas revenues; to the Committee on Energy and Natural Resources.

By Mr. COOVERDELL:

S. 1107. A bill to protect consumers by eliminating the double postage rule under which the Postal Service requires competitors of Postal Service to charge above market prices; to the Committee on Governmental Affairs.

By Mr. MOYNIHAN (for himself and Mr. COATS):

S. 1108. A bill to designate the Federal building located at 290 Broadway in New York, New York, as the “Ronald H. Brown Federal Building”; to the Committee on Environment and Public Works.

By Mr. BOND (for himself and Mr. ROBB):

S. 1109. A bill to make a minor adjustment in the exterior boundary of the Devils Backbone Wilderness in the Mark Twain National Forest, Missouri, to include certain parcels of land containing improvements; to the Committee on Energy and Natural Resources.

By Mr. SPEER:

S. 1110. A bill to amend title 28, United States Code, to place a limitation on habeas corpus relief that prevents retrial of an accused in the criminal judiciary.

By Mr. LAUTENBERG:

S. 1111. A bill to establish a youth mentoring program; to the Committee on the Judiciary.

By Mr. CAMPBELL (for himself, Mr. INOUYE, Mr. CONRAD, and Mr. WELLSTONE):

S. 1112. A bill to require the Secretary of the Treasury to mint coins in commemoration of Native American history and culture; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. LEAHY (for himself, Mr. THOMSON, Mr. KOHL, and Mr. INHOFE):

S. 1121. A bill to amend Title 17 to implement the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty; to the Committee on the Judiciary.

By Mr. KOHL (for himself, Mr. GRASSLEY, and Mr. REID):

S. 1122. A bill to establish a national registry of abusive and criminal patient care workers and to require criminal background checks of patient care workers; to the Committee on Finance.

By Mr. HATCH (for himself, Mr. BAUSCH, Mr. D’AMATO, and Mrs. BOXER):

S. 1123. A bill to amend the Internal Revenue Code of 1986 relating to the unemployment tax for individuals employed in the entertainment industry; to the Committee on Finance.

By Mr. KERRY (for himself and Mr. INHOFE):

S. 1124. A bill to amend title VII of the Civil Rights Act of 1964 to establish provisions with respect to religious accommodation in employment, and for other purposes; to the Committee on the Judiciary.

By Ms. MOSELEY-BRAUN (for herself and Mr. DURBIN):

S. 1125. A bill to amend title 23, United States Code, to extend the discretionary bridge program; to the Committee on Environment and Public Works.

By Mrs. BOXER (for herself and Ms. MOSELEY-BRAUN):

S. 1126. A bill to repeal the provision in the Balanced Budget Act of 1997 relating to base period for Federal unemployment tax purposes; to the Committee on Labor and Human Resources.

By Mr. KERRY:

S. 1127. A bill to apply the rates of duty in effect on January 1, 1995, to certain water resistant wool trousers; to the Committee on Finance.

By Mr. WELLSTONE:

S. 1128. A bill to provide rental assistance under section 8 of the United States Housing Act of 1937 for victims of domestic violence to enable such victims to relocate; to the Committee on Banking, Housing, and Urban Affairs.

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

S. 1129. A bill to provide grants to States for supervised visitation centers; to the Committee on Labor and Human Resources.

By Mr. BINGAMAN:

S. 1130. A bill to provide for the assessment of fees by the National Indian Gaming Commission, and for other purposes; to the Committee on Indian Affairs.

By Mr. MACK:

S. 1131. A bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit; to the Committee on Finance.

By Mr. BINGHAMAN:

S. 1132. A bill to modify the boundaries of the Bandelier National Monument to include lands within the headwaters of the Upper Alamo Watershed which drain into the Monument and which are not currently within the jurisdiction of a federal land management agency, to authorize purchase or donation of those lands, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. COVERDELL (for himself, Mr. LOTT, Mr. NICKLES, Mr. MACK, Mr. CRAIG, Mr. McCONNELL, Mr. ROTH, Mr. GRAMM, Mr. ABRAHAM, Mr. ASHCROFT, Mr. BINGMAN, Mr. BOND, Mr. BROWNBACK, Mr. COATS, Mr. DOMENICI, Mr. DEWINE, Mr. FAIRCLOTH, Mr. GORTON, Mr. GRAMS, Mr. GINGRICH, Mr. HAGEL, Mr. HATCH, Mr. HELMS, Mr. HUTCHISON, Mrs. HUTCHISON, Mr. INHOFE, Mr. MOORE, and Ms. MURKOWSKI):
S. 1133. A bill to amend the Internal Revenue Code of 1986 to allow tax-exempt expenditures from education individual retirement accounts for elementary and secondary school expenses and to increase the maximum annual amount of contributions to such accounts; to the Committee on Finance. 

By Mr. MURRAY (for himself, Mr. CRAIG, Mr. WYDEN, Mr. BAUCUS, Mr. MURKOWSKI, Mr. SMITH of Oregon, Mr. BURNS, Mr. GORTON, and Mr. EMPTMORE): 

S. 1134. A bill granting the consent and approval of Congress to an interstate forest fire protection compact; to the Committee on the Judiciary. 

By Mr. MCCONNELL: 

S. 1135. A bill to provide certain immunities from civil liability for trade and professional associations, and for other purposes; to the Committee on the Judiciary. 

By Mr. DURBIN: 

S. 1136. A bill to amend the Employee Retirement Income Security Act of 1974 to provide that the State preemption rules shall not apply to certain actions under State law to protect health insurance policyholders; to the Committee on Finance. 

By Mr. JOHNSTON: 

S. 1137. A bill to amend section 258 of the Communications Act of 1934 to establish additional protections against the unauthorized change of subscribers from one telecommunications carrier to another; to the Committee on Commerce, Science, and Transportation. 

By Mr. HELMS (for himself, Mr. BROWNBACK, Mr. BURNS, Mr. HAGEL, and Mr. ROBERTS): 

S. 1138. A bill to reform the coastal, intercostal, and noncontiguous trade shipping laws, and for other purposes; to the Committee on Commerce, Science, and Transportation. 

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS 

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

By Mr. THURMOND: 

S. Con. Res. 38. A resolution designating the week beginning September 14, 1997, as "National Historically Black Colleges and Universities Week"; and for other purposes; to the Committee on the Judiciary. 

By Mr. ASHCROFT (for himself and Mr. FEINGOLD): 

S. Res. 11A. A resolution condemning the most recent outbreak of violence in the Republic of Congo and recognizing the threat such violence poses to the prospects for a stable democratic form of government in that country; to the Committee on Foreign Relations. 

By Mr. GRAHAM: 

S. Res. 112. A resolution congratulating the presidents of Haskell Indian Nations University and the Southwestern Indian Polytechnic Institute, and for other purposes; to the Committee on Indian Affairs. 

By Mr. TORRICELLI (for himself and Mr. BROWN): 

S. Res. 114. A resolution expressing the sense of the Senate that the transfer of Hong Kong to the People's Republic of China not alter the separate legal status of Taiwan as a free and democratic country; to the Committee on Foreign Relations. 

By Mrs. BOXER (for herself and Mr. JOHNSON): 

S. Res. 115. A resolution expressing support for a National Day of Unity in response to the President's call for a national dialogue on race; to the Committee on the Judiciary. 

By Mr. LEVIN (for himself and Mr. EFFORDS): 


By Mr. LUGAR (for himself and Mr. ROCKEFLER): 

S. Con. Res. 47. A concurrent resolution expressing the sense of Congress that the United States Government should fully participate in EXPO 2000 in the year 2000, in Hanover, Germany, and should encourage the academic community and the private sector in the United States to support this worthwhile undertaking; to the Committee on Foreign Relations. 

By Mr. KYL (for himself, Mrs. FEINSTEIN, Mr. SHEPHERD, Mr. ALLARD, Mr. ASHCROFT, Mr. BROWNBACK, Mr. BURNS, Mr. D'AMATO, Mr. INHOFE, Mr. GINGRICH, Mr. MIKULSKI, and Mr. SPEETZER): 

S. Con. Res. 48. A concurrent resolution expressing the sense of the Congress regarding proliferation of missile technology from Russia to Iran; to the Committee on Foreign Relations. 

By Mr. LEVIN (for himself and Mr. EFFORDS): 

S. Con. Res. 49. A concurrent resolution authorizing use of the Capitol Grounds for "America Recycles Day" national kick-off campaign; to the Committee on Governmental Affairs. 

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS 

By Mr. ALLARD: 

S. 1094. A bill to authorize the use of certain public housing operating funds to provide tenant-based assistance to public housing residents; to the Committee on Banking, Housing, and Urban Affairs. 

THE CRIME VICTIM HOUSING VOUCHERS BILL 

JULY 30, 1997 

Mr. ALLARD. Today, Mr. President, I would like to introduce a bill that would provide for more public housing vouchers. I have been working on this issue in the Housing Subcommittee, and it is my hope that a similar provision will be placed in the Public Housing bill.

The original intent of the Federal housing assistance program was to provide temporary housing to poor individuals and families. Since their inception, Federal housing programs have grown dramatically. Today they provide $25 billion per year in housing assistance.

In my view, the voucher program is the best means for low-income families to find secure affordable rental housing. The voucher program first began in 1974 and has grown to serve over 1.5 million low-income families today. These families are empowered with the choice of where they want to live and what surroundings they desire. Vouchers are the preferable means of providing affordable housing to low-income individuals.

Vouchers enjoy wide support, including past Republican and Democratic administrations. In fact, the current Secretary of HUD, Secretary Andrew Cuomo supports an expanded voucher program. The vouchers are very popular, which is demonstrated by the 1.5 million families who are currently using vouchers or certificates. Vouchers empower individuals and promote competition within Public Housing Authorities and the community, thereby lowering costs and improving conditions for the residents. Vouchers or other alternatives can be less expensive than the current public housing program; they can save the government money, and vouchers Nothing would be required or mandated.

Studies have indicated that project-based housing assistance costs more on average than the voucher housing program. In fact, the findings of the June 1995 GAO report indicated that housing vouchers cost 40 percent less than project-based housing. This study clearly demonstrated that on a national average, the section 8 tenant-based housing program is cheaper than the public housing program. In fact, one can say that the savings from the movement to vouchers would amount to $640 million per year which could add additional housing assistance.

Under this legislation, ten percent of the public housing operating funds that are distributed to each public housing authority would be made available for those who currently live in the public housing unit and wish to be given a voucher. Individuals would be given the option of vouchers when their housing is unsafe. My strong belief is that we should increase the pace at which we move ahead with the conversion of housing from the old central planning and concentrated public housing model, to one of choice and opportunities through the use of vouchers.

By Mr. ROBERTS (for himself, Mr. BRINGMAN, Mr. BROWNBACK, Mr. CAMPBELL, Mr. DOMENICI and Mr. INOYE): 

S. 1095. A bill to enhance the administrative authority of the respective Presidents of Haskell Indian Nations University and the Southwestern Indian Polytechnic Institute, and for other purposes; to the Committee on Indian Affairs.
THE HASKELL INDIAN NATIONS UNIVERSITY AND SOUTHWESTERN INDIAN POLYTECHNIC INSTITUTE ADMINISTRATIVE SYSTEMS ACT OF 1997

Mr. ROBERTS. Mr. President, I rise today to support the Haskell Indian Nations University and Southwestern Indian Polytechnic Institute Administrative Systems Act of 1997. I am pleased to have my colleagues, Senators SAM BROWNBACK, JEFF BINGAMAN, PETE DOMENICI, and DANIEL INOUYE, and Indian Affairs Committee Chairman Senator BEN NIGHTHORSE CAMPBELL as cosponsors. This legislation will provide Haskell Indian Nations University and Southwestern Indian Polytechnic Institute the administrative authority and flexibility to complete their transitions from two year institutions to a 4-year university for Haskell, and a national community college for SIP.

Located in Lawrence, KS, Haskell is an educational institution rich in history and opportunity for American Indian and Alaskan Native communities. Founded in 1884 as the United States Indian Industrial Training School, Haskell has grown from a school providing agricultural education for grades one through five to a fully accredited four-year university. In October 1993, Haskell closed the doors on Haskell Indian Junior College to Haskell Indian Nations University after receiving accreditation to offer a bachelor of science degree in elementary teacher education. Since its inception, Haskell has provided tuition-free education, culturally sensitive curricula, innovative services and a commitment to academic excellence to federally recognized tribal members. With as many as 176 tribes represented in the student body, Haskell offers Native American history, institutions, arts, literature, and language courses integrating the perspectives of various Native American cultures. Haskell continues to expand its programs and curriculum in other fields, striving to meet the challenge of enriching the lives of young native American and Alaska Natives.

I support this vision to become a national center for Indian education, research, and cultural programs; increasing the knowledge and supporting the educational needs of American Indians and Alaskan Natives. This legislation which allows the institution to remain within the Bureau of Indian Affairs and employees to continue participation in Federal retirement and health benefit programs, provides the Haskell president and Board of Regents authority over organizational structure, classification of positions, recruitment, procurement, and determination of all human resource policies and procedures. In short, this legislation completes Haskell's transition by giving the student the autonomy enjoyed by the tribally controlled community colleges and BIA elementary and secondary schools. As Haskell continues to change and meet the educational needs of Native Americans and Alaskan Natives into the 21st Century, so too should the system by which Haskell is administered change and grow. The Haskell Indian Nations University and Southwestern Indian Polytechnic Institute Administrative Systems Act of 1997 complements the educational and administrative efforts of these schools, giving Haskell and SIP the self-sufficiency required to progress and develop into outstanding institutions of higher learning. My Kansas colleague, Representative VINCENT SNOWBARGER, has introduced this bill in the House of Representatives.

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

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

SEC. 1. SHORT TITLE. Ð This Act may be cited as the "Haskell Indian Nations University and Southwestern Indian Polytechnic Institute Administrative Systems Act of 1997".

SEC. 2. FINDINGS. Ð The Congress finds that:

(1) the provision of culturally sensitive curricula for higher education programs at Haskell Indian Nations University and the Southwestern Indian Polytechnic Institution is consistent with the commitment of the Federal Government to the fulfillment of treaty obligations to Indian tribes through the principle of self-determination and the use of Federal resources; and
(2) giving a greater degree of autonomy to those institutions, while maintaining them as an integral part of the Bureau of Indian Affairs, will facilitate:

(A) the transition of Haskell Indian Nations University to a 4-year university; and
(B) the administration and improvement of the academic program of the Southwestern Indian Polytechnic Institute.

SEC. 3. DEFINITIONS. Ð For purposes of this Act—

(1) HASKELL INDIAN NATIONS UNIVERSITY. Ð The term "Haskell Indian Nations University" means Haskell Indian Nations University, located in Lawrence, Kansas.

(2) SOUTHWESTERN INDIAN POLYTECHNIC INSTITUTE. Ð The term "Southwestern Indian Polytechnic Institute" means the Southwestern Indian Polytechnic Institute, located in Albuquerque, New Mexico.

(3) RESPECTIVE INSTITUTIONS, ETC. Ð The terms "respective institutions" and "institutions to which this Act applies" mean Haskell Indian Nations University and the Southwestern Indian Polytechnic Institute.

(4) SECRETARY. Ð The term "Secretary" means the Secretary of the Interior.

SEC. 4. PERSONNEL MANAGEMENT. Ð (a) INAPPLICABILITY OF CERTAIN CIVIL SERVANT LAWS. Ð Chapters 51, 53, and 63 of title 5, United States Code (relating to classification, pay, and leave, respectively) and the provisions of such title relating to the appointment, performance evaluation, promotion, and removal of civil service employees shall not apply to applicants for employment with, employees of, or positions in or under any of the institutions to which this Act applies.

(b) ALTERNATIVE PERSONNEL MANAGEMENT PROVISIONS. Ð (1) IN GENERAL. Ð The president of each of the respective institutions shall be subject to the provisions of law that are inapplicable with respect to such institution by reason of subsection (a).

(2) PROCEDURAL REQUIREMENTS. Ð Regulations under this subsection—

(a) shall be subject to the requirements of subsections (b) through (g) of section 5302 of title 5, United States Code; and
(b) shall be subject to the requirements of subsections (b) through (g) of section 5303 of title 5, United States Code; and
(c) shall not take effect except with the prior written approval of the Secretary.

(3) SPECIFIC SUBSTANTIVE REQUIREMENTS. Ð Under the regulations prescribed for an institution under this section—

(A) no rate of basic pay may, at any time, exceed—

(I) in the case of an employee who would otherwise be subject to the General Schedule, the maximum rate of basic pay then currently payable for grade GS-15 of the General Schedule (including any amount payable under section 5304 of title 5, United States Code, or other similar authority for the locality involved); or

(II) in the case of an employee who would otherwise be subject to subchapter IV of chapter 53 of title 5, United States Code (relating to prevailing rate systems), the maximum rate of basic pay which (but for this section) would then otherwise be currently payable under the wage schedule covering such employee;

(B) section 5307 of title 5, United States Code (pertaining to limitation on certain payments) shall apply, subject to such definitional and other modifications as may be necessary in the context of the applicable alternative personnel management provisions under this section;

(4) procedures shall be established for the rapid and equitable resolution of grievances; employees may be discharged without notice of the reasons therefor and opportunity for a hearing under procedures that comport with the requirements of due process, except that this paragraph shall not apply in the case of an employee serving a probationary or trial period under an initial appointment; and

(5) employees serving for a period specified in or determinable under an employment agreement shall, except as otherwise provided in the agreement, be notified at least 30 days before the end of such period as to whether their employment agreement will be renewed.

(d) RULE OF CONSTRUCTION. Ð Nothing in this section shall be considered to affect the applicability of—

(1) any provision of law providing for—

(A) equal employment opportunity;

(B) Indian preference; or

(C) military preference;

(2) any provision of chapter 23 of title 5, United States Code, or any other provision of such title, relating to system principles or prohibited personnel practices; or

(3) any chapter of title 5, United States Code, relating to labor-management and employee relations.

(e) LABOR-MANAGEMENT PROVISIONS. Ð (1) COLLECTIVE-BARGAINING AGREEMENTS. Ð A collective-bargaining agreement in effect on the day before the applicable effective date under subsection (f)(1) shall continue to be recognized by the institution involved without any further alteration or amended pursuant to law.

(2) EXCLUSIVE REPRESENTATIVE. Ð Nothing in this Act shall affect the right of any labor organization to represent employees in the unit authorized to be accorded recognition as the exclusive representative of any unit of employees.
to which this Act applies, which is transferred, promoted, or reappointed, without a break in service of 3 days or longer, to a position in the Federal Government (or the government of the State of New Mexico under the District of Columbia) under a different personnel management system, any leave remaining to the credit of that individual which was earned or credited under the regulations prescribed by the Office of Personnel Management, shall be transferred to such individual’s credit in the employing agency on an adjusted basis in accordance with section 6308 of title 5, United States Code.

(4) WORK-STUDY.—Nothing in this section shall be considered to apply with respect to a work-study student, as defined by the president of the institution involved, in writing of this section shall be liquidated in accordance with this subsection, in conformance with the regulations applicable with respect to such institution.

SEC. 5. DELEGATION OF PROCUREMENT AUTHORITY.

The Secretary shall, to the maximum extent consistent with applicable law and subject to the availability of appropriations, delegate to the president of each of the respective institutions procurement and contracting authority with respect to the conduct of the administrative functions of such institution.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to each of the respective institutions for fiscal year 1998, and for each fiscal year thereafter—

(1) the amounts of funds made available by appropriations as operations funding for the administration of such institution for fiscal year 1997, and

(2) such additional sums as may be necessary for the operation of such institution pursuant to this Act.

Mr. BINGAMAN. Mr. President, I am pleased to join my colleague from the State of Kansas, Senator Roberts, in introducing a bill that will enable two Tribal Colleges to pursue their missions without the burden of unneeded Federal regulations. Like Haskell Indian Nations University, the Southwestern Indian Polytechnic Institute of Albuquerque (SIPI) is one of about 30 Tribal Colleges that is supported by the Bureau of Indian Affairs. Many of the students at these colleges are the first in their families to attend college, and having a Tribal College near their home and in tune with their tradition is critical to their education and economic success. Both Haskell and SIPI have grown in academic stature in the past few decades. SIPI recently marked its 25th anniversary and adopted a Master Plan that will guide the growth of its programs and facilities beyond the year 2000.

A recent report by the Carnegie Foundation for the Advancement of Teaching entitled “Native American Colleges: Progress and Prospects,” documents the critical role that these colleges play in offering Native Americans access to higher education. This report also traces the history of the relationship between the Federal government and Tribal Colleges. Haskell and SIPI are the only Tribal Colleges that are administered by the Bureau of Indian Affairs, and as a result are bound by the personnel regulations that apply to Federal agencies. This policy made sense and allowed these two universities to establish an administrative infrastructure and academic programs. But as the Carnegie Foundation report points out, the relationship between the Federal government and Tribal Colleges should evolve as the institutions take on more self-determination. The time has come to enact legislation that reflects the growth of these institutions.

The Federal personnel regulations imposed on SIPI and Haskell are inappropriate for institutions of higher education and are not recognized by accreditation organizations. This bill would allow Haskell and SIPI to establish independent authority over their personnel policies and practices. There is a world of difference between a Federal agency and a thriving institution of higher education, and these differences should be reflected in their personnel classification, pay systems, and policies for hiring and promotion. SIPI needs the authority to hire and promote faculty and staff on the basis of their intellect and the excellence of their teaching, research, and service to their institution.

The U.S. military academies have encountered these same obstacles, and they have adopted alternative personnel regulations approved by the Office of Personnel Management. The personnel authority that would be established under this bill would be modeled after those in use by the U.S. Air Force Academy. OPM has been consulted and is in agreement with the contents of this bill.

I agree with the Carnegie Foundation’s report when it says: “These institutions have taken on a breathing array of responsibilities. With each passing year, tribal colleges prove their worth to tribal communities, and to the nation. They can longer be dismissed as risky experiments, nor can their accomplishments be ignored. They are thriving and they support their reservations and this country.”

I applaud Senator Roberts’ efforts to develop and introduce this legislation. I look forward to working with him and with Senators Campbell and Inouye of the Committee on Indian Affairs to provide these two institutions with the flexibility they need to continue to flourish.
CONGRESSIONAL RECORD — SENATE

S8536

JULY 31, 1997

SECTIION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ‘‘Internal Revenue Service Restructuring and Reform Act of 1997’’.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; amendment of 1986 Code.
Sec. 2. Congressional findings and declaration of purposes.
TITLE I—EXECUTIVE BRANCH GOVERNANCE AND SENIOR MANAGEMENT OF THE INTERNAL REVENUE SERVICE
Subtitle A—Executive Branch Governance and Senior Management
Sec. 101. Internal Revenue Service Oversight Board.
Sec. 102. Commissioner of Internal Revenue; Chief Counsel; other officials.
Sec. 103. Other personnel.
Subtitle B—Personnel Flexibilities
Sec. 111. Personnel flexibilities.
TITLE II—ELECTRONIC FILING
Sec. 201. Electronic filing of tax and information returns.
Sec. 203. Paperless electronic filing.
Sec. 204. Regulation of preparers.
Sec. 205. Paperless payment.
Sec. 206. Return-free tax system.
Sec. 207. Access to account information.
TITLE III—TAXPAYER PROTECTION AND RIGHTS
Sec. 301. Expansion of authority to issue taxpayer assistance orders.
Sec. 302. Expansion of authority to award costs and certain fees.
Sec. 303. Civil damages for negligence in collection actions.
Sec. 304. Disclosure of criteria for examination selection.
Sec. 305. Archival of records of Internal Revenue Service.
Sec. 306. Tax return information.
Sec. 307. Freedom of information.
Sec. 308. Offers-in-compromise.
Sec. 309. Elimination of interest differential on overpayments and underpayments.
Sec. 310. Elimination of application of failure to pay penalty during period of installment agreement.
Sec. 311. Safe harbor for qualification for installment agreements.
Sec. 312. Payment of penalties.
Sec. 313. Low income taxpayer clinics.
Sec. 314. Jurisdiction of the Tax Court.
Sec. 315. Cataloging of complaints.
Sec. 316. Procedures involving taxpayer interviews.
Sec. 317. Explanation of joint and several liability.
Sec. 318. Procedures relating to extensions of statute of limitations by agreement.
Sec. 319. Review of penalty administration.
Sec. 320. Study of treatment of all taxpayers as separate filing units.
Sec. 321. Study of proof.
TITLE IV—CONGRESSIONAL ACCOUNTABILITY FOR THE INTERNAL REVENUE SERVICE
Subtitle A—Oversight
Sec. 401. Expansion of powers of the Joint Committee on Taxation.
Sec. 402. Coordinated oversight reports.
Subtitle B—Budget
Sec. 411. Budget discretion.

Sec. 412. Funding for century date change.
Sec. 413. Financial management advisory group.
Subtitle C—Tax Law Complexity
Sec. 421. Role of Internal Revenue Service.
Sec. 422. Tax law analysis.
Sec. 423. Simplified tax and wage reporting system.
Sec. 424. Compliance burden estimates.

SEC. 2. CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSES.

(a) The Congress finds the following:

(1) The structure of the Internal Revenue Service should be designed to ensure focus and better target its budgeting, staffing, and technology to serve the American taxpayer and collect the Federal revenue. (2) The American public expects timely, accurate, and respectful service from the Internal Revenue Service. (3) The job of the Internal Revenue Service is to operate as an efficient financial management organization.

(b) The bulk of the Federal revenue is generated through voluntary compliance. Taxpayer service and education, as well as targeted compliance and enforcement initiatives, increase voluntary compliance. (5) While the Internal Revenue Service must maintain a strong enforcement presence, its core and the core of the Federal revenue stream lie in a revamped, modern, technologically advanced organization that can track finances through clear notices, and assist taxpayers promptly and efficiently.

(c) The Internal Revenue Service governance, management, and oversight structures must: develop a shared vision with continuity; set and maintain priorities and strategic direction; impose accountability on senior management; provide oversight through a credible board, including members who bring private sector expertise to the Internal Revenue Service; develop appropriate measures of success; align budget and technology with priorities and strategic direction; and coordinate oversight and identify problems at an early stage.

(7) The Internal Revenue Service must use information technology as an enabler of its strategic objectives.

(9) In order to ensure that fewer taxpayers are subject to improper treatment by the Internal Revenue Service, Congress and the agency need to focus on preventing problems before they occur.

(10) There currently is no mechanism in place to ensure that Members of Congress have a complete understanding of how tax legislation will affect taxpayers and the Internal Revenue Service and to create incentives to simplify the tax law, and to ensure that Congress hears directly from the Internal Revenue Service during the legislative process.

(b) The purposes of this Act are as follows:

(1) To restructure the Internal Revenue Service, transforming it into a world class service organization.

(2) To establish taxpayer satisfaction as the goal of the Internal Revenue Service, such that the Internal Revenue Service should only initiate contact with a taxpayer if the agency is prepared to devote the resources necessary for a proper and timely resolution of the matter.

(3) To provide for direct accountability to the President for tax administration, an Internal Revenue Service Oversight Board, an strengthened Commissioner of Internal Revenue, and coordinated congressional oversight to ensure that there are clear lines of accountability and the leadership of the Internal Revenue Service has the continuity and expertise to guide the agency.

(4) To enable the Internal Revenue Service to recruit and train a first-class workforce that will be rewarded for performance and held accountable for working with taxpayers to solve problems.

(5) To establish paperless filing as the preferred and most convenient means of filing tax returns for the vast majority of taxpayers within 10 years of enactment of this Act.

(6) To provide additional taxpayer protections and rights and to ensure that taxpayers receive, impartial, timely, and courteous treatment from the Internal Revenue Service.

(7) To establish the resolution of the century date change problem as the highest technology priority of the Internal Revenue Service.

(8) To establish procedures to minimize complexity in the tax law and simplify tax administration, and provide Congress with an independent view of tax administration from the Internal Revenue Service.

TITIE I—EXECUTIVE BRANCH GOVERNANCE AND SENIOR MANAGEMENT OF THE INTERNAL REVENUE SERVICE
Subtitle A—Executive Branch Governance and Senior Management

SEC. 7802. INTERNAL REVENUE SERVICE OVERSIGHT BOARD.

(a) IN GENERAL.—Section 7802 (relating to the Commissioner of Internal Revenue) is amended by inserting after the second sentence of subsection (a) the following:

"(B) Membership.—

"(1) COMPOSITION.—The Board shall be composed of 9 members, of whom

"(A) 3 shall be representatives of taxpayers, and individuals who are not full-time Federal employees, who are appointed by the President, by and with the advice and consent of the Senate, and who shall be qualified government employees pursuant to paragraph (2),

"(B) 1 shall be the Secretary of the Treasury, or, if the Secretary so designates, the Deputy Secretary of the Treasury, and

"(C) 1 shall be a representative of an organization that represents a substantial number of Internal Revenue Service employees, who is appointed by the President, by and with the advice and consent of the Senate.

"(2) SPECIAL GOVERNMENT EMPLOYEES.—Any person who qualifies as a special government employee under section 201(7) of title 5, United States Code, shall be appointed solely on the basis of their professional experience and expertise in the following areas:

"(i) Management of large service organizations.

"(ii) Customer service.

"(iii) Compliance.

"(iv) Information technology.

"(v) Organization development.

"(vi) The needs and concerns of taxpayers.

(b) QUALIFICATION.—Any member of the Board selected to fill a term shall be a special government employee, as defined in section 201(7) of title 5, United States Code.

(c) TERMS.—Each member who is serving in any position covered by paragraphs (1) and (2) of subsection (b) shall be appointed for a term of 3 years, and shall:

"(i) be eligible to serve for no more than 3 consecutive terms,

"(ii) be subject to removal at the discretion of the President, by and with the advice and consent of the Senate, and

"(iii) be deemed to be a special government employee as defined in section 201(7) of title 5, United States Code.

SEC. 7803. COMPLAINTS TO THE COMMISSIONER OF INTERNAL REVENUE.

(a) IN GENERAL.—Section 7803 (relating to complaint to Commissioner of Internal Revenue) is amended by inserting before the second sentence of subsection (b) the following:

"(A) Administrative reprimand.

"(B) Civil action.

(b) REMEDIES.—The Commissioner of Internal Revenue may award, in the case of a complaining taxpayer, such monetary or nonmonetary remedies as the Commissioner determines appropriate.

(c) LIMITATIONS.—Any action under this section shall be commenced within 2 years of the filing of the complaint, but the Commissioner may extend the period of time for filing because of circumstances beyond the taxpayer’s control.
(C) REAPPOINTMENT.—An individual who is described in paragraph (1)(A) may be appointed to no more than two 5-year terms on the Board.

(D) REPRESENTATIVE OF FEDERAL GOVERNMENT EMPLOYEES.—During such periods as they are performing services for the Board, members who are not Federal officers or employees shall be treated as employees of the United States, and all such transactions,包括 any applicable locality-based comparability payment that may be authorized under section 5304 of such title 5, United States Code.

(E) CLAIMS.—

(i) IN GENERAL.—Members of the Board who are described in paragraph (1)(A) shall have no personal liability under Federal law with respect to any claim arising out of or resulting from an act or omission by such member within the scope of service as a member. The preceding sentence shall not be construed to limit personal liability for criminal acts or omissions, willful or malicious conduct, acts or omissions for private gain, or any other act or omission outside the scope of the service of such member on the Board.

(ii) EFFECT ON OTHER LAW.—This subparagraph shall not be construed—

(A) to affect any other rights or remedies against the United States under applicable law, or

(B) to limit or alter in any way the immunities that are available under applicable law for Federal officers and employees not described in this subparagraph.

(VACANCY.—Any vacancy on the Board—

(A) shall not affect the powers of the Board, and

(B) shall be filled in the same manner as the original appointment.

(4) REMOVAL.—

(A) IN GENERAL.—A member of the Board may be removed by the will of the President.

(B) SECRETARY OR DELEGATE.—An individual described in subsection (b)(1)(B) shall be removed upon termination of employment.

(C) REPRESENTATIVE OF INTERNAL REVENUE SERVICE EMPLOYEES.—A member who is from an organization that represents a substantial number of Internal Revenue Service employees shall be removed upon termination of employment, membership, or other affiliation with such organization.

(5) RESPONSIBILITIES.—

(I) IN GENERAL.—The Board shall oversee the Internal Revenue Service in the administration, management, conduct, direction, and supervision of the execution and application of the internal revenue laws or related statutes and tax conventions to which the United States is a party.

(2) EXCEPTIONS.—The Board shall have no responsibilities or authority with respect to—

(A) the development and formulation of Federal tax policy relating to existing or proposed Internal Revenue laws, related statutes, and tax conventions to which the United States is a party.

(B) specific law enforcement activities of the Internal Revenue Service, including compliance activities such as criminal investigations, examinations, and collection activities, or

(C) specific activities of the Internal Revenue Service delegated to employees of the Internal Revenue Service pursuant to delegation orders in effect as of the date of the enactment of this section, including delegation order 106 relating to procurement authority, except to the extent that such delegation orders are modified subsequently by the Secretary.

(3) RESTRICTION ON DISCLOSURE OF RETURN INFORMATION TO BOARD MEMBERS.—No return, return information, or taxpayer return information (as defined in section 6103(b)) may be disclosed to any member of the Board described in subsection (b)(1)(A) or (C). Any request for such information, if not disclosed under the preceding sentence, and any contact relating to a specific taxpayer, made by a member of the Board to an officer or employee of the Internal Revenue Service shall be reported by such officer or employee to the Secretary and the Joint Committee on Taxation.

(4) SPECIFIC RESPONSIBILITIES.—The Board shall have the following specific responsibilities:

(I) STRATEGIC PLANS.—To review and approve strategic plans of the Internal Revenue Service, including the establishment of—

(A) mission and objectives, and standards of performance relative to either, and

(B) annual and long-range strategic plans.

(II) OPERATIONAL PLANS.—To review the operational functions of the Internal Revenue Service, including—

(A) plans for modernization of the tax system,

(B) plans for outsourcing or managed competition, and

(C) plans for training and education.

(III) MANAGEMENT.—To provide for—

(A) the selection and appointment, evaluation, and removal of the Commissioner of Internal Revenue,

(B) the review of the Commissioner's selection, evaluation and compensation of senior managers, and

(C) the review of the Commissioner's plans for reorganization of the Internal Revenue Service.

(IV) BUDGET.—To—

(A) review and approve the budget request of the Internal Revenue Service prepared by the Commissioner,

(B) submit the budget request to the Secretary of the Treasury,

(C) ensure that the budget request supports the annual and long-range strategic plans, and

(D) ensure appropriate financial audits of the Internal Revenue Service.

The Secretary shall submit the budget request referred to in subparagraph (B) for any fiscal year to the President not later than July 31, and in any case shall submit such request, without revision, to Congress together with the President's annual budget request for the Internal Revenue Service for such fiscal year.

(6) BOARD PERSONNEL MATTERS.—

(I) COMPENSATION OF MEMBERS.—

(A) IN GENERAL.—Each member of the Board who is described in subsection (b)(1)(A) shall be compensated at a rate of $30,000 per year. All other members of the Board shall serve without compensation for such service.

(B) CHAIRPERSON.—In lieu of the amount specified in subparagraph (A), the Chairperson of the Board shall be compensated at a rate of $50,000 per year if such Chairperson is described in subsection (b)(1)(A).

(2) TRAVEL EXPENSES.—The members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.

(3) STAFF.—On the request of the Chairperson of the Board, the Commissioner shall provide to the Board such support personnel as may be necessary to enable the Board to perform its duties. Such detail shall be without interruption or loss of civil service status or privileges.

(4) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Board may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(5) ADMINISTRATIVE MATTERS.—

(I) CHAIR.—The members of the Board shall chair a joint committee for 2-year term.

(II) COMMITTEES.—The Board may establish such committees as the Board determines appropriate.

(3) MEETINGS.—The Board shall meet at least once each month and at such other times as the Board determines appropriate.

(4) REPORTS.—The Board shall each year report to the President and the Congress with respect to the conduct of its responsibilities under this title.

(6) CONFORMING AMENDMENTS.—

(I) Section 4946(c) (relating to definitions and special rules for chapter 42) is amended—

(A) by striking “or” at the end of paragraph (5),

(B) by striking the period at the end of paragraph (6) and inserting “, or”, and

(C) by adding at the end the following new paragraph:

(a) A member of the Internal Revenue Service Oversight Board shall—

(I) by striking “or” at the end of paragraph (5),

(II) by striking the period at the end of paragraph (6) and inserting “, or”.

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

(SEC. 102. COMMISSIONER OF INTERNAL REVENUE; CHIEF COUNSEL; OTHER OFFICIALS.)

(a) COMMISSIONER OF INTERNAL REVENUE.—

(I) APPOINTMENT.—There shall be in the Department of the Treasury a Commissioner of Internal Revenue who shall be appointed by the Internal Revenue Service Oversight Board to a 5-year term and compensated not to exceed the maximum rate of basic pay of level II of the Executive Schedule under section 5311 of title 5, United States Code, including any applicable locality-based comparability payment that may be authorized under section 5304 of such title 5.

(II) CHIEF COUNSEL FOR THE INTERNAL REVENUE SERVICE.—

(I) APPOINTMENT.—There shall be in the Department of the Treasury Chief Counsel for the Internal Revenue Service, to whom shall be assigned the duties and responsibilities of the office of Chief Counsel (other than subparagraph (A)) of section 7802(d)(2).

(II) PLAN.—The table of sections for subchapter A of chapter 80 is amended by striking the item relating to section 7802 and inserting the following new item:

“Sec. 7802. Internal Revenue Service Oversight Board.”

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

(SEC. 103. COMMISSIONER OF INTERNAL REVENUE; CHIEF COUNSEL; OTHER OFFICIALS.)

(a) COMMISSIONER OF INTERNAL REVENUE.—

(I) APPOINTMENT.—There shall be in the Department of the Treasury a Commissioner of Internal Revenue who shall be appointed by the Internal Revenue Service Oversight Board to a 5-year term and compensated not to exceed the maximum rate of basic pay of level II of the Executive Schedule under section 5311 of title 5, United States Code, including any applicable locality-based comparability payment that may be authorized under section 5304 of such title 5.

(II) CHIEF COUNSEL FOR THE INTERNAL REVENUE SERVICE.—

(I) APPOINTMENT.—There shall be in the Department of the Treasury Chief Counsel for the Internal Revenue Service, to whom shall be assigned the duties and responsibilities of the office of Chief Counsel (other than subparagraph (A)) of section 7802(d)(2).
for the Internal Revenue Service who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) Duties.—The Chief Counsel shall be the chief counsel of the Internal Revenue Service and shall perform such duties as may be prescribed by the Secretary of the Treasury. To the extent that the Chief Counsel performs duties relating to the development of rules and regulations promulgated under this title, final decision making authority shall remain with the Secretary.

(3) The Chief Counsel is authorized to be paid at an annual rate of basic pay not to exceed the maximum rate of basic pay of level III of the Executive Schedule under section 5311 of title 5, United States Code, including any applicable locality-based comparability payment that may be authorized under section 5304 of such title 5.

(c) Assistant Commissioner for Employee Plans and Exempt Organizations.—

(1) Establishment of office.—There is established within the Internal Revenue Service an office to be known as the ‘‘Office of Employee Plans and Exempt Organizations’’ to be under the supervision and direction of an Assistant Commissioner of Internal Revenue Service.

(2) Duties.—The Assistant Commissioner shall be responsible for carrying out such functions as the Secretary may prescribe with respect to organization tax under subchapter D of chapter 1 of subtitle A of title 26, United States Code, including any applicable locality-based comparability payment that may be authorized under section 5304 of such title 5.

(d) Assistant General Counsel.—

(1) Appointment and supervision.—The Assistant General Counsel shall be appointed by and with the advice and consent of the Senate. The Assistant General Counsel shall report directly to the Commissioner of Internal Revenue.

(2) Duties.—The Assistant General Counsel shall be responsible for the development and administration of the programs and policies of the Internal Revenue Service relating to the resolution of problems identified under clause (ii) and (iv) and (v) of subsection (b) of section 7802(b) of title 26.

(3) Functions of office.—

(A) In general.—It shall be the function of the Office to assist taxpayers in resolving problems with the Internal Revenue Service.

(B) Annual reports.—

(i) Objectives.—Not later than June 30 of each calendar year after 1995, the Taxpayer Advocate shall report to the Commissioner on the Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the objectives of the Taxpayer Advocate for the fiscal year beginning in such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information, of the following:

(I) Identify the initiatives the Taxpayer Advocate has taken on improving taxpayer services and Internal Revenue Service responsiveness.

(II) Contain recommendations received from individuals with the authority to issue Taxpayer Assistance Orders under section 7803.

(III) Contain a summary of at least 20 of the most serious problems encountered by taxpayers, including a description of the nature of each such problem.

(IV) Contain an inventory of the items described in subclauses (I), (II), and (III) for which action has been taken and the result of such action.

(V) Contain an inventory of the items described in subclauses (I), (II), and (III) for which no action has been taken and the result of such action.

(VI) Contain an inventory of the items described in subclauses (I), (II), and (III) for which action has been taken and the result of such action.

(VII) Contain recommendations for such administrative and legislative action as may be appropriate to resolve problems encountered by taxpayers.

(VIII) Contain recommendations for such administrative and legislative action as may be appropriate to resolve problems encountered by taxpayers.

(IX) Include such other information as the Taxpayer Advocate may deem advisable.

(ii) Report to be submitted directly.—Each report required under this subparagraph shall be provided directly to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(iii) Other responsibilities.—The Taxpayer Advocate shall—

(A) monitor the coverage and geographic allocation of problem resolution officers,

(B) develop guidance to be distributed to all Internal Revenue Service officers and employees outlining the criteria for referral of taxpayer inquiries to problem resolution officers,

(C) ensure that the local telephone numbers for the problem resolution officer in each internal revenue district is published and available to taxpayers, and

(D) in conjunction with the Commissioner, develop career paths for problem resolution officers choosing to make a career in the Office of the Taxpayer Advocate.

(e) Conforming Amendments.—

(1) The table of sections for chapter A of chapter 80 of the Internal Revenue Code of 1986 is amended to read as follows:

(2) The Chief Counsel for the Department is amended to read as follows:

(f) Cross Reference.—For provisions relating to the appointment of officers and employees of the Internal Revenue Service, see chapter A of chapter 80 of the Internal Revenue Code of 1986.

(g) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(h) Sec. 7803. Commissioner of Internal Revenue; Chief Counsel; other officials. (i) Sec. 7803. Commissioner of Internal Revenue; Chief Counsel; other officials.

(1) In general.—Section 7804 (relating to the reorganization plans) is amended to read as follows:

(2) In general.—The Amendments made by this section shall take effect on the date of the enactment of this Act.

(3) Sec. 7804. Commissioner of Internal Revenue; Chief Counsel; other officials.

(A) Appointment and Supervision.—The Commissioner of Internal Revenue is authorized to employ such number of persons as the Commissioner determines to perform the administration and enforcement of the internal revenue laws, and the Commissioner shall issue
all necessary directions, instructions, orders, and rules applicable to such persons.

2. (b) POSTS OF DUTY OF EMPLOYEES IN FIELD SERVICE OR TRAVELING.—
   (1) DESIGNATION OF POST OF DUTY.—The Commissioner shall determine and designate the posts of duty of all such persons engaged in field work or traveling on official business outside of the District of Columbia.

   (2) DETAIL OF PERSONNEL FROM FIELD SERVICE.—The Commissioner may order any such person engaged in field work to duty in the District of Columbia, for such periods as the Commissioner may prescribe, and to any designated post of duty outside the District of Columbia upon the completion of such duty.

3. (c) DELINQUENT INTERNAL REVENUE OFFICERS AND EMPLOYEES.—If any officer or employee of the Treasury Department acting in connection with the internal revenue laws fails to account for and pay over any amount of money or property collected or received by him in connection with the internal revenue laws, the Secretary shall issue notice and demand to such officer or employee for payment of the amount which he failed to account for and pay over, and, upon failure to pay such amount demanded within the time specified in such notice, the amount so demanded shall be deemed imposed upon and assessed upon such officer or employee and assessed upon the date of such notice and demand, and the provisions of chapter 64 and all other provisions of law relating to the collection of assessments of tax shall be applicable in respect of such amount.

4. (b) CONFORMING AMENDMENTS.—
   (1) Subsection (b) of section 6344 is amended by striking “section 7803(d)” and inserting “section 7804(c)”.
   (2) The table of sections for subsection A of chapter 80 is amended by striking the item relating to section 7804 and inserting the following new item:

   “Sec. 7804. Other personnel.”

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

Subtitle B.—Personnel Flexibilities

SEC. 111. PERSONNEL FLEXIBILITIES.

(a) IN GENERAL.—Part III of title 5, United States Code, is amended by adding at the end the following new subpart:

“Subpart I—Miscellaneous

CHAPTER 92—PERSONNEL FLEXIBILITIES RELATING TO THE INTERNAL REVENUE SERVICE

“Sec. 9301. General requirements.

9302. Flexibilities relating to performance management.

9303. Classification and pay flexibilities.

9304. Staffing flexibilities.

9305. Flexibilities relating to demonstration projects.

9301. General requirements

(a) CONFORMANCE WITH MERIT SYSTEM PRINCIPLES, ETC.—Any flexibilities under this chapter shall be exercised in a manner consistent with—

1. chapter 23, relating to merit system principles and prohibited personnel practices; and

2. provisions of this title (outside of this subpart) relating to preference eligibles.

(b) REQUIREMENT RELATING TO UNITS REPRESENTED BY LABOR ORGANIZATIONS.—

1. WITHDRAWDREW AGREEMENT REQUIRED.—Employees within a unit with respect to which a labor organization is accorded exclusive recognition under chapter 71 shall not be subject to the exercise of any flexibility under section 9302, 9303, 9304, or 9305, unless there is a written agreement between the Internal Revenue Service and the organization permitting such exercise.

2. DEFINITION OF A WRITTEN AGREEMENT.—In order to satisfy paragraph (1), a written agreement—

(A) need not be a collective bargaining agreement within the meaning of section 7103(b); and

(B) may not be an agreement imposed by the Federal Service Impasses Panel under section 7110.

(c) FLEXIBILITIES FOR WHICH OPM APPROVAL IS REQUIRED.—

1. IN GENERAL.—Except as provided in paragraph (2), flexibilities under this chapter may be exercised by the Internal Revenue Service without the approval of the Office of Personnel Management.

2. EXCEPTIONS.—The flexibilities under subsections (c) through (e) of section 9303 may be exercised by the Internal Revenue Service only after a specific plan describing how those flexibilities are to be exercised has been submitted to and approved, in writing, by the Director of the Office of Personnel Management.

§ 9302. Flexibilities relating to performance management

(a) IN GENERAL.—The Commissioner of Internal Revenue shall, within 180 days after the date of the enactment of this chapter, establish a performance management system which—

1. subject to section 9303(b), shall cover all employees of the Internal Revenue Service other than—

(A) the members of the Internal Revenue Service Oversight Board;

(B) the Commissioner of Internal Revenue; and

(C) the Chief Counsel for the Internal Revenue Service;

2. shall maintain individual accountability by—

(A) establishing retention standards which—

(i) permit the accurate evaluation of each employee’s performance on the basis of criteria relating to the duties and responsibilities of the position held by such employee; and

(ii) shall be communicated to an employee before any period with respect to which the performance of such employee is to be evaluated using such standards;

(B) providing for periodic performance evaluations to determine whether retention standards are being met; and

(C) with respect to any employee whose performance does not meet retention standards, using the results of such employee’s performance evaluation as a basis for—

(i) denying increases in basic pay, promotions, and credit for performance under section 3502; and

(ii) the taking of other appropriate action, such as a reassignment or an action under chapter 43.

(b) SHALL PROVIDE FOR—

(A) establishing goals or objectives for individual, group, or organizational performance (or any combination thereof), consistent with Internal Revenue Service performance planning procedures, including those established under the Government Performance and Results Act of 1993, the Information Technology Management Reform Act of 1996, Revenue Procedure 64-22 (as in effect on July 30, 1997), and taxpayer service surveys, and communicating such goals or objectives to employees;

(B) using such goals and objectives to make performance distinctions among employees or to evaluate employees; and

(C) using assessments under this paragraph, in combination with performance evaluations under paragraph (2), as a basis for granting employee awards, adjusting an employee’s rate of basic pay, and taking such other personnel action as may be appropriate.

For purposes of this title, performance of an employee during any period in which such employee is subject to retention standards under paragraph (2) shall be considered to be ‘unacceptable’ if the employee during such period fails to meet any of those standards.

(c) AWARDS.—

1. IN GENERAL.—In the case of an employee of the Internal Revenue Service who reports directly to the Commissioner of Internal Revenue, a cash award in an amount up to 50 percent of such employee’s annual rate of basic pay may be made if the Commissioner finds such an award to be warranted based on such employee’s performance.

2. NATURE OF AN AWARD.—A cash award under this paragraph shall not be considered to part of basic pay.

3. TAX ENFORCEMENT RESULTS.—A cash award under this paragraph may be based solely on tax enforcement results.

4. ELIGIBLE EMPLOYEES.—Whether or not an employee is an employee who reports directly to the Commissioner of Internal Revenue, the Commissioner shall prescribe the criteria that determine whether or not an employee is an employee who reports directly to the Commissioner of Internal Revenue under section 9302.

5. LIMITATION ON COMPENSATION.—For purposes of applying section 3307 to an employee in connection with any calendar year to which an award made under this paragraph to such employee is attributable, subsection (a)(1) of such section shall be applied by substituting ‘to exceed the annual rate of compensation for the President for such calendar year’ for ‘to exceed the annual rate of basic pay payable for level I of the Executive Schedule, as of the end of such calendar year’.

6. BASED ON SAVINGS.—

(A) IN GENERAL.—The Commissioner of Internal Revenue may authorize the payment of cash awards to employees based on documented financial savings achieved by a group or organization which such employees comprise, if such payments are made pursuant to a plan which—

(i) specifies minimum levels of service and quality to be maintained while achiev ing such financial savings; and

(ii) is in conformance with criteria prescribed by the Office of Personnel Management.

7. FUNDING.—A cash award under this paragraph may be paid from the fund or appropriation available to the activity primarily benefiting or the various activities benefiting.

8. TAX ENFORCEMENT RESULTS.—A cash award under this paragraph may not be based solely on tax enforcement results.

9. OTHER PROVISIONS.

(a) NOTICE PROVISIONS.—In applying sections 403(b)(1)(A) and 751(b)(1) to employees of the Internal Revenue Service, ‘15 days’ shall be substituted for ‘30 days’.

(b) APPEALS.—Notwithstanding the second sentence of section 5335(c), an employee of the Internal Revenue Service shall not have the right of appeal of an adverse periodic step increase under section 5335 to the Merit Systems Protection Board.
§ 9303. Classification and pay flexibilities

(a) BROAD-BANDED SYSTEMS.—

(1) DEFINITIONS.—For purposes of this subsection—

(A) the term 'broad-banded system' means a system under which positions are classified and pay for service in any such position is fixed through the use of pay bands, rather than under—

(i) chapter 51 and subchapter III of chapter 53, or

(ii) subchapter IV of chapter 53, and

(B) the term 'pay band' means, with respect to positions in 1 or more occupational series, a pay range—

(i) consisting of—

(a) 2 or more consecutive grades of the General Schedule; or

(b) 2 or more consecutive pay ranges of such other pay or wage schedule as would otherwise apply (but for this section); and

(ii) the minimum rate for which is the minimum rate for the lower (or lowest) grade or range in the pay band and the maximum rate for which is the maximum rate for the higher (or highest) grade or range in the pay band, including any locality-based and other similar comparability payments.

(2) BROAD-BANDED SYSTEMS.—The Commissioner of Internal Revenue may, subject to criteria to be prescribed by the Office of Personnel Management, establish one or more broad-banded systems for any portion of its workforce which would otherwise be subject to the provisions of law cited in clause (i) or (ii) of subsection (a)(1), except for any position classified by statute, geographic location, and movement between a broad-banded system and another pay system.

(3) Criteria.—The criteria to be prescribed by the Office shall, at a minimum—

(A) ensure that the structure of any broad-banded system the Office establishes maintains the principle of equal pay for substantially equal work;

(B) establish the minimum (but not less than 2) and maximum number of grades or pay ranges that may be combined into pay bands;

(C) establish requirements for adjusting the pay of an employee within a pay band;

(D) establish requirements for setting the pay of a supervisory employee whose position is in a pay band or who supervises employees whose positions are in pay bands; and

(E) establish requirements and methodologies for setting the pay of an employee upon conversion to a broad-banded system, initial pay in a broad-banded system, and movement of an employee from one type of appointment (including promotion, demotion, transfer, reassignment, reinstatement, placement in another pay band, or movement between a broad-banded system and another pay system).

(4) INFORMATION.—The Commissioner of Internal Revenue shall submit to the Office such information relating to its broad-banded systems as the Office may require.

(5) REVIEW AND REVOCATION AUTHORITY.—

The Commissioner shall prescribe, exercise with respect to any broad-banded system under this subsection, and in accordance with regulations which it shall prescribe, exercise with respect to any broad-banded system under this subsection, authorizations similar to those available to it under sections 5110 and 5111 with respect to classifications under chapter 51.

§ 9304. Staffing flexibilities

(a) In General.—

(1) PERMANENT APPOINTMENT IN THE COMPETITIVE SERVICE.—Except as otherwise provided by this subsection, an employee of the Internal Revenue Service may be selected for a permanent appointment in the competitive service in the Internal Revenue Service through internal competitive promotion procedures when the following conditions are met:

(A) The employee has completed 2 years of current continuous service in the competitive service under a permanent appointment or any combination of term appointments.

(B) Such term appointment or appointments were made under competitive processes prescribed for permanent appointments.

(C) The employee's performance under such term appointment or appointments met established retention standards.

(D) The vacancy announcement for the term appointment from which the conversion is made stated that there was a potential for subsequent conversion to a permanent appointment.

(2) CONDITION.—An appointment under this subsection may be made only to a position the duties and responsibilities of which are similar to those of the position held by the employee at the time of conversion (referred to in paragraph (1)(D)).

(3) REVIEW SYSTEMS.—

(A) In General.—Notwithstanding subchapter I of chapter 53, the Commissioner of Internal Revenue may establish category review systems for evaluating candidates for positions in the competitive service, under which qualified candidates are divided into 2 or more quality categories on the basis of relative degrees of merit, rather than assigned individual numerical ratings.

Each applicant who meets the minimum qualification requirements for the position to be filled shall be evaluated for an appropriate category based on an evaluation of the applicant's knowledge, skills, and abilities relative to those needed for successful performance in the job to be filled.

(B) TREATMENT OF PREFERENCE ELIGIBILITIES.—Within each quality category established under paragraph (1), preference eligibles shall be listed ahead of individuals who are not preference eligibles. For other than scientific and professional positions at or higher than GS-9 (or equivalent), preference eligibles who have a compensable service-connected disability of 10 percent or more, and who meet the minimum qualification standards, shall be listed in the highest quality category.

(C) SELECTION PROCESS.—An appointing authority may select any applicant from the highest quality category or, if fewer than 3 candidates have been assigned to the highest quality category, from a merged category consisting of the highest and second highest quality categories. Notwithstanding the preceding sentence, the appointing authority may not pass over a preference eligible in the same or a higher category from which a selection is made unless the requirements of section 3317(b) or 3318(b), as applicable, are satisfied, except that in no event may certification of a preference eligible under this subsection be discontinued by the Internal Revenue Service under section 3317(b) before the end of the 6-month period beginning on the date of such employee's first certification.

(D) MAXIMUM PERIOD FOR WHICH EMPLOYEE MAY BE DETAILED.—The 120-day limitation under section 3310(c)(1)(D) for details and renewals of details shall not apply with respect to the Internal Revenue Service.

(E) RECRUITMENT AND RETENTION BONUSES; RETENTION ALLOWANCES.—Subject to section 9301(c), the Commissioner of Internal Revenue may, with respect to employees who are covered by a broad-banded system under subsection (a) or an alternative classification system under subsection (c), provide for variations from the provisions of subchapter VI of chapter 51.

(2) SUBTRACTIONS.—Subject to section 9301(c), the Commissioner of Internal Revenue may set lower standards, except that in no event may such standards be less than the standards of section 3395(e)(1) nor section 3592(b)(1) shall apply.

§ 9304. Staffing flexibilities

(a) In General.—

(1) PERMANENT APPOINTMENT IN THE COMPETITIVE SERVICE.—Except as otherwise provided by this subsection, an employee of the Internal Revenue Service may be selected for a permanent appointment in the competitive service in the Internal Revenue Service through internal competitive promotion procedures when the following conditions are met:

(A) The employee has completed 2 years of current continuous service in the competitive service under a permanent appointment or any combination of term appointments.

(B) Such term appointment or appointments were made under competitive processes prescribed for permanent appointments.

(C) The employee's performance under such term appointment or appointments met established retention standards.

(D) The vacancy announcement for the term appointment from which the conversion is made stated that there was a potential for subsequent conversion to a permanent appointment.

(2) CONDITION.—An appointment under this subsection may be made only to a position the duties and responsibilities of which are similar to those of the position held by the employee at the time of conversion (referred to in paragraph (1)(D)).

(3) REVIEW SYSTEMS.—

(A) In General.—Notwithstanding subchapter I of chapter 53, the Commissioner of Internal Revenue may establish category review systems for evaluating candidates for positions in the competitive service, under which qualified candidates are divided into 2 or more quality categories on the basis of relative degrees of merit, rather than assigned individual numerical ratings.

Each applicant who meets the minimum qualification requirements for the position to be filled shall be evaluated for an appropriate category based on an evaluation of the applicant's knowledge, skills, and abilities relative to those needed for successful performance in the job to be filled.

(B) TREATMENT OF PREFERENCE ELIGIBILITIES.—Within each quality category established under paragraph (1), preference eligibles shall be listed ahead of individuals who are not preference eligibles. For other than scientific and professional positions at or higher than GS-9 (or equivalent), preference eligibles who have a compensable service-connected disability of 10 percent or more, and who meet the minimum qualification standards, shall be listed in the highest quality category.

(C) SELECTION PROCESS.—An appointing authority may select any applicant from the highest quality category or, if fewer than 3 candidates have been assigned to the highest quality category, from a merged category consisting of the highest and second highest quality categories. Notwithstanding the preceding sentence, the appointing authority may not pass over a preference eligible in the same or a higher category from which a selection is made unless the requirements of section 3317(b) or 3318(b), as applicable, are satisfied, except that in no event may certification of a preference eligible under this subsection be discontinued by the Internal Revenue Service under section 3317(b) before the end of the 6-month period beginning on the date of such employee's first certification.

(D) MAXIMUM PERIOD FOR WHICH EMPLOYEE MAY BE DETAILED.—The 120-day limitation under section 3310(c)(1)(D) for details and renewals of details shall not apply with respect to the Internal Revenue Service.

(E) RECRUITMENT AND RETENTION BONUSES; RETENTION ALLOWANCES.—Subject to section 9301(c), the Commissioner of Internal Revenue may, with respect to employees who are covered by a broad-banded system under subsection (a) or an alternative classification system under subsection (c), provide for variations from the provisions of subchapter VI of chapter 51.

(2) SUBTRACTIONS.—Subject to section 9301(c), the Commissioner of Internal Revenue may set lower standards, except that in no event may such standards be less than the standards of section 3395(e)(1) nor section 3592(b)(1) shall apply.
"(e) Probationary Periods.—Notwithstanding any other provision of law or regulation, the Commissioner of Internal Revenue may establish a period of probation under the rules of part III of this chapter that is 2 years in length, to be extended and otherwise modified as he determines to be necessary.

(f) Provisions That Remain Applicable.—No provision of this section exempts the Internal Revenue Service from —

(1) the requirement that the Secretary shall report to the Committees on Ways and Means and Government Reform and Oversight of the House of Representatives, the Committees on Finance, Appropriations, and Government Affairs of the Senate, and the joint Center on Taxation, on —

(a) the progress of the Internal Revenue Service in meeting the policy set forth in subsection (a).

(b) the status of the plan required by subsection (b); and

(c) the necessity of action by the Congress to assist the Internal Revenue Service to satisfy the policy set forth in subsection (a).

(2) the necessity of action by the Congress to assist the Internal Revenue Service to satisfy the policy set forth in subsection (a).

SEC. 202. EXTENSION OF TIME TO FILE ELECTRONICALLY PREPARED TAX RETURNS.

(a) in General.—Subsection (a) of section 6072 (relating to the time for filing income tax returns) is amended —

(1) by striking "(a) General Rule.—In the case of returns filed electronically, such returns shall be filed on or before March 31 of the year following the calendar year to which such returns relate.

(2) ELECTRONICALLY FILED RETURNS.—In the case of returns made under subparts B or C of part III of this chapter that are filed electronically, such returns shall be filed on or before the 15th day of the month following the close of the calendar year to which such returns relate.

(3) ELECTRONICALLY FILED RETURNS.—In the case of returns made under subparts B or C of part III of this chapter that are filed electronically, such returns shall be filed on or before the 15th day of the month following the close of the calendar year to which such returns relate.".

(b) RETURNS OF PARTNERSHIPS.—Subsection (b) of section 6072 (relating to the time for filing income tax returns) is amended by adding the following new paragraph:

"(2) ELECTRONICALLY FILED RETURNS.—In the case of returns filed electronically, such returns shall be filed on or before the 15th day of the month following the close of the calendar year to which such returns relate.".

(c) Information Returns.—Part V of chapter 61 (relating to information and returns) is amended by adding the following new section:

"SEC. 6073. TIME FOR FILING CERTAIN INFORMATION RETURNS.

(a) ELECTRONICALLY FILED RETURNS.—In the case of returns made under subparts B or C of part III of this chapter that are filed electronically, such returns shall be filed on or before the 15th day of the month following the close of the calendar year to which such returns relate.

(b) RETURNS OF PARTNERSHIPS.—Notwithstanding subsection (a), receipts for employees required under section 6051 and any statements otherwise required to be furnished to persons with respect to whom this return is required, shall be furnished to such persons on or before the 15th day of the month following the close of the calendar year to which such return relates.

(c) ELECTRONICALLY FILED RETURNS.—In the case of returns made under subparts B or C of part III of this chapter that are filed electronically, such returns shall be filed on or before the 15th day of the month following the close of the calendar year to which such returns relate.

(d) RETURNS OF PARTNERSHIPS.—In the case of returns made under subparts B or C of part III of this chapter that are filed electronically, such returns shall be filed on or before the 15th day of the month following the close of the calendar year to which such returns relate.

(e) ELECTRONICALLY FILED RETURNS.—In the case of returns made under subparts B or C of part III of this chapter that are filed electronically, such returns shall be filed on or before the 15th day of the month following the close of the calendar year to which such returns relate.

SEC. 6074. TIME FOR FILING PARTNERSHIP RETURNS.

"(a) in General.—Except as provided in subsection (b), returns made under section 6072 shall be filed on or before the 15th day of the month following the close of the taxable year of the partnership, except that the return of a partnership consisting entirely of nonresident aliens shall be filed on or before the 15th day of the month following the close of the taxable year of the partnership.

(b) ELECTRONICALLY FILED RETURNS.—In the case of returns made under section 6072 which the return under subsection (a) is required to be filed, returns shall be filed on or before the 15th day of the month following the close of the taxable year of the partnership.

(c) ELECTRONICALLY FILED RETURNS.—In the case of returns made under section 6072 which the return under subsection (a) is required to be filed, returns shall be filed on or before the 15th day of the month following the close of the taxable year of the partnership.

(d) ELECTRONICALLY FILED RETURNS.—In the case of returns made under section 6072 which the return under subsection (a) is required to be filed, returns shall be filed on or before the 15th day of the month following the close of the taxable year of the partnership.

(e) ELECTRONICALLY FILED RETURNS.—In the case of returns made under section 6072 which the return under subsection (a) is required to be filed, returns shall be filed on or before the 15th day of the month following the close of the taxable year of the partnership.

(f) ELECTRONICALLY FILED RETURNS.—In the case of returns made under section 6072 which the return under subsection (a) is required to be filed, returns shall be filed on or before the 15th day of the month following the close of the taxable year of the partnership.

(g) ELECTRONICALLY FILED RETURNS.—In the case of returns made under section 6072 which the return under subsection (a) is required to be filed, returns shall be filed on or before the 15th day of the month following the close of the taxable year of the partnership.

(h) ELECTRONICALLY FILED RETURNS.—In the case of returns made under section 6072 which the return under subsection (a) is required to be filed, returns shall be filed on or before the 15th day of the month following the close of the taxable year of the partnership.
CONGRESSIONAL RECORD — SENATE

JULY 31, 1997

S8542

(45 x 464)

the Internal Revenue Service on matters included on such returns.

(d) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 204. REGULATION OF PREPARERS.

(a) In General.—Subsection (a) of section 330 of title 31, United States Code, is amended—

(1) by striking “Treasury; and” in paragraph (1) and inserting “Treasury and all

(b) Director of Practice.—Such section 330 is amended by striking out at the end the following new subsection:

(c) Rules of Practice.—There is established within the Department of the Treasury, and to be known as the ‘Office of the Director of Practice’, the Director of Practice shall be responsible for regulation of all practice before the Department of the Treasury.

(2) by striking paragraph (2) and inserting “and”, and

(3) by adding at the end the following:

(3) establish uniform procedures for regulating preparers of paper and electronic tax and information returns.

No demonstration shall be required under paragraph (2) for persons solely engaged in the business of preparing returns or otherwise accepting compensation for advising in the preparation of returns.

(b) Director of Practice.—Such section 330 is amended by striking out at the end the following new subsection:

(c) Rules of Practice.—There is established within the Department of the Treasury, and to be known as the ‘Office of the Director of Practice’ to be under the supervision and direction of an official to be known as the Director of Practice, such Director of Practice shall be responsible for regulation of all practice before the Department of the Treasury.

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

SEC. 205. PAPERLESS PAYMENT.

(a) In General.—Section 6311 (relating to payment by check or money order) is amended to read as follows:

SEC. 6311. PAYMENT OF TAX BY COMMERCIALLY ACCEPTABLE MEANS.

(1) Authority To Receive.—It shall be lawful for the Secretary to receive for internal revenue taxes (or in payment of internal revenue stamps) any commercially acceptable means that the Secretary deems appropriate to the extent and under the conditions prescribed in regulations prescribed by the Secretary.

(b) Ultimate Liability.—If a check, money order, method of payment, including payment by credit card, debit card, charge card, or electronic funds transfer, received is not duly paid, or is paid and subsequently dishonored, by the person to whom such check, money order, or other method of payment has been tendered shall remain liable for the payment of the tax or for the stamps, and for all legal penalties and additions, to the same extent as if such check, money order, or other method of payment had not been tendered.

(c) Liability of Banks and Others.—If any bank, or other company, accepts such payment method, including payment by credit card, debit card, charge card, or electronic funds transfer, which has been guaranteed expressly by a financial institution so received is not duly paid, the United States shall, in addition to its right to exact payment from the party originally indebted therefor, have a lien for—

(1) the amount of such check (or draft) upon the guarantor of the financial institution on which drawn,

(2) the amount of such money order upon all the assets of the issuer thereof,

(3) the amount of any other transaction upon all the assets of the institution making such guarantee,

and such amount shall be paid out of such assets in preference to any other claims whatsoever against such financial institution, issuer, or guaranteeing institution, except the necessary costs and expenses of administering and the reimbursement of the United States for the amount expended in the redemption of the circulating notes of such financial institution.

(d) Payment by Other Means.—

(1) Authority To Prescribe Regulations.—The Secretary shall prescribe such regulations as the Secretary deems necessary to receive payment by commercially acceptable means, including regulations that—

(A) specify which methods of payment by commercially acceptable means will be accepted;

(B) specify when payment by such means will be considered received;

(C) identify types of nontax matters related to payment by such means that are to be resolved by persons ultimately liable for payment and financial intermediaries, without the involvement of the Secretary; and

(D) ensure that tax matters will be resolved by the Secretary, without the involvement of financial intermediaries.

(2) Authority To Enter into Contracts.—The Secretary is authorized to enter into contracts to obtain services relating to receiving payment by credit card and other means when cost beneficial to the Government.

(3) Special Provisions for Use of Credit Cards.—If use of credit cards is accepted as a method of payment of taxes pursuant to subsection (a)—

(A) a payment of internal revenue taxes (or a payment for internal revenue stamps) shall not be subject to section 161 of the Truth in Lending Act (15 U.S.C. 1666), or to any similar provisions of State law, if the error alleged by the person is an error relating to the underlying liability, rather than an error relating to the credit card account such as a computational error or numerical transcription in the credit card transaction or an issue as to whether the person authorized payment by use of the credit card;

(B) a payment of internal revenue taxes (or a payment for internal revenue stamps) shall not be subject to section 170 of the Truth in Lending Act (15 U.S.C. 1666), or to any similar provisions of State law;

(C) a payment of internal revenue taxes (or a payment for internal revenue stamps) shall not be subject to section 163 of the Truth in Lending Act (15 U.S.C. 1666), or to any similar provisions of State law, if the error alleged by the person is an error relating to the underlying liability, rather than an error relating to the debit card account such as a computational error or numerical transposition in the debit card transaction or an issue as to whether the person authorized payment by use of the debit card;

(D) the term ‘creditor’ under section 103(f) of the Truth in Lending Act (15 U.S.C. 1602(f)) shall apply with respect to credit card transactions in payment of internal revenue taxes (or payment for internal revenue stamps); and

(E) no other provision of law to the contrary, in the case of payment made by credit card or debit card transaction in an amount owed to a person for another tax or fee, under section 161 of the Truth in Lending Act (15 U.S.C. 1666) shall apply with respect to such an amount to such person as a credit to that person’s credit card or debit card account through the applicable credit card or debit card system.

(f) Confidentiality of Information.—

(g) In General.—Except as otherwise authorized by this subsection, no information relating to credit or debit card transactions obtained pursuant to section 6203(k) shall be disclosed by the Secretary with respect to such transactions, or the billing or collection of amounts charged or debited pursuant thereto.

(h) Exceptions.—

(A) Debit or credit card issuers or others acting on behalf of such issuers may also use and disclose such information for purposes directly related to servicing an issuer’s accounts.

(B) Debit or credit card issuers or others directly involved in the processing of credit or debit cards may use and disclose such information for purposes directly related to

(i) Clerical risk and profitability assessment,

(ii) transferring receivables, accounts, or interest therein,

(iii) auditing the account information,

(iv) complying with Federal, State, or local law, and

(v) properly authorized civil, criminal, or regulatory investigation by Federal, State, or local authorities.

(2) Procedures.—Use and disclosure of information under this paragraph shall be made only to the extent authorized by written procedures promulgated by the Secretary.

(j) Cross Reference.—

For provision providing for civil damages for violation of paragraph (1), see section 7431.

(b) Separate Appropriation Required for Payment of Credit Card Fees.—No amount may be paid by the United States to a credit card issuer for the right to receive payments of internal revenue taxes by credit card without a separate appropriation therefor.

Amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 403. AMENDMENTS TO SECTION 6311-6312.

(a) Amendments to Section 6311-6312.

(1) Subsection (k) of section 6311 (relating to disclosure of information for purposes other than to accept payments by check or money orders) is amended by including at the end the following new paragraph—

(2) Disclosure of Information to Administer Section 6311. The Secretary may disclose returns or return information to financial institutions and others to the extent the Secretary deems necessary for the administration of section 6311. Disclosures of information for purposes other than to accept payments by check or money orders shall be made only to the extent authorized by written procedures promulgated by the Secretary.

(b) Amendments to Sections 6103 and 7431.

With Respect to Disclosure Authorization.—

(1) Subsection (k) of section 6103 (relating to disclosure of returns and return information) is amended by adding at the end the following new paragraph—

(2) Disclosure of Information to Administer Section 6311. The Secretary may disclose returns or return information to financial institutions and others to the extent the Secretary deems necessary for the administration of section 6311. Disclosures of information for purposes other than to accept payments by check or money orders shall be made only to the extent authorized by written procedures promulgated by the Secretary.

(3) Section 6103(p)(3) is amended by striking out at the end the following new paragraph—

(4) Special Rule for Information Obtained Under Section 6103(k).—For purposes of this section, any reference in section 6103 shall be treated as including a reference to section 611(e).

Amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 406. AMENDMENTS TO TITLE 31.

(1) Section 330 is amended by adding at the end the following new subsection—

(2) Section 7431 relating to civil damages for unauthorized disclosure of returns and return information is amended by striking out at the end the following new paragraph—

(3) Section 7431 relating to civil damages for unauthorized disclosure of returns and return information is amended by striking out at the end the following new paragraph—

(4) Special Rule for Information Obtained Under Section 6103(k).—For purposes of this section, any reference in section 6103 shall be treated as including a reference to section 611(e).

(5) Section 6103(p)(3) is amended by striking out at the end the following new paragraph—

(6) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.
day which is 9 months after the date of the enactment of this Act.

SEC. 206. RETURN-FREE TAX SYSTEM.

(a) IN GENERAL.—The Secretary of the Treasury for the Secretary's delegate shall develop procedures for the implementation of a return-free tax system under which individuals would be permitted to comply with the Internal Revenue Code of 1986 without making the return required under section 6012 of such Code for taxable years beginning after 2007.

(b) REPORT.—Not later than June 30 of each calendar year after 1999, such Secretary shall report to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Taxation on—

(1) the procedures developed pursuant to subsection (a),

(2) the number and classes of taxpayers that would be permitted to use the procedures developed pursuant to subsection (a),

(3) the changes to the Internal Revenue Code of 1986 that could enhance the use of such a system, and

(4) what additional resources the Internal Revenue Service would need to implement such a system.

SEC. 207. ACCESS TO ACCOUNT INFORMATION.

Not later than December 31, 2006, the Secretary of the Treasury or the Secretary's delegate shall develop procedures under which a taxpayer filing returns electronically would be able to view the taxpayer's account electronically, including all necessary safeguards to ensure the privacy of such account information.

TITLE III—TAXPAYER PROTECTION AND RIGHTS

SEC. 301. EXPANSION OF AUTHORITY TO ISSUE TAXPAYER ASSISTANCE ORDERS.

(a) IN GENERAL.—Section 7811(a) (relating to taxpayer assistance orders) is amended—

(1) by striking “Upon application” and inserting “(1) in general. The Secretary of the Treasury or the Secretary's delegate shall, upon written request from the Internal Revenue Service for purposes of scheduling such records for destruction or for retention in the National Archives. Any such request that is received in the National Archives shall not be disclosed without the express written approval of the Secretary.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to requests made by the Archivist after the date of the enactment of this Act.

SEC. 302. TAX RETURN INFORMATION.

The joint Committee on Taxation shall convene a study of the scope and use of provisions regarding taxpayer confidentiality, and shall report the findings of such study, together with such recommendations as it deems appropriate, to the Congress no later than one year after the date of the enactment of this Act. Such study shall be led by a panel of experts, to be appointed by the Joint Committee on Taxation, which shall examine the present protections for taxpayer privacy, the need for third parties to use tax return information, and the ability to achieve greater levels of voluntary compliance by allowing the public to know who is legally required to do so, but does not file tax returns.

SEC. 303. CIVIL DAMAGES FOR NEGLIGENCE IN COLLECTION ACTIONS.

(a) IN GENERAL.—Section 7433 (relating to civil damages for negligence in unauthorized collection actions) is amended—

(1) by striking “(1)”, “(2)”, and “(3)”, and inserting “(1) there exists widespread and exceptional media interest in the requested information, and

(2) expedited processing is warranted because the information sought involves possible questions about the government's integrity which affect public confidence.

(3) whether the Internal Revenue Service employee to which such order would issue is following applicable administrative guidance, including the Internal Revenue Manual,

(4) whether there is an immediate threat of adverse action,

(5) whether the Internal Revenue Service employee to which such order would issue is following applicable administrative guidance, including the Internal Revenue Manual,

(6) whether there has been a delay of more than 30 days in resolving taxpayer account problems,

(7) whether the prospect that the taxpayer will have to pay significant professional fees for representation in the internal administrative appeal process or in the Tax Court will be greatly reduced if the information sought is provided to the taxpayer,

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

SEC. 304. DISCLOSURE OF CRITERIA FOR EXAMINATION SELECTION.

(a) IN GENERAL.—The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act, convene a study of the scope and use of provisions regarding taxpayer confidentiality, and shall report the findings of such study, together with such recommendations as it deems appropriate, to the Congress as soon as practicable, but not later than 180 days after the date of the enactment of this Act. The Secretary shall, upon written request from the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Taxation on

(1) whether the Internal Revenue Service employee to which such order would issue is following applicable administrative guidance, including the Internal Revenue Manual,

(2) whether there is an immediate threat of adverse action,

(3) whether the Internal Revenue Service employee to which such order would issue is following applicable administrative guidance, including the Internal Revenue Manual,

(4) whether there has been a delay of more than 30 days in resolving taxpayer account problems,

(5) whether the prospect that the taxpayer will have to pay significant professional fees for representation in the internal administrative appeal process or in the Tax Court will be greatly reduced if the information sought is provided to the taxpayer,

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

CONGRESSIONAL RECORD—SENATE

S8543
of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Taxation on the same day.

SEC. 308. OFFERS-IN-COMPROMISE.
(a) IN GENERAL.—Section 7122 (relating to offers-in-compromise) is amended by adding at the end the following new subsection:
``(c) ALLOWANCES.—The Secretary shall develop and publish schedules of national and local allowances to ensure that taxpayers entering into a compromise have an adequate means to provide for basic living expenses.''

SEC. 309. ELIMINATION OF INTEREST DIFFERENTIAL ON OVERPAYMENTS AND UNDERPAYMENTS.
(a) IN GENERAL.—Subsection (a) of section 6621 (relating to the determination of rate of interest) is amended by adding at the end the following new paragraph:
``(2) DETERMINATION OF PERCENTAGE POINTS.—The number of percentage points specified by the Secretary shall be the sum of—
``(A) the Federal short-term rate determined under subsection (b), plus
``(B) the number of percentage points specified by the Secretary for purposes of paragraph (1)(C) of section 6631.
``(2) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 310. ELIMINATION OF APPLICATION OF FAILURE TO PAY PENALTY DURING PERIOD OF INSTALLMENT AGREEMENT.
(a) IN GENERAL.—Subsection (c) of section 6651 (relating to the penalty for failure to file tax return or to pay tax) is amended by adding at the end the following new paragraph:
``(3) DURING PERIOD OF INSTALLMENT AGREEMENT.—If the amount required to be paid is the subject of an agreement for payment of tax liability in installments made pursuant to section 6159, the additions imposed by subsection (a) shall not apply so long as such agreement remains in effect.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to agreements entered into after the date of the enactment of this Act.

SEC. 311. SAFE HARBOR FOR QUALIFICATION OF LOW INCOME TAXPAYER CLINICS.
(a) IN GENERAL.—Subsection (a) of section 6159 (relating to agreements for payment of tax liability in installments) is amended—
``(1) by striking the words "the Secretary is" and inserting the following:
``(1) IN GENERAL.—The Secretary is',
``(2) by moving the test 2 ems to the right, and
``(3) by adding at the end the following new paragraph:
``(2) HARBOR.—The Secretary shall enter into an agreement to accept the payment of a tax liability in installments if—
``(A) the amount of such liability does not exceed $30,000, or
``(B) the taxpayer has not failed to file any tax return or pay any tax required to be shown thereon during the immediately preceding 5 years.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to agreements entered into after the date of the enactment of this Act.

SEC. 312. PAYMENT OF TAXES.
(a) IN GENERAL.—The Secretary of the Treasury and delegate shall establish such rules, regulations, and procedures as are necessary to require payment of taxes by check or money order to be made payable to the Treasurer, United States of America.

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

SEC. 313. LOW INCOME TAXPAYER CLINICS.
(a) IN GENERAL.—Chapter 77 (relating to clinic programs for qualified low income taxpayers) is amended by adding at the end thereof the following new section:
``SEC. 7525. LOW INCOME TAXPAYER CLINICS.
``(a) IN GENERAL.—The Secretary shall make grants to provide matching funds for the development, expansion, or continuation of qualified low income taxpayer clinics.
``(b) DEFINITIONS.—For purposes of this section—
``(1) QUALIFIED LOW INCOME TAXPAYER CLINIC.—
``(A) IN GENERAL.—The term ‘qualified low income taxpayer clinic’ means a clinic that—
``(i) represents low income taxpayers in controversies with the Internal Revenue Service, including controversies regarding the proper amount of installment payments required, extensions of time for payment under this section, and disputes regarding the proper amount of installment payments required for periods after the date of the enactment of this Act.
``(ii) does not charge more than a nominal fee for its services, except for reimbursement of actual costs incurred by the clinic.
``(2) REPRESENTATION OF LOW INCOME TAXPAYERS.—A clinic meets the requirements of paragraph (1)(i) if—
``(A) such clinic is at least 90 percent of the taxpayers represented by such clinic have income which does not exceed 250 percent of the poverty guidelines prescribed by the Secretary, and
``(B) such clinic is not primarily engaged in providing services to individuals whose income exceeds 250 percent of the poverty guidelines prescribed by the Secretary.
``(3) QUALIFIED REPRESENTATIVE.—The term ‘qualified representative’ means any individual who is a qualified low income taxpayer clinic who is teaching in the clinic, an attorney who is authorized to practice before the Internal Revenue Service or the applicable court, or an attorney employed by the clinic.
``(4) CREDIT TO AGGREGATE LIMITATION.—A grant under this section shall not exceed $25,000.
``(c) SPECIAL RULES AND LIMITATIONS.—
``(1) AGGREGATE LIMITATION.—Unless otherwise provided by specific appropriation, the Secretary shall not allocate more than $3,000,000 per year (exclusive of costs of administering the program) to grants under this section.
``(2) LIMITATION ON INDIVIDUAL GRANTS.—A grant under this section shall not exceed $200,000 per year.
``(3) MULTI-YEAR GRANTS.—Upon application of qualified low income taxpayer clinics, the Secretary is authorized to award a multi-year grant not to exceed 3 years.
``(4) CRITERIA FOR AWARDS.—In determining whether to make a grant under this section, the Secretary shall consider—
``(A) the number of taxpayers who will be served by the clinic, including the number of taxpayers in the geographical area for whom English is a second language,
``(B) the existence of other low income taxpayer clinics serving the same population,
``(C) the quality of the program offered by the low income taxpayer clinic, including the qualifications of its administrators and qualified representatives, and its track record, if any, in providing service to low income taxpayers,
``(D) alternative funding sources available to the clinic, including amounts received from other grants and other contributions, and the endowment and resources of the educational institution sponsoring the clinic.
``(5) REQUIREMENT OF MATCHING FUNDS.—A low income taxpayer clinic shall provide matching funds on a dollar for dollar basis for all grants provided under this section.
``(6) ALLOCATION OF FUNDS.—The Secretary shall not allocate more than $25,000.
``(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 314. JURISDICTION OF THE TAX COURT.
(a) INTEREST DETERMINATIONS.—
``(1) INTEREST DETERMINATIONS.—Subsection (c) of section 7462 (relating to situations in which special rules prevail) is amended by adding the following new paragraph at the end:
``(2) A裁 ALLOCATION OF FUNDS.—The Secretary shall not allocate more than $25,000.
"
SEC. 315. CATALOGING COMPLAINTS.
(a) In General.—The Commissioner of Internal Revenue shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act, develop procedures to catalog and review taxpayer complaints of misconduct by Internal Revenue Service employees. Such procedures shall include guidelines for internal review and discipline of employees, as warranted by the scope of such complaints.

(b) Transmission to Committees of Congress.—The Commissioner of Internal Revenue shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act, establish toll-free telephone numbers for taxpayers to register complaints of misconduct by Internal Revenue Service employees, and shall publish such numbers in Publication 15.

SEC. 316. PROCEDURES INVOLVING TAXPAYER INTERVIEWS.
(a) In General.—Paragraph (1) of section 7203(a) (relating to procedures involving taxpayer interviews) is amended to read as follows:

"(1) EXPLANATIONS OF PROCESSES.—An officer or employee of the Internal Revenue Service shall—"

"(A) before or at an initial interview, provide to the taxpayer—"

"(i) in the case of an in-person interview with the taxpayer relating to the determination of any tax, an explanation of the audit process and the taxpayer’s rights under such process;"

"(ii) in the case of an in-person interview with the taxpayer relating to the collection of any tax, an explanation of the collection process and the taxpayer’s rights under such process; and"

"(B) before an in-person initial interview with the taxpayer relating to the determination of any tax—"

"(i) inquire whether the taxpayer is represented by an individual described in subsection (c);"

"(ii) explain that the taxpayer has the right to have the interview take place in a reasonable place and that such place does not have to be the taxpayer’s home;"

"(iii) explain the selection of the taxpayer’s return for examination; and"

"(iv) provide the taxpayer with a written explanation of the applicable burdens of proof on taxpayers and the Internal Revenue Service.

The taxpayer is represented by an individual described in paragraph (1), the interview may not proceed without the presence of such individual unless the taxpayer consents.

(b) Effective Date.—The amendments made by this section shall apply to interviews and examinations taking place after the date of the enactment of this Act.

SEC. 317. EXPLANATION OF JOINT AND SEVERAL LIABILITY.
(a) In General.—Paragraph 2 of subsection (c) of section 6911(c) (relating to the period for limitations on assessment and collection) is amended—

"(1) by striking “Where” and inserting the following:"

"(A) In general—Where;"

"(2) by moving the text 2 ems to the right, and"

"(3) by adding at the end the following new subparagraph—"

"(B) NOTICE TO TAXPAYER OF RIGHT TO REFUSE OR LIMIT EXTENSION.—The Secretary shall notify the taxpayer of the taxpayer’s right to refuse to extend the period of limitations, or to limit such extension to particular issues, on each occasion when the taxpayer is requested to provide such consent."
“(iv) progress of the Internal Revenue Service in improving taxpayer service and compliance;”

“(v) progress of the Internal Revenue Service on modernization and rationalization;” and

“(vi) the annual filing season.”.

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

Subtitle B—Budget

SEC. 411. BUDGET DISCRETION.

(a) IN GENERAL.—For purposes of the Congressional Budget Act of 1974 and the Balanced Budget and Emergency Deficit Control Act of 1985—

(1) discretionary spending limits under section 601(a)(2) of the Congressional Budget Act of 1974 (and those limits as cumulatively adjusted) for the current fiscal year and each fiscal year thereafter; and

(2) the levels for major functional category 800 (General Government) and the appropriate budgetary aggregates in the most recently agreed to concurrent resolution on the budget, as adjusted (3) levels for major functional category 800 (General Government) and the appropriate budgetary aggregates in the most recently agreed to concurrent resolution on the budget, shall be adjusted to reflect the amounts of additional new budget authority or additional outlays reported by the Committee on Appropriations under sections 302(a) and 602(a) of the Congressional Budget Act of 1974; and

(C) the necessity and utility of year-round Internal Revenue Service personnel; or

(B) the financial accounting aspects of the Internal Revenue Service’s system modernization; and

(3) the necessity and utility of year-round audit and accounting; and

(4) the Commissioner’s plans for improving its financial management system.

Subtitle C—Tax Law Complexity

SEC. 421. ROLE OF THE INTERNAL REVENUE SERVICE.

It is the sense of Congress that the Internal Revenue Service should provide the Congress with an independent view of tax administration issues. During the legislative process, the tax writing committees of the Congress should hear from front-line technical experts at the Internal Revenue Service with responsibility for preparing amendments to the Internal Revenue Code.

SEC. 422. TAX COMPLEXITY ANALYSIS.

(a) IN GENERAL.—Chapter 92 (relating to tax complexity analysis for each provision therein.

(b) CONTENT OF COMPLEXITY ANALYSIS.—Each Tax Complexity Analysis must address—

(1) whether the provision is new, modifies or replaces existing law, and whether hearings were held to discuss the proposal and whether the Internal Revenue Service provided input as to its administrability;

(2) when the provision becomes effective, and corresponding compliance requirements for taxpayers (e.g., effective on date of enactment, phased in, or retroactive);

(3) whether new Internal Revenue Service forms or worksheets are needed, whether existing forms or work sheets must be modified, and whether the effective date allows sufficient time for the Internal Revenue Service to prepare such forms and educate taxpayers;

(4) necessity of additional interpretive guidance (e.g., regulations, rulings, and notices);

(5) the extent to which the proposal relies on concepts contained in existing law, including definitions;

(6) effect on existing record keeping requirements and the activities of taxpayers, including of calculating, reporting, and behavioral responses, and standard business practices and resource requirements;

(7) number, type, and sophistication of affected taxpayers; and

(8) whether the proposal requires the Internal Revenue Service to assume responsibilities not directly related to raising revenue or which could be handled through another Federal agency.

(c) LEGISLATION SUBJECT TO POINT OF ORDER—

(1) IN GENERAL.—It shall not be in order in the Senate or the House of Representatives to consider any bill, joint resolution, amendment, motion, or conference report that is accompanied by a Tax Complexity Analysis for each provision therein.

(2) IN THE SENATE.—Upon a point of order being made by any Senator against any provision under this section, the Chair shall decide whether the point of order being sustained by the Chair, such specific provision shall be deemed stricken from the bill, resolution, amendment, motion, or conference report, and may not be offered as an amendment from the floor.

(3) IN THE HOUSE OF REPRESENTATIVES.—When a bill, resolution, amendment, motion, or conference report is accompanied by a Tax Complexity Analysis for each provision therein.

(4) IN GENERAL.—Chapter 92 (relating to powers and duties of the Joint Committee on Taxation) is amended by adding at the end the following new section:

“SEC. 802A. TAX COMPLEXITY ANALYSIS.

(a) IN GENERAL.—Chapter 92 (relating to tax complexity analysis for each provision therein.

(b) CONTENT OF COMPLEXITY ANALYSIS.—Each Tax Complexity Analysis must address—

(1) REPORTED BILLS AND RESOLUTIONS.—When a committee of the Senate or House of Representatives reports a bill or joint resolution that includes any provision amending the Internal Revenue Code of 1986, the report for such bill or joint resolution shall contain a Tax Complexity Analysis prepared by the Joint Committee on Taxation for each provision therein.

(2) AMENDED BILLS AND JOINT RESOLUTIONS; CONFERENCE REPORTS.—If a bill or joint resolution is passed in an amended form (including if passed by one House as an amendment in the nature of a substitute for the text of a bill or joint resolution from the other House) or is reported by a committee of conference in amended form, and the amended form contains an amendment to the Internal Revenue Code of 1986 not previously considered by either House, then the committee of conference shall ensure that the Joint Committee on Taxation prepares a Tax Complexity Analysis for each provision therein.

(3) OTHER BILLS AND JOINT RESOLUTIONS.—When a bill or joint resolution is passed in an amended form (including if passed by one House as an amendment in the nature of a substitute for the text of a bill or joint resolution from the other House) or is reported by a committee of conference in amended form, and the amended form contains an amendment to the
This was precisely the phenomenon first documented by Robert Angus Smith in Manchester, England, in 1852. More recently, acid rain had been of concern in Scandinavia. Acids lofted into the atmosphere from tall smokestacks in the industrial basins of the Ruhr River, falling on watersheds that were, in many places, little more than bare rock. Closer to the source, acid rain was blamed for Waldsterben, the death of Germany's prized Black Forest.

We have learned a great deal since then. In June 1980, Congress passed the Energy Security Act, Public Law 96-264. Title VII consisted of a bill I introduced in 1979, the Acid Precipitation Act of 1980. It established the National Acid Precipitation Assessment Program [NAPAP]—an interagency research program to foster the development of science-based Federal policy regarding acid rain. This program resulted in the establishment of long-term and short-term monitoring programs, a network of permanent forest plots and lake sampling regimes, over 1,500 peer reviewed publications, and perhaps more importantly the issuance of 71 doctoral degrees in acid deposition research—sufficient to double the U.S. workforce relative to the only 2 in the decade before.

By the end of this massive study, scientists worldwide gathered in South Carolina to discuss what they had learned. They learned that at least 800 of the 1,600 lakes and streams in eastern United States had been made acidic by acid rain; they predicted that an additional 10 percent would become acidic over the next decade without additional legislation. And they confirmed—as had been expected—that sulfur dioxide emissions were found to be a significant factor in acidifying ecosystems. Sulfur dioxide had contributed to forest decline in high elevation areas, corrosion of stone and metal structures, and reduced visibility. In 1990, Congress amended acid rain controls to reduce sulfur dioxide emissions by 10 million tons below 1985 levels, utilizing a unique, market-based approach to ensure the most cost-effective pollution reduction possible. At the time, the measure was expected to have some noticeable—but not overwhelming—beneficial effects.

We were right. Visibility has increased. Acidification of lake waters has been reduced substantially. The incidence of respiratory disease has decreased. The market-based emissions trading approach has proved a tremendous success, fostering reductions nearly 40 percent beyond that which the act required, at costs amounting to a mere fraction of industry and government predictions. Equally important, our knowledge increased.

In recent years, scientists have identified another important precursor of acid rain and acid deposition—the nitrogen oxides. Investigations on the combined effect of sulfur dioxide and nitrogen oxide strongly suggest that the Clean Air Act will not be adequate to prevent long-term deterioration of national treasures such as the Adirondack Mountains and the Chesapeake Bay. According to a 1995 Environmental Protection Agency [EPA] study, even with the reductions required by the Clean Air Act, up to 45 percent of the lakes in the Adirondacks will be acidic to support most aquatic life by the year 2040. Lakes too acidic to support life. Now there is a powerful image.

The bill I introduce today requires an additional 50 percent reduction of sulfur dioxide and a 75 percent reduction in the level of nitrogen oxides emitted from electric utilities. This legislation blends the best judgment of top scientists with the successful, market-based approach of the existing program.

The legislation calls for a nitrogen oxide cap and trade program similar to the sulfur dioxide program presently administered by EPA's Acid Rain Division. Under the program, EPA officials will issue a nitrogen oxide allowance for each tons of nitrogen oxide emissions among the 48 contiguous States each year, basing each State's share of allowances on the State's share of the power generated within the 48 States.

In addition to contributing to acid deposition, NOx pollution contributes to ozone pollution, a respiratory and pulmonary irritant which can cause significant adverse health effects. Because heat and sunlight are necessary in the formation of ozone pollution, ozone is most prevalent in warm summer months. Therefore, in an effort to reduce ozone pollution, the legislation would take additional measures to reduce summertime NOx emissions. During the months of May, June, July, August and September, an electric utility would be forced to surrender two allowances per ton of NOx emitted.

The NOx trading program would be implemented in 1999, beginning with an annual cap of 5.4 million allowances and cutting back to 3.0 million allowances beginning in 2003. EPA modeling suggests that, due to
the two-for-one ozone season emissions provisions, the actual emissions will likely drop to approximately 2.3 million tons per year after 2003—a reduction of approximately 70 percent from 1995 levels.

Mr. President, there were days when dark plumes of smoke coming out of factory smokestacks were signs of prosperity. There was nothing Jim Farley liked to do better than put up a new Post Office and hire an artist to paint on its walls prosperity returning. Black columns of smoke reaching up to the sky—strong colors for what we hoped would be a strong economy.

Lord Kelvin used to point out that one cannot know the importance of a problem that one cannot measure. We have spent decades measuring, and now it is time to update our policy response in order to solve the problem. It is time to adjust to the adverse health effects of what we have learned. Mr. President, I urge my colleagues to support the Acid Deposition Control Act of 1997.

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. 1097

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 “Acid Deposition Control Act”.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) reductions of atmospheric nitrogen oxide and sulfur dioxide from utility plants, in addition to the reductions required under the Clean Air Act (42 U.S.C. 7401 et seq.), are needed to reduce acid deposition and its serious adverse effects on public health, natural resources, building structures, sensitive ecosystems, and visibility;

(2) nitrogen oxide and sulfur dioxide contribute to the development of fine particulates, suspected of causing human mortality and morbidity to a significant extent;

(3) regional nitrogen oxide reductions of 50 percent in the Eastern United States, in addition to the reductions required under the Clean Air Act, may be necessary to protect sensitive watersheds from the effects of nitrogen deposition;

(4) without reductions in nitrogen oxide and sulfur dioxide, the number of acidic lakes in the Adirondacks in the State of New York is expected to increase by up to 40 percent by 2010; and

(5) nitrogen oxide is highly mobile and can lead to ozone formation hundreds of miles from emission sources.

(b) PURPOSES.—The purposes of this Act are—

(1) to recognize the current scientific understanding that emissions of nitrogen oxide and sulfur dioxide, and the acid deposition resulting from emissions of nitrogen oxide and sulfur dioxide, present a substantial human health and environmental risk;

(2) to require reductions in nitrogen oxide and sulfur dioxide emissions;

(3) to support the efforts of the Ozone Transport Assessment Group to reduce ozone pollution;

(4) to reduce utility emissions of nitrogen oxide by 80 percent from 1990 levels; and

(5) to reduce utility emissions of sulfur dioxide by 50 percent after the implementation of phase II sulfur dioxide requirements under section 405 of the Clean Air Act (42 U.S.C. 7601d).

SEC. 3. DEFINITIONS.

In this Act—

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Environmental Protection Agency.

(2) AFFECTED FACILITY.—The term “affected facility” means a facility with 1 or more combustion units that serve at least 1 electric generator with a capacity equal to or greater than 25 megawatts.

(3) NO, ALLOWANCE.—The term “NO, allowance” means a limited authorization to emit, in accordance with this Act—

(A) 1 ton of nitrogen oxide during each of the months of October, November, December, January, February, March, and April of any year; and

(B) $10 of nitrogen oxide during each of the months of May, June, July, August, and September of any year.

(4) MMBTU.—The term “mmBtu” means 1 million British thermal units.

(5) PROGRAM.—The term “Program” means the Nitrogen Oxide Allowance Program established under section 4.

(6) STATE.—The term “State” means the 48 contiguous States and the District of Columbia.

SEC. 4. NITROGEN OXIDE ALLOWANCE PROGRAM.

(a) IN GENERAL.

(1) ESTABLISHMENT.—Not later than 18 months after the date of enactment of this Act, the Administrator shall establish a program to be known as the “Nitrogen Oxide Allowance Program”.

(2) SCOPE.—The Program shall be conducted in the 48 contiguous States and the District of Columbia.

(3) NO, ALLOWANCES.—The Administrator shall allocate annual NO, allowances.

(b) NO, ALLOCATION.

(1) ESTABLISHMENT.ÐNot later than 18 months after the date of enactment of this Act, the Administrator shall establish a program to be known as the “Nitrogen Oxide Allowance Program”.

(2) SCOPE.—The Program shall be conducted in the 48 contiguous States and the District of Columbia.

(3) NO, ALLOWANCES.—The Administrator shall allocate annual NO, allowances.

(c) USE OF NO, ALLOWANCES.ÐThe regulations shall—

(1) provide that the unused NO, allowances shall be carried forward and added to NO, allowances allocated for subsequent years;

(2) certify the transfer of a NO, allowance shall not be effective until a written certification of the transfer, signed by a responsible official of the person making the transfer, is received and recorded by the Administrator.

(3) PERMIT REQUIREMENTS.—A NO, allowance or transfer shall, on recordation by the Administrator, be considered to...
be a part of each affected facility’s operating permit requirements, without the require-
ment for any further permit review and revis-
ion.
(e) NEW SOURCE RESERVE.—
(1) IN GENERAL.—For a State for which the
Administrator distributes NOx allowances under
subsection (D), the Administrator shall place 10 percent of the total annual NOx
allowances of the State in a new source re-
served to be distributed by the Adminis-
trator—
(A) for calendar years 2000 through 2003, to
sources that commence operation after 1995;
(B) for calendar years 2004 through 2009, to
sources that commence operation after 1997;
and
(C) for calendar year 2010 and each cal-
endar year thereafter, to sources that com-
mente operation after 1995; sources that com-
ence operation after 1997; and sources that com-
ence operation after 2000.
(2) no SOURCE RESERVE.—For a State for which the
Administrator distributes NOx allowances under subsection (a)(5)(D), the Administrator
shall distribute to each new source a number
under subsection (a)(5)(D), the Administrator
shall place 10 percent of the total annual NOx
allowances of the State in a new source re-
served to be distributed by the Adminis-
trator—
(A) for calendar years 2000 through 2003, to
sources that commence operation after 1995;
(B) for calendar years 2004 through 2009, to
sources that commence operation after 1997;
and
(C) for calendar year 2010 and each cal-
endar year thereafter, to sources that com-
mente operation after 1995; sources that com-
ence operation after 1997; and sources that com-
ence operation after 2000.
(2) SHARE.—For a State for which the Adminis-
trator distributes NOx allowances under subsection (a)(5)(D), the Administrator
shall distribute to each new source a number
of NOx allowances sufficient to allow emis-
sions by the source at a rate equal to the
lesser of the new source performance stand-
ard or the permitted level for the full name-
plate capacity of the source, adjusted pro-
portione by the number of months of the year
during which the source operates.
(3) UNUSED NOx ALLOWANCES.—
(A) NOx ALLOWANCES.—
(i) NOx ALLOWANCES.—
(1) IN GENERAL.—The owner or operator of an affected
facility shall have the right to an allowance for the number of months of the year
in which the source is 5 years previous to the year for which the distribution is made.
(ii) no person to hold, use, or transfer
a NOx allowance allocated under this Act, ex-
cept as provided under this Act.
(iii) no allowance under this Act to be
allocated more than once.
(B) M ETHOD OF BIDDING.—A person wishing
to bid for a NOx allowance on an auction under subparagraph (A) shall submit a (by
date set by the Administrator) to the Admin-
istrator (on a sealed bid schedule provided by
the Administrator) an offer to purchase a
specified number of NOx allowances at a
specified price.
(ii) SALE BASED ON BID PRICE.—A NOx allow-
ance auctioned under subparagraph (A) shall be sold on the basis of bid price, starting
with the highest bid and continuing to the
bid and continuing until all NOx allowances for sale at the auc-
tion have been sold.
(iii) NO MINIMUM PRICE.—A minimum price shall
not be allotted for a NOx allowance auctioned under subparagraph (A).
(iv) REGULATIONS.—The Administrator, in
consultation with the Secretary of the Treasury, shall promulgate regulations to carry out this paragraph.
(D) USE OF NOx ALLOWANCES.—A NOx allow-
ance purchased at an auction under subpara-
graph (A) may be used for any purpose and at
any time after the auction that is permitted for use of a NOx allowance under this Act.
(E) PROCEDURES FOR AUCTIONS.—The proceeds
from an auction under this paragraph shall be distributed to the owner of an affected
source in proportion to the number of allow-
ances that the owner would have received but for this subsection.
(F) no SOURCE ALLOWANCES.—
(1) NOT A PROPERTY RIGHT.—A NOx allow-
ance shall not be considered to be a property
right.
(2) LIMITATION OF NOx ALLOWANCES.—Not with-
standing any other provision of law, the Admin-
istrator may terminate or limit a NOx allow-
ance.
(g) PROHIBITIONS.—
(1) IN GENERAL.—After January 1, 2000, it
shall be unlawful to—
(i) for the owner or operator of an affected
facility to operate the affected facility in
such a manner that the affected facility emits nitrogen oxides in excess of the amount
permitted by the quantity of NOx al-
lowances held by the designated representa-
tive of the facility;
(ii) for any person to hold, or transfer
a NOx allowance allocated under this Act, ex-
cept as provided under this Act.
(iii) for the Administrator to distribute NOx
allowances under this Act to an owner or
operator of an affected facility that is one
hundred percent owned by an affected facility
that emits nitrogen oxides in excess of the
amount permitted by the quantity of NOx al-
lowances held by the designated representa-
tive of the facility.
(iv) for the Administrator to distribute
NOx allowances under this Act to a source
for which the owner or operator of the source
has not complied with the Clean Air Act (42 U.S.C. 7401 et seq.) during the 2 years
immediately preceding the distribution.
(h) SAVINGS PROVISIONS.—Nothing in this section
shall not be construed to be a property
right.
(i) METHOD OF BIDDING.—A person wishing
to bid for a NOx allowance on an auction under subparagraph (A) shall submit a (by
date set by the Administrator) to the Admin-
istrator (on a sealed bid schedule provided by
the Administrator) an offer to purchase a
specified number of NOx allowances at a
specified price.
(ii) SALE BASED ON BID PRICE.—A NOx allow-
ance auctioned under subparagraph (A) shall be sold on the basis of bid price, starting
with the highest bid and continuing to the
bid and continuing until all NOx allowances for sale at the auction
have been sold.
(iii) NO MINIMUM PRICE.—A minimum price shall
not be allotted for a NOx allowance auctioned under subparagraph (A).
(iv) REGULATIONS.—The Administrator, in
consultation with the Secretary of the Treasury, shall promulgate regulations to carry out this paragraph.
(D) USE OF NOx ALLOWANCES.—A NOx allow-
ance purchased at an auction under subpara-
graph (A) may be used for any purpose and at
any time after the auction that is permitted for use of a NOx allowance under this Act.
(E) PROCEDURES FOR AUCTIONS.—The proceeds
from an auction under this paragraph shall be distributed to the owner of an affected
source in proportion to the number of allow-
ances that the owner would have received but for this subsection.
(F) no SOURCE ALLOWANCES.—
(1) NOT A PROPERTY RIGHT.—A NOx allow-
ance shall not be considered to be a property
right.
(2) LIMITATION OF NOx ALLOWANCES.—Not with-
standing any other provision of law, the Admin-
istrator may terminate or limit a NOx allow-
ance.
exclude the owner or operator of an affected facility from compliance with any other law.

SEC. 10. MERCURY EMISSION STUDY AND CONTROL.

(a) STUDY AND REPORT.—The Administrator shall—

(1) study the practicability of monitoring mercury emissions from all combustion units with an hourly capacity equal to or greater than 250 mbtu's per hour; and

(2) not later than 2 years after the date of enactment of this Act, submit to Congress a report on the results of the study.

(b) REGULATIONS CONCERNING MONITORING.—Not later than 1 year after the date of submission of the report under subsection (a), the Administrator shall promulgate regulations requiring the reporting of mercury emissions from units that have a capacity equal to or greater than 250 mbtu's per hour.

(c) EMISSION CONTROLS.—

(1) IN GENERAL.—Not later than 1 year after the commencement of monitoring activities under subsection (b), the Administrator shall promulgate regulations controlling electric utility and industrial source emissions of mercury.

(2) FACTORS.—The regulations shall take into account technological feasibility, cost, and the projected levels of mercury emissions that will result from implementation of this Act.

SEC. 11. DEPOSITION RESEARCH BY THE ENVIRONMENTAL PROTECTION AGENCY.

(a) IN GENERAL.—The Administrator shall establish a competitive grant program to fund research related to the effects of nitrogen deposition on sensitive watersheds and coastal estuaries in the Eastern United States.

(b) CHEMISTRY OF LAKES AND STREAMS.—Not later than September 30, 1999, and September 30, 2000, the Administrator shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Resources of the House of Representatives a report on the health and chemistry of lakes and streams of the Adirondacks that were subjects of the report transmitted under section 404 of Public Law 101-549 (commonly known as the “Clean Air Act Amendments of 1990”) (104 Stat. 2632).

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

(1) an amount equal to the Subsection (a), $1,000,000 for each of fiscal years 1998 through 2003; and

(2) to carry out subsection (b), $1,000,000 for each of fiscal years 1998, 1999, 2000, and 2001.

Mr. D'AMATO. Mr. President, I rise today to join my friend and distinguished colleague, Senator MOYNIHAN, in introducing legislation that we believe will curb the devastating effects of acid rain in New York State and throughout the entire Nation. Our bill seeks to place controls on the emission of sulfur oxides and nitrogen oxides—Sulfur Dioxide (SO2) and Nitrogen Oxide (NOX)—beyond those levels enacted in the 1990 Clean Air Act. In this way, we will ensure that those entities that are primarily responsible for the pollution that affects down-wind States such as New York are held to the same strict accountability.

New Yorkers know all too well that pollution transported from up-wind sources has had a devastating impact on their State as well as other regions within the State. The prevalence of acid deposition has reached the point where the Environmental Protection Agency [EPA] estimates that without further controls of nitrogen oxides, the number of acidic lakes in the Adirondacks could increase to 43 percent by the year 2040. Such an increase will see approximately 1,300 lakes contaminated by acid rain in the Adirondacks become chronically acidic. Clearly, we must take action to prevent this from happening.

Under the 1990 Clean Air Act, a cap on SO2 emissions was enacted. It was designed to reduce emissions by 50 percent of total this pollutant by 50 percent by the year 2000. To provide an incentive to decrease emissions even more, a system of trading allowances for SO2 was established. An “allowance” allows a utility to emit 1 ton of SO2 and trading these allowances enable utilities that have reached their allowable emissions cap for SO2 to buy another utility’s excess capability. This ability to “trade” tons of SO2 has been popular with utilities and has actually brought the mercurial nature of the amount of SO2 emitted in a cost-effective manner.

The legislation that we are introducing today builds on that success by instituting a NOX cap and trade program that we believe will have a positive impact on the environment.

Under the bill, the Environmental Protection Agency [EPA] would be required to allocate a capped number of NOX emission allowances nationwide—excluding Alaska and Hawaii. The EPA would base each allowance on the percentage share of power each State generates within the 48 contiguous States. So, if a particular State generates 5 percent of the power in the Continental United States, then that State would be entitled to 5 percent of the total emissions pool.

Once a State had received its emission allowances, the State would be able to divide those allowances within the State in any manner it chooses. Utilities would be required to ensure that they have enough tons at their disposal to cover their total emission tonnage. If a State had additional tons, they would be able to sell allowances or bank them for use at a future time. A utility without enough allowances would have to buy them on the open market, an option currently in practice with SO2. Utilities that do not abide by these restrictions on capping and trading NOX allowances would be fined $6,000 per ton emitted over the established cap limits that plant. States that are unwilling or unable to determine the allocation of allowances to utilities within their State would have that capability default to the EPA.

The NOX trading program would go into effect in the year 2001 with an annual cap of 5.4 million allowances nationwide decreasing to 3 million allowances in 2003. Currently, utilities emit approximately 6.5 million tons of nitrogen oxides (NOX).

This legislation would also create further protections against harmful pollution during the summer months when ozone levels are at their highest. When NOX combines with heat, sunlight and volatile organic compounds [VOCs], the end product is ozone. Thus, ideal conditions for high levels of ground-level ozone occur mainly in the summer months. To combat this, the legislation calls for utilities to hold two allowances for each ton of NO, emitted during the months of May, June, July, August and September instead of the one allowance per ton that would apply for the remaining 7 months of the year.

In addition, the bill calls for further research to be done in 2003, when utilities will be required to use two allowances per ton of SO2 emitted instead of one. This would cut these emissions in half. The bill also requires the EPA to conduct a study on the effects that mercury emissions may have on the environment and how to measure this mercury with an eye towards possible monitoring and control of mercury emissions in the future.

We in New York continue to see the effects that acid rain and acid deposition have on our environment. Lakes, streams and trees in the Adirondacks are still dying due to the continued acidification and transport of pollutants. Other states and other regions throughout our nation have similar problems. If we are to pass along a healthy environment to our children and grandchildren, we must be willing to take the steps that will preserve that legacy. The legislation that Senator MOYNIHAN and I have proposed is strong medicine, but it will enable us to sustain our heritage for generations to come.

By Mr. DURBIN: S. 1098. A bill to provide for the debarment or suspension from Federal procurement and assistance programs of activities of persons that violate certain labor and safety laws; to the Committee on Governmental Affairs.

THE FEDERAL PROCUREMENT AND ASSISTANCE INTEGRITY ACT

Mr. DURBIN. Mr. President, I am pleased today to introduce legislation to improve the efficiency and protect the integrity of Federal procurement and assistance programs, by ensuring that the Federal Government does business with responsible contractors and participants.

The United States General Accounting Office [GAO] has found that billions
of dollars in Federal procurement contracts and assistance and are going to individu-
als and corporations which are violating our nation's labor and employment laws. In 1995, the GAO reported that more than $23 billion in Federal contracts were awarded in fiscal year 1993 to contractors who violated labor laws. That is 13 percent of the $182 billion in Federal contracts awarded that year. Part of the reason for this, the GAO found, is that the National Labor Relations Board, which enforces our nation's labor laws, does not know whether violators of the law are receiving Federal contracts. And the General Services Administration, which oversees Federal procurement, does not know the labor relations records of Federal contractors.

Last year, the GAO reported that $38 billion in Federal contracts in fiscal year 1994 were awarded to contractors who had violated workplace health and safety laws. That is 23 percent of the $176 billion Federal contracts of $25,000 or more which were awarded that year. The GAO found that 35 people died and 55 more people were hospitalized in fiscal year 1994 as a result of injuries at the workplaces of federal contractors who violated health and safety laws. These contractors were assessed a total of $10.9 million in penalties in fiscal year 1994—while being awarded $38 billion in Federal contracts.

The GAO concluded that, although federal agencies have the authority to deny contracts and federal assistance to companies which violate Federal laws, this authority is rarely used in the case of safety and health violations. The GAO found that federal agencies do not normally collect or receive information about which contractors are violating health and safety laws—even when contractors have been assessed large penalties for egregious or repeat violations.

The Federal Government should not ignore the health and safety records of companies that apply for Federal contracts and assistance. A report published this week in the Archives of Internal Medicine concludes that job-related injuries and illnesses in the United States are more common than previously thought, costing the nation more than AIDS, Alzheimer's, cancer or heart disease. The report, which analyzed estimates of job-related injuries and illnesses in 1992, states that more than 13 million Americans were injured from job-related causes in just one year—more than four times the number of people who live in the City of Chicago. The report concluded that the cost to our country from workplace injuries and illnesses was $171 billion in 1992.

The Federal Government has a responsibility to taxpayers, working Americans and veterans—which enforces our nation's laws—to ensure that federal tax dollars do not go to individuals and corporations that violate safety and health, labor and veterans' employment preference laws. About 26 million Americans are employed by federal contractors and subcontractors. They deserve to know that their Government is not rewarding employers who violate the laws that protect American workers and veterans.

The legislation I am introducing today will improve the enforcement of our nation's health and safety, labor and veterans' employment laws, and provide an incentive to contractors to comply with the law. This legislation will allow the Secretary of Labor to debar or suspend a person from receiving Federal contracts or assistance for violating the National Labor Relations Act, the Fair Labor Standards Act, the Occupational Safety and Health Act or the disabled and Vietnam-era veterans hiring preference law. It will require the Secretary of Labor and the National Labor Relations Board to develop procedures to determine whether a violation of law is serious enough to warrant debarment or suspension. And, as recommended by the GAO, this legislation will require ongoing exchanges of information among Federal agencies to improve their ability to enforce our nation's laws. This legislation is identical to a bill introduced in the House of Representatives by Congressman Lane Evans of Illinois, and it is similar to legislation introduced in previous years by former Senator Paul Simon.

Mr. President, it is important to note that the vast majority of Federal contractors obey the law. This legislation is only directed at those who are violating the law. It will deny Federal contracts and assistance to individuals and companies that violate the law and ensure that Federal contracts are awarded to companies that respect the law.

I urge my colleagues to join me in supporting this legislation, and 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. 1098

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 "Fiscal Procurement and Assistance Integrity Act".

SEC. 2. PURPOSE. The purpose of this Act is to improve the efficiency and effectiveness and protect the integrity of the Federal procurement and assistance systems by ensuring that the Federal Government does business with responsible contractors and participants.

SEC. 3. DEBARMENT AND SUSPENSION FOR VIOLATORS OF CERTAIN LABOR AND SAFETY LAWS.

(a) DEBAR. The term "debar" means to disqualify, pursuant to established administrative procedures and activities involving Federal financial and nonfinancial assistance and benefits, as covered by Executive Order No. 12549 and the Office of Management and Budget guidelines implementing that order.

SEC. 4. PROCUREMENT ACTIVITIES. The term "procurement activities" means all programs and activities involving Federal financial and nonfinancial assistance and benefits, as covered by Executive Order No. 12549 and the Office of Management and Budget guidelines implementing that order.

SEC. 5. NONPROCUREMENT ACTIVITIES. The term "nonprocurement activities" means all programs and activities of the Federal Government, as defined in the Federal Acquisition Regulation.

SEC. 6. EFFECTIVE DATE. This Act shall take effect on October 1, 1997.
Pierre areas that are being flooded by the federal Pick-Sloan project. This is a chronic problem that is getting worse every year as sediment builds up at the delta of the Bad and Missouri Rivers.

In the Pierre and Ft. Pierre area, high winter snowfall exacerbates the sediment buildup and ice, regularly leads to the flooding of homes in the winter-time. The situation has become intolerable, and it is not fair for the residents of this area to continue to suffer as the result of the operation of this federal project. Moreover, the flooding problem hinders the ability of the Western Area Power Administration to generate hydroelectric power from the Oahe dam, resulting in the loss of millions of dollars in revenues to the federal government each year.

To address this problem, I added a provision to the 1996 Water Resources Development Act to require the Corps of Engineers to develop a plan to remove the sediment blocking the channel and to thereby reduce the erosion that is leading to this persistent buildup of sediment at the delta. Hopefully, this effort will lead to the development of a means of moving some of the sediment and of a plan to better prevent erosion in the future. However, the question of the long-term solution still remains. One resident, Mike Harrison, has developed a plan to help clear the channel of sediment which holds promise and which the Corps will evaluate with funds appropriated for fiscal year 1998.

Even if the efforts are successful, however, and we are able to relieve some of the pressure on the channel, sediment from the Bad River will continue to build up at that location. In short, while we may be able to increase the capacity of the channel to transport water and thus allow for greater hydroelectric power generation in the winter-time, it is difficult to envision a time when we will be able to permanently alleviate the risk of flooding to the homeowners in the area.

Therefore, I am introducing this legislation to authorize the Corps to relocate the affected homeowners and ensure that they never again have to face the prospects of enduring flooded homes during our cold South Dakota winters. It is my strong hope Congress will recognize the severity of this problem and move swiftly to enact and implement this legislation. I ask unanimous consent that the text of the bill be ordered to be printed in the Record.

The evidence that garments sewn in the CNMI should receive the protections typically associated with “MADE IN USA” is very strong. According to the Commerce Department, 85 percent of CNMI apparel is classified as import sensitive. This classification means that apparel is classified as import sensitive in order to double the number of foreign workers in such overwhelming numbers that it leads to double-digit unemployment.

The application of U.S. immigration law to the CNMI is long overdue. The CNMI has exploited its immigration exemption to the point where alien workers constitute a majority of the CNMI population. In 1995, 23 new garment companies received operating licenses, prompting the CNMI Government to enact legislation to double the number of foreign workers permitted in the island’s garment industry.

Immigration abuse in the CNMI

I am sure many Senators will find it hard to believe that the Immigration and Nationality Act does not apply to the CNMI. The Act was signed into law by President Eisenhower in 1952, and includes the northern Mariana Islands. The CNMI was carved out of the CNMI by workers who enjoy none of the protections typically associated with the “Made in USA” label. Even more frightening is the fact that the CNMI textile industry is growing at a rate of 30 percent annually. Textile manufacturers across the United States who pay their employees the Federal minimum wage are undercut by CNMI competitors who label their garments “Made in USA” but employ foreign laborers to sew foreign fabric, pay them $3.05 an hour and subject them to feudal working conditions.

The evidence that garments sewn in the CNMI directly and unfairly compete with U.S. apparel manufacturers is very strong. According to the Commerce Department, 85 percent of CNMI apparel is classified as import sensitive. This classification means that the CNMI garment industry, as a result of the operation of this law, is subjected to competition from segments of the U.S. apparel industry that are experiencing significant decline due to heavy import penetration.

Rather than preventing an influx of immigrants, the CNMI has established an aggressive policy of recruiting low-wage, foreign guest workers to operate an ever-expanding garment and tourism industry. According to the CNMI Department of Labor and Workforce Development, local immigration policy has “no limits. It is wide open, unrestricted.”

The U.S. Immigration and Naturalization Service reports that CNMI authorities have no reliable records of aliens who have entered the CNMI, nor how long they remain, and when, if ever, they depart. Ninety-one percent of the private sector work force are alien guest workers. These workers have overwhelmed the CNMI, driving up unemployment in the Commonwealth to 14 percent. There is no justification for an immigration policy that admits foreign workers in such overwhelming numbers that it leads to double-digit unemployment.

The CNMI is a U.S. territory that is exempt from the Immigration and Nationality Act. The Common-wealth's immigration policy has grown worse. Between January 1995 and May 1996, 29 new garment companies received operating licenses, prompting the CNMI Government to enact legislation to double the number of foreign workers permitted in the island's garment industry.

“Made in USA” abuse

The U.S. apparel industry would be shocked to learn that in 1996, $555 million of textile products labeled “Made in USA” were cut and sewn in the CNMI by workers who enjoy none of the protections typically associated with the “Made in USA” label. Even more frightening is the fact that the CNMI textile industry is growing at a rate of 30 percent annually. Textile manufacturers across the United States who pay their employees the Federal minimum wage are undercut by CNMI competitors who label their garments “Made in USA” but employ foreign laborers to sew foreign fabric, pay them $3.05 an hour and subject them to feudal working conditions.

The evidence that garments sewn in the CNMI directly and unfairly compete with U.S. apparel manufacturers is very strong. According to the Commerce Department, 85 percent of CNMI apparel is classified as import sensitive. This classification means that the CNMI garment industry, as a result of the operation of this law, is subjected to competition from segments of the U.S. apparel industry that are experiencing significant decline due to heavy import penetration.
Apparel manufacturers in the CNMI enjoy benefits that far exceed those enjoyed by foreign or domestic manufacturers. CNMI garment factories are not subject to the U.S. minimum wage and pay no duty on fabrics they import. Furthermore, quotas do not apply to either fabric imported into the Commonwealth, or to finished garments cut and sewn in the CNMI using foreign labor. Yet these products are labeled “Made in the USA” and compete unfairly with apparel employment elsewhere in the United States.

The July 1997 report on labor, immigration, and law enforcement in the CNMI confirms my analysis of the Commonwealth's garment industry. Page 13 of the report contains the following finding:

The duty and quota-free preferences afforded to products of the CNMI, coupled with local control of immigration and minimum wage, have led to a rapidly growing garment manufacturing industry. Apparel manufacturers operating in the CNMI, who mainly employ workers from the People's Republic of China, label their products “Made in the USA,” even if the fabric is not subject to United States duty or quota. By using the CNMI as an apparel manufacturing base, these manufacturers avoid duties and are not subject to and quota on finished products. These imports adversely affect the United States apparel industry’s employment and profits.

In some cases, these garment factories have been transplanted to the CNMI from the People's Republic of China. They are owned or managed by Chinese nationals, and staffed by bonded and indentured Chinese laborers. Despite promises of the American dream, if they work in the CNMI, laborers must sign contracts with government officials in the People's Republic of China that waive rights guaranteed to U.S. workers, forbid participation in religious and political activities while in the Commonwealth, promise to marry, and subject employees to penalties in China for violations of their labor contracts.

In factories with close ties to China, compliance with labor contracts is directly monitored by representatives of the Chinese government. These working conditions hardly justify granting “Made in USA” status to CNMI garments.


The 1976 covenant exempts the CNMI from the Federal minimum wage. This exemption was granted with the understanding that as its economy grew and prospered, the CNMI would raise its minimum wage to the Federal level. Foreign workers typically enter the CNMI under 1-year work permits and are paid a minimum of wage of $3.05.

According to the July 1997 report by the Department of the Interior, the lower minimum wage, combined with unlimited access to foreign labor, creates an incentive for employers to hire foreign labor for all jobs, including skilled and entry level jobs at or near the minimum wage. Employment statistics clearly support the Interior Department analysis.

Ninety-one percent of the private sector work force are alien guest workers. U.S. citizens who can find work, and there are many who cannot, are typically employed by the government in jobs that pay more than the minimum wage. Due to its irresponsible immigration policy, foreign workers have overwhelmed the CNMI to the point where unemployment among U.S. citizens living in the Commonwealth is 34 percent. The CNMI preference for foreign laborers deprives U.S. citizens of private sector opportunities and leaves them with the limited options of government work, unemployment and welfare, or relocation to Guam or the mainland.

The minimum wage is sometimes a lightning-rod issue for Republicans. However, in a labor market where there is an unlimited supply of guest workers, a low minimum wage means that low-wage alien laborers are displacing U.S. workers. Any policy that favors foreign workers over the interests of employed and unemployed U.S. citizens is indefensible.

C N M I I M M I G R A T I O N A N D W A G E A B U S E

CNMI immigration and wage abuses have caused a number of collateral problems. Pervasive labor abuses in the Commonwealth have provoked international outrage. In 1995, the Philippine Government asked the moratorium on immigration of Filipino workers in the CNMI. The Philippine Government’s extraordinary action to protect its citizens from employment in the CNMI was the first such decision by a foreign government in U.S. history. Although the Philippine Government has since lifted the moratorium, recurring abuses prompted Philippine officials to announce that the moratorium may soon be reimposed.

While the U.S. minimum wage does not apply, CNMI must adhere to all other Federal labor laws. The U.S. Department of Labor has uncovered a systematic pattern of labor abuses in the CNMI. These abuses are a direct consequence of the Commonwealth’s unrestricted immigration policy. Examples include involuntary servitude and peonage, illegal withholding of wages, nonpayment of overtime wages, illegal deductions from paychecks to cover employer expenses, kickbacks of wages workers, loss of personal freedom, and employee lockouts in work sites and living barracks.

H U M A N R I G H T S A N D S E X U A L A B U S E

The Commonwealth's immigration policy results in serious problems in other areas. The Justice Department has documented numerous cases of women and girls being recruited from the Philippines, China, and other Asian countries expressly for criminal sexual activity. These abuses are a direct consequence of the Commonwealth’s unrestricted immigration policy.

Typically, these women are told they will work in the CNMI as waitresses, but are forced into nude dancing and prostitution upon their arrival. The Justice Department described this situation as the “systematic trafficking of women and minors for prostitution,” which may also involve illegal smuggling, organized crime, immigration document fraud, and pornography.

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Political Union with the United States of America was approved by Congress pursuant to Public Law 94-241, 90 Stat. 263;  
(2) at the time that the Covenant was being negotiated and at the time that the government of the Northern Mariana Islands expressed concern that United States immigration laws would allow unrestricted immigration and labor in the Northern Mariana Islands;  
(3) in response to these concerns, section 503(a) of the Covenant provided that the Immigration and Naturalization Act did not apply to the Commonwealth of the Northern Mariana Islands;  
(4) Congress expressly reserved the right to extend the Fair Labor Standards Act to the Commonwealth of the Northern Mariana Islands at a future date;  
(5) following the enactment of the Covenant of the Commonwealth of the Northern Mariana Islands instituted a largely unrestricted immigration policy, causing the Commonwealth's population to increase from 16,780 in 1989 to a population of over 58,000 in 1995, with foreign workers outnumbering United States citizens;  
(6) as a result of these immigration policies, the private sector work force in the Commonwealth is comprised of foreign workers;  
(7) the Commonwealth of the Northern Mariana Islands has used its immigration policy to recruit a large, low-cost foreign work force of desperately poor individuals with no meaningful opportunity to demand safe living and working conditions or fair wages and benefits;  
(8) notwithstanding an unemployment rate of 14 percent among United States citizens, the Commonwealth has recruited increasing numbers of foreign workers;  
(9) even though the Commonwealth alleges that unfilled job openings justify recruitment of increasing numbers of foreign workers, the Commonwealth's own statistics indicate an unemployment rate of 4.5 percent for foreign workers;  
(10) the U.S. Immigration and Naturalization Service reported that the Commonwealth of the Northern Mariana Islands has been recruiting increasing numbers of foreign workers;  
(11) at the time that the Covenant was being negotiated, representatives of the government of the Northern Mariana Islands expressed concern that the minimum wage provisions of the Fair Labor Standards Act would significantly and, in 1996, annual gross business receipts in the Northern Mariana Islands were on the status of implementing this section.''.  
(22) in 1995, garment manufacturers in the Commonwealth shipped garments to the Continental United States with a wholesale value of $555 million, a 30 percent increase over the previous year;  
(23) Congress appropriated $10 million to fund a 3-year initiative by the U.S. Department of Labor, and Labor, and Interior to assist the Commonwealth in its efforts to improve its labor and immigration policies;  
(24) despite this appropriation there has been little or no improvement in the immigration and immigration policy of the Commonwealth of the Northern Mariana Islands;  
(25) the government of the Commonwealth of the Northern Mariana Islands has been ineffective in stemming the flow of immigration onto United States soil, raising the wage and living standards for workers, and aggressively prosecuting labor and human rights abuses, the Commonwealth's immigration policy, and the employment of foreign workers in a manner that unfairly competes with United States manufacturers;  
(26) despite efforts by the Reagan, Bush, and Clinton administrations to persuade the government of the Commonwealth of the Northern Mariana Islands to correct problems in the Commonwealth, the situation has only deteriorated; and  
(27) the continuing concern about labor abuses, the Commonwealth's immigration policy, and the employment of foreign workers in a manner that unfairly competes with United States manufacturers;
"(b) A textile fiber product that does not meet the requirements of subsection (a) shall be deemed to be misbranded for purposes of the Textile Fiber Products Identification Act (25 U.S.C. 1901 et seq.)."

"In this section:

1. **DIRECT LABOR**—The term 'direct labor' includes any work provided to prepare, assemble, or transport a textile fiber product, but does not include supervisory, management, security, or administrative work.

(2) **FREELY ASSOCIATED STATES**—The term 'freely associated states' means the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia.

(3) **QUALIFIED MANHOURS**—The term 'qualified manhours' means the manhours of direct labor performed by persons who are citizens or nationals of the United States or citizens of the freely associated states.

(4) **REQUIRED PERCENTAGE**—The term 'required percentage' means 30 percent, for the period beginning January 1, 1998, through December 31, 1998; 35 percent, for the period beginning January 1, 1999, through December 31, 1999; and 50 percent, for the period beginning January 1, 2000, and thereafter.

**SEC. 5. MINIMUM WAGE REQUIREMENTS.**

(a) Section 503 of Article V of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, approved by Public Law 94-241 is amended by deleting "Section 503. Minimum wage provisions of Section 6, Act of June 25, 1938, 52 Stat. 1062, as amended," and inserting in lieu thereof "Section 6."

(b) Public Law 94-241, 90 Stat. 263, is amended by adding the end thereof the following:

**SEC. 6. MINIMUM WAGES IN THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.**

(a) The minimum wage provisions of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)) does not apply to the Commonwealth of the Northern Mariana Islands, except that—

1. **SECTION 1.** During the period beginning 30 days after the date of enactment of this Act and ending on December 31, 1997, the minimum wage rate applicable to the Commonwealth of the Northern Mariana Islands shall be $3.05 an hour for an employee; and

2. **SECOND SECTION.** Beginning on January 1, 1998, and each calendar year thereafter, the minimum wage rate applicable to the Commonwealth of the Northern Mariana Islands for an employee for each such calendar year shall be the minimum wage rate applicable to the Commonwealth of the Northern Mariana Islands for the preceding calendar year increased by 5 percent or the amount necessary to increase the minimum wage rate to the rate described in section 6(a)(1) of the Fair Labor Standards Act of 1938, whichever is less; and

3. **THIRD SECTION.** (a) In the calendar year in which the minimum wage rate applicable to the Commonwealth of the Northern Mariana Islands has been increased under subparagraph (A) of this subsection, the minimum wage rate applicable to the Commonwealth of the Northern Mariana Islands for an employee for any succeeding calendar year shall be the rate described in such section.

**SEC. 6. REPORT.** Not later than 1 year after the date of enactment of this Act, the Secretary of the Interior, in consultation with other Federal agencies that have the authority to investigate or enforce the laws of the United States prohibiting human rights violations and labor rights violations in the Commonwealth of the Northern Mariana Islands, including the use of forced or indentured labor, and any efforts being taken by the Government of the United States or the Commonwealth of the Northern Mariana Islands to address or prohibit such violations. The Secretary of the Interior shall include the results of such study in the annual report, entitled "Federal-CNMNI Initiative on Labor, Immigration, and Law Enforcement," transmitted to Congress.

**SEC. 7. AUTHORIZATION OF APPROPRIATIONS.** There is appropriated such sums as may be necessary to carry out the provisions of this Act.

**FEDERAL-CMNI INITIATIVE ON LABOR, IMMIGRATION, AND LAW ENFORCEMENT IN THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS, JULY 1997**

The United States took the Northern Mariana Islands from Japan in 1944 and administered the islands under a United Nations trusteeship agreement. At that time, the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, approved by Congress, therefore, agreed to not immediately extend Federal immigration control. Ironically, CNMI policies have resulted in aliens becoming a majority of the island's population. These policies include use of low-wage temporary alien workers for permanent jobs and the aggressive promotion of garment manufacturing. Wages lower than the Federal minimum wage were paid because the Federal minimum wage was not extended to the Northern Mariana Islands. The garment industry takes advantage of the Immigration and Naturalization Act (INA) to employ temporary alien workers at below prevailing wages, as well as privileged exceptions to the Federal trade laws, to ship products partially manufactured in the islands into the United States market even though the islands are outside the customs territory of the United States. Federal officials have expressed concern about the CNMI alien labor system since at least 1984, when the Interior Department's Assistant Secretary for Territorial and Pacific Islands Affairs issued a study in which he suggested the extension of Federal immigration authority as provided in section 503 of the Covenant. In December 1994, the Department of Justice issued a Federal immigration order which extended Federal immigration authority to the CNMI. Federal officials have also been concerned about CNMI labor conditions which may cause employers to underpay workers, not subject to United States duty or quota. By using the CNMI as an apparel manufacturing base, these manufacturers avoid duties and are not subject to United States quotas on finished products. These imports adversely affect the United States apparel industry's employment and profits. The CNMI is producing a number of sensitive apparel imports to the United States which, because of the CNMI producers' share of the market is 50 percent or less. Imports of these sensitive apparel products from the CNMI, at an average landed cost of $62.7 million per year, represent 5 percent of total United States imports of these products. In recent years, total garment shipments from the CNMI to the United States have increased by 30 percent per year, with an acceleration to 45 percent in the first four months of 1997 over the same months in 1996. The average landed value of CNMI apparel shipments from the United States is now at a rate of $625 million annually.

Federal agencies have worked closely with the CNMI leaders to correct these problems under the Initiative. Work continues with many conscientious CNMI officials. The Administration, however, finds that the government of the CNMI is unwilling to alter its basic immigration, minimum wage, and garment manufacturing policies; and that there are fundamental weaknesses in law enforcement.

The Administration, therefore, believes that a Federal policy framework addressing immigration, minimum wage, and free shipment of products is needed to properly address these problems and to promote CNMI economic development consistent with the United States' policies.

Accordingly, the Administration recommends that the Congress extend Federal immigration and enforcement policies for the CNMI.
immigration and minimum wage policies as provided in section 503 of the Covenant. In addition, the Administration recommends that the Congress close the loophole being exploited by the CNMI garment industry by requiring certification that at least 50 percent of United States labor (and freely associated state citizen labor) is employed in order for products to be labeled "Made in the USA." The Administration further requests that Congress clarify and strengthen the criminal laws applicable to firms involved in import-related violations.

DEPARTMENT OF STATE, OFFICE OF CHINESE AND MONGOLIAN AFFAIRS

Date: July 22, 1997.

To: Patrick McGarvey, Office of Senator Akaka.

From: Cari Enay.


Message: According to the HuiZhou Foreign Affairs Office, the HuiZhou Corporation of the Overseas Labor Services is state-owned. It is under the municipal labor bureau.

CONGRESSIONAL RESEARCH SERVICE

Library of Congress, Washington, D.C.

OVERSEAS LABOR CONTRACT


Party B: Name redacted.

Party B, of his own free will, accepts the invitation of Party A to engage in carpentry work on Saipan Island (transliteration) for a term of two years. Party A and Party B both agree to abide by the following terms and conditions:

1. From the date of the signing of this contract by Party A and Party B, Party B agrees to obey the leadership of and accept arrangements made by Party A, and comply with rules and regulations made by Party A. During the period when Party B is sent to work overseas, Party B must strictly observe laws, regulations and the local government may not participate locally in any political activities. Among other things, may not engage in smuggling, prostitution, theft, gambling, drugs, fighting, watching or distributing pornographic videos. While working overseas, Party B may not date or get married. Any violation of the aforesaid may entail investigation into financial and legal responsibilities, including deduction and/or withdrawal of salary and bonus as well as payment for round trip expenses, or punishment in accordance with the relevant criminal laws. Depending on the seriousness of circumstances.

2. While fulfilling his contractual obligations, in case of any reason, slack at work; may not work or increase the salary; may not look diligent; may not slack off in any reason; while working overseas, the employer shall be responsible for the situation and may not take any action. Party A and Party B may not make compensation, but is unable to make compensation, such compensation shall also be deducted from the deposit. If a situation arises where Party B is required to make compensation, but is unable to make compensation, the guarantor agrees to make the payment for financial compensation on behalf of Party B, while Party B accepts full financial responsibilities.

3. During the period of Party B's labor services, the employer shall be responsible for all expenses for transportation to and from airfares, airfare for Party B to return home, the guarantor to pay Party B's round trip expenses, and Party B agrees to pay a fee in the amount of RMB 3,000. When Party B returns home, the man reached for Mrs. Doromal's body. He diagnosed "apparent rape" and collected specimens for a rape evidence kit that he turned over to authorities. Mrs. Doromal took the first morning flight to the island of Rota. Mrs. Doromal was asleep in her home on Rota when the telephone rang at 5:30 a.m. A housekeeper named Thelma Landeza, the caller said, had been raped by her employer, a politically well-connected businessman. Afraid to go to the local authorities, Mrs. Landeza walked for hours through the jungle to the refuge of an underground network on Rota.

Mrs. Doromal, then 40, quickly dressed and set out for the airport. She wore jeans to place this stark contrast to what the art teacher from Vermont, Conn., expected when she first came to the U.S.-owned Northern Mariana Islands, a tropical paradise—changes that have deeply stained America's reputation as the champion of human rights all over the world.

Lured by fee-driven recruiters, thousands of poor Asian "guest workers" are entering the Northern Marianas. Virtually every native household had at least one Philippine maid.

Mrs. Doromal soon discovered serious cases of workers being cheated out of wages and physically abused. The transgressors were often Filipinos, in-country population—any who maintained effective control of every government function. Although the newsrooms outnumbers the natives, they had to become part of decision making. And so Wendy Doromal, less than 5 feet tall but forceful and articulate, gradually became their advocate.

"I saw Thelma that morning," Mrs. Doromal recalls, "the fear shot from her face into my heart. She'd been beaten and she was crying and trembling.

Mrs. Landeza's tale was harrowing. As a widowed, the small, sweet-faced woman had sought work in the Northern Marianas to send money to her five children in the Philippines. "It was supposed to be like going to America," she said. But that's not the way it turned out for Mrs. Landeza or thousands of other men and women like her. From 1990 to 1993, she says, she was paid the domestic wage of 69 cents an hour for 12-hour days; she also was "rented out" to another party for an additional six hours a day, for which she never saw a cent.

Like many other workers, Mrs. Landeza was afraid to complain to officials. She says her boss, Rafael Quitugua, flaunted his connections with those very people. She couldn't risk being returned to the Philippines. Then, according to Mrs. Landeza, on the night of Oct. 16, 1993, Mr. Quitugua ordered her to clean up a bar he owned. Driving her back home, the man reached for Mrs. Landeza and said, "I like you very much." He veered down a path toward an isolated beach.

NO ACTION TAKEN

"I screamed and fought him and begged him to take me home," she said. "But he beat me and finally raped me. He said, 'If you ever tell what happened, I'll kill you.'" Mrs. Doromal didn't want this to become another unprosecuted case because of "insufficient evidence." So she and Mrs. Landeza took the first morning flight to the island of Rota. Mrs. Doromal was asleep in her home on the island of Rota when the telephone rang at 5:30 a.m. A housekeeper named Thelma Landeza, the caller said, had been raped by her employer, a politically well-connected businessman. Afraid to go to the local authorities, Mrs. Landeza walked for hours through the jungle to the refuge of an underground network on Rota.

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Landez's story is that he sent to the attorney general of the Northern Marianas.

Weeks passed, however, and then months. No charges were brought. Mr. Quitigua, meanwhile, was forced into obscurity.

American interest in the Northern Marianas was born in the blood of 5,289 troops who died there in 1944 wresting the islands from the Japanese. The kidnapping of Mrs. Doromal is emblematic of what America is forced to live in the worst labor abusers would be prosecuted. Mrs. Doromal sat before a U.S. Senate subcommittee in Washington. With her were other Filipino women who had been tied up, beaten and raped daily until they escaped after three weeks. Under the glare of publicity stirred up by Mrs. Doromal, the CNMI attorney general's office investigated Teresa's case. Four months later, it concluded that the evidence was insufficient to go to trial. The case was dropped.

Two weeks after Teresa's case was dropped, Mr. Tenorio was back in Washington to inform Congress that his administration was making substantial progress in cleaning up human rights violations. Employers who abuse contract workers, he said, "are being investigated, prosecuted and convicted."

To Mrs. Doromal, such words meant that nothing had changed. But with no regular job, her family couldn't stay in the Northern Marianas; they returned to the U.S. mainland in May 1995.

In December 1995, nearly a year after Mr. Tenorio's assistance, Mrs. Doromal recalled how she was cleaning up human rights violations. Maria—not her real name—was a childlike woman whose real name she told Congress that for several weeks she had been locked up by her employer and repeatedly raped. Mrs. Doromal arranged for Teresa to be brought to a Saipan hospital. "She kept going into corners and rocking back and forth, crying," Mrs. Doromal said.

Teresa, 24, was an animated woman who had studied hotel and restaurant management in the Philippines. But employment in the U.S. mainland was virtually an establishment described by the recruiter as an "upscale restaurant." The establishment, however, was a Saipan brothel.

In desperation, Teresa accepted the friendly overtures of a politically well-connected man who got her out of the club. Teresa says she got "locked up in a remote farmhouse where she was tied up, beaten and raped daily until she escaped after three weeks."

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In December 1995, nearly a year after Mr. Tenorio's assistance, Mrs. Doromal recalled how she was cleaning up human rights violations. Maria—not her real name—a tiny Philippine woman with a naked body and had live sex with her and other bar girls on stage.

Performances, she said, were videotaped. If she didn't do what she was told, her bosses threatened to ship her back to the Philippines at her own expense.

"I was scared. I don't have any money. What happens to me? Maybe I'll die."

Mrs. Doromal's case is one of more than 500 complaints that reached Mrs. Doromal since starting in 1989. While more than half the cases involved wage disputes, others included workers tortured, forced into prostitution and held in sexual servitude.

"In school, I was very religious. I feel there is no God anymore. I prayed but no response," she said.

She drank alcohol every night because "it's easier to do anything if you're drunk. You can't really feel anything."

"I try to put it behind me. Sometimes I think, how did I do that? Animal people only do that. I get depressed."

Katrina describes her life as one much older than her years.

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"I try to put it behind me. Sometimes I think, how did I do that? Animal people only do that. I get depressed."

Katrina ended up in Saipan, where her recruiter-boss promised to make her a "starlet." But for the then 14-year-old, it was a horror role in which customers abused her naked body and had sex with her and other bar girls on stage.

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"I was scared. I don’t have any money. What happens to me?"

What of Thelma Landeza? In February 1995—more than 16 months after she reported being kidnapped, raped and beaten—her boss, Rafael Quitigua, was charged with the crime. He pleaded not guilty. In December 1995 the charge was dropped.

[From the Star-Bulletin, June 6, 1997]

HAWAII'S FILOSOFI COALITION FOR SOLIDARITY IS A GODSEND FOR ABUSED WORKERS

(By Susan Kreifels)

Katrina turns 16 Monday, finally getting a taste of sweetness in her otherwise bitter dose of life. Hawaii’s Filipino Coalition for Solidarity has provided the teenage girl haven since March from her grim life in Saipan, where she said she had been sexually exploited in a bar room since she was 14.

The civil rights advocacy group hopes to find ways to keep her out of the United States, far from threats from her former employers, who now face a federal lawsuit on Saipan for alleged violations of child labor and wage laws.

Katrina is the young girl’s stage name. Her real name is being withheld to protect her identity in the eighth-grade classroom she now attends on Oahu.

Born in Manila to a poor squatter family, she ran away when she was 13, ending up in the arms of unscrupulous recruiters.

Although she admitted she lied that she was 19 in the beginning, Katrina said she later told the recruiters her true age.

But, according to the girl, the recruiters arranged a passport that claimed she was born in 1974 instead of 1981.

Katrina ended up in Saipan, where her recruiter-boss promised to make her a "starlet." But for the then 14-year-old, it was a terror role in which customers abused her naked body and had sex with her and other bar girls on stage.

Performances, she said, were videotaped. If she didn't do what she was told, her bosses threatened to ship her back to the Philippines at her own expense.

"I was scared. I don’t have any money. What happens to me?"

What of Thelma Landeza? In February 1995—more than 16 months after she reported being kidnapped, raped and beaten—her boss, Rafael Quitigua, was charged with the crime. He pleaded not guilty. In December 1995 the charge was dropped.
monitoring abuse of Filipino workers in the Commonwealth of Northern Mariana Islands, a U.S. territory 3,900 miles west of Hawaii, for the last four years. The group has given haven to 2,000 workers.

The Commonwealth, which does not fall under U.S. wage or immigration laws, offers low minimum wages ($2.95) and tax incentives to foreign producers for Saipan's fast-growing garment and a-year garment industry. More than 30,000 imported laborers from the Philippines, China and other Asian countries work the mills in Saipan that employ 25,000 citizens. The government says without the foreign workers, its garment and tourism industry would collapse.

There were more than 500 labor complaints filed last year, according to the Commonwealth government. Some are passed along to the U.S. Department of Labor to pursue. In 1994, the department successfully sued a Japanese company that owned several bars employing underage girls.

The law to comply with the law and tenor of the law and to bring changes in the labor laws and land-use plans. This includes preventing the Commonwealth from using patented land for purposes other than mining, the bill limits royalty from mineral activities on Federal lands to 20%, as is intended in this legislation. The end result of excessive government involvement would be the move of mining operations overseas and the loss of American jobs. The legislation I am introducing today will keep U.S. mines competitive and prevent the movement of U.S. jobs to other countries.

The General Mining Law is the cornerstone of U.S. mining practices. It establishes a useful relationship between industry and government to promote the extraction of minerals from rich mineral deposits. Although the cornerstone of this law was originally enacted in 1872, it remains to function effectively today. The law has been amended and revised many times since its original passage. The legislation I am introducing today preserves the solid foundation provided by this law and makes some important revisions that address the concerns that have been paramount in this debate that I have been involved in for nearly a decade.

Specifically, the Mining Law Reform Act of 1997 will insulate revenue to the Federal Government by imposing fair and equitable fees and a net royalty. It requires payment of fair market value for lands to be mined. It insures that Federal lands will return to the public sector if they are not developed for mineral production, as is intended in this legislation. Furthermore, to prevent mining interests from using patented land for purposes other than mining, the bill limits occupancy to that which is necessary to carry out mining activities. To ensure mining activities do not unnecessarily degrade Federal lands,
the Mining Law Reform Act mandates compliance with all Federal, State and local environmental laws with regard to land use and reclamation. To enforce these provisions, the bill includes civil penalties and the authority for compliance orders.

Finally, this bill creates a program to address the environmental problems associated with abandoned mines. Working directly with the States, the Mining Law Reform Act directs fees and royalty receipts to the abandoned mine program. It is my hope that we have a workable mechanism to clean up these relics of the past.

The legislation we are proposing today is in the best interest of the American people because it provides revenue from public resources, as abandoned mines will be developed in an environmentally sensitive manner and that abandoned mines from earlier eras will be reclaimed. It is fair to mining interests because it imposes reasonable fees and royalties, and it is good for the environment because it assures that sound land use and reclamation practices are followed. I ask my colleagues to join me in support of this legislation and look forward to hearings and Senate legislative action.

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

MINING AND THE AMERICAN ECONOMY
EVERYTHING BEGINS WITH MINING
(Prepared by George F. Leaming, Ph.D.)

Combined Direct and Indirect Impacts of Mining, 1995

Table 1—Combined Direct and Indirect Contributions of the American Mining Industry to the Economies of the Individual United States, 1995—Continued

<table>
<thead>
<tr>
<th>State</th>
<th>Combined gain</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alabama</td>
<td>$11,027,917,000</td>
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<tr>
<td>Alaska</td>
<td>3,342,992,000</td>
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<tr>
<td>Arizona</td>
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<td>3,790,429,000</td>
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<td>52,476,955,000</td>
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<tr>
<td>Colorado</td>
<td>24,613,000</td>
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<td>Connecticut</td>
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<tr>
<td>Delaware</td>
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<tr>
<td>Dist. of Columbia</td>
<td>1,941,284,000</td>
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<tr>
<td>Florida</td>
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<td>Hawaii</td>
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<td>Idaho</td>
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<td>Illinois</td>
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<td>Louisiana</td>
<td>5,547,709,000</td>
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<tr>
<td>Maine</td>
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<td>Maryland</td>
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<td>Massachusetts</td>
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<td>Michigan</td>
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<td>Minnesota</td>
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<td>Montana</td>
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<td>Nevada</td>
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<td>New Hampshire</td>
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<td>Ohio</td>
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<td>Pennsylvania</td>
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<td>South Carolina</td>
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<td>South Dakota</td>
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<td>Tennessee</td>
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<tr>
<td>Texas</td>
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<tr>
<td>Utah</td>
<td>6,906,968,000</td>
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<tr>
<td>Vermont</td>
<td>1,018,057,000</td>
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<tr>
<td>Virginia</td>
<td>1,302,094,000</td>
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<tr>
<td>Washington</td>
<td>9,604,834,000</td>
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<tr>
<td>West Virginia</td>
<td>15,277,424,000</td>
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<tr>
<td>Wisconsin</td>
<td>7,906,482,000</td>
</tr>
<tr>
<td>Wyoming</td>
<td>3,967,386,000</td>
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</tbody>
</table>

Total: 523,604,058,000

Source: Western Economic Analysis Center.

New York received the second greatest gain in the nation’s mining industry in 1995, with a total boost to its economy of more than $31 billion and more than 227,000 jobs. The impact on New York was partly the result of its role as a major producer but more a result of its role as a major trade, manufacturing, and financial center and as a major beneficiary of the income redistribution effect of federal spending.

Texas was not far behind New York in total economic gain from mining in 1995. The state has the nation’s eighth largest mining industry, directly providing more than 16,000 jobs. In 1995, the Texas economy gained almost $29 billion and more than 300,000 jobs as a direct and indirect result of mining in the United States.

Pennsylvania was very close behind Texas in total economic benefit from the mining industry in 1995. The state has a major mining industry of its own, ranking sixth in value of mine output in 1995, but its bigger gain came as a result of its position as a manufacturing center for the nation, selling products and services to mining and other enterprises in other states. In 1995, the Pennsylvania economy gained almost $29 billion and more than 300,000 jobs as a direct and indirect result of mining in the United States.

Among the top 20 states that gained the most personal, business, and government income directly and indirectly from mining in 1995, 12 of them, including California, New York, Pennsylvania, Michigan, Ohio, Illinois,
Mr. MURKOWSKI. Mr. President, I bring this Nation's mining law into the 21st century.

The nation's mining industry also made significant payments directly to state and local governments, largely in the states in which they conducted mining or processing operations. The amount of such direct payments by mining firms to state and local governments in 1995 approached $3.4 billion. The federal government got even more. Direct payments by mining firms to the United States Government in payroll taxes, income taxes, and other taxes and fees surpassed $3.5 billion in 1995. That represented more than 7% of the industry's total direct contribution to the American economy last year.

The direct contributions of the mining industry to the economies of the various states in 1995 tended to be the greatest in those states in which the most mining activity was happening, and which had the most suppliers providing goods and services to mining firms in other states. Thus, California, with major petroleum, construction minerals, and industrial minerals mining industries, as well as large manufacturing, trade, services, and financial sectors serving mining firms in other states, led the list with a direct impact from mining of almost $2.9 billion. West Virginia, with the country's biggest coal mining industry (in terms of value), was second with a direct impact in 1995 of more than $2.8 billion.

Kentucky, with the nation's second largest coal mining industry, as third in impact with a direct impact on its economy of nearly $2.7 billion, Texas, with major metals, construction minerals, industrial minerals, and coal mining output, was fourth in direct impact with over $2.5 billion. Pennsylvania, the nation's fifth most important source of mined coal and third biggest producer of construction minerals, was fifth in direct impact with more than $2.3 billion.

Among the 20 states that gained the most economically from mining in 1995, only two (California and Arizona) were in the public land areas of the West traditionally thought of as being the center of American mining. Six (Ohio, Illinois, Indiana, Michigan, Minnesota, and Wisconsin) were in the Midwest, while eight (Kentucky, West Virginia, Texas, Florida, North Carolina, Georgia, Virginia, and Alabama) were in the South and another four (New York, Pennsylvania, New Jersey, and Massachusetts) were in the Northeast. More than 90% of the total impact of mining on the economy of the United States in 1995 was in the form of indirect personal, business, and government income generated by the circulation and recirculation through the nation's economy of the mining industry's payments to persons, other businesses, and governments. Those direct payments, while making up only 9% of the total impact, were themselves substantial, particularly where mining activity took place and in states where manufacturers and other businesses produced products and services for use in mining.

Direct payments by mining firms to individuals, other businesses, and governments in the United States in 1995 totalled more than $48 billion. Of that total, the industry paid over $14.5 billion (30%) as personal income to employees, who labored to produce minerals and metals, and made up nearly all of the remaining $33.6 billion. They were made to suppliers located in every state of the Union and the District of Columbia.

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CONGRESSIONAL RECORD — SENATE

There are few issues before the Senate that are more complex and contentious than mining law reform. Make no mistake, it is an issue within which major ideologies compete. The outcome of these debates will define for years to come the role public lands play in the Nation's ability to maintain a viable strategic mining capability.

Across the Nation—from the White House, and from within this very chamber—we have been joined in the belief that mining reform will enable the Nation to take charge of its mineral resources and move into the 21st century.

I also take a great deal of pride in the fact that this legislation does not forget about the Nation's smallest mining operations. It will allow them to stay in business and to continue to compete on an even playing field with the larger, better financed operations. But I can also assure you that there is no equal number that operate on the public lands. With these forces there is no appeasement. As reform proposals move toward addressing legitimate concerns, the weight of the Senate will be behind those who see mining reform as the perfect vehicle for ending mining on public lands. With these forces there is no appeasement.

It will come as no surprise why, under these circumstances, mining law reform has been such a difficult undertaking. The echoes have been heard in the hallowed halls of Congress for the past 125 years. One commentator has written that even as the Nation moved to war with the world, there was still talk about the need to maintain a viable mining industry.

The Nation's first comprehensive mining laws were negotiated under torchlight miner's courts, over copious amounts of whiskey, and down the barrels of cocked six-shooters. These laws literally emerged out of the muck and grime of the gold fields of California, the silver fields of Nevada, and countless other operating mining camps scattered across the American West. The initial law was designed to give every miner the opportunity to compete on an even playing field without fear of having his hard earned gain taken away during the upheaval. The law was also intended to give a young nation a self-sufficiency in its mineral needs. The industrial revolution was upon us, and our mills and factories were hungry for the raw mineral feed stocks necessary to keep pace with the growing demand for industrial products.

And Mr. President I am here to tell you that we were successful. Due in no small part to the mining industry of this Nation and all the hard working miners who held us up to the pre-eminent position that enabled us to win two world wars and set a standard of living that is still the envy of the world.

This package of mining reforms contained in this legislation honors the past, recognizes the present, and sets the stage for a bright future.

This legislation honors the past by refusing to abandon the basic tenets of the Nation's mining law. A system that allows for the location, development and production of mineral resources off the public lands. Resources necessary to keep this country's mills and factories working at full capacity.

We recognize the threat through the creation of fair reforms which recognize that over one hundred years have passed since the general mining laws went onto the books. During that time many changes have occurred in this country and its industry.

We set the stage for the future by placing instruments within the legislation that directs the reclamation of old abandoned mine sites and preventing abuses in the exercise of the rights authorized within the law.

Mr. President, we recognize that the time has come to reform the general mining laws. But it must be reform that fixes the things which are wrong without destroying this important industry and the lives and communities dependent on it.

The legislation we offer today does that but in such a way that corrects the problems with the law without killing the mining industry.

The legislation advances reforms in 4 general areas; royalty, patents, operating, and reclamation.

No area within the 1872 mining laws has been so greatly criticized as the failure on the part of that legislation to require royalty to be paid for minerals extracted from public lands.

The legislation that we introduce today corrects this. It requires that 5 percent of the profit made from a mining operation on federal lands be paid to the federal government.

This legislation seeks a percentage of the profit, not the value of the mineral in place. We do this for very specific reasons. Failure to do so will cause the shutdown of many operations and prevent the opening of new mines. It will cause other operators to cast low ore concentrates onto the spoil pile as they seek out only the very highest grade ores.

Yes, highly profitable mines do exist and I am sure you are going to hear a lot about them from our opponents. But I can also assure you that there is an equal number that operate on the margin. Mines are like people, no two are alike. Through legislation we seek to create a one-size-fits-all royalty. If the royalty is designed to address highly profitable mines, many marginal mines will go under. That is why we designed our royalty to take a percentage of the profits. If the mine makes money, the public gets a share. This approach recognizes that the public benefits from a strong mining industry beyond the royalty it might collect. A continuous and competitive supply of metals to the Nation's mills and factories, high paying mining jobs, and healthy, viable communities also contribute to the common good.

I fail to see how the public good is served through the creation of a royalty system so intrusive that it must be paid for by the loss of jobs, the health of local communities, and the abandonment of lower grade mineral resources. For those of you who would dismiss these predictions need only look north of our borders to British Columbia to see living proof of this prediction. In 1974 they put a royalty on minerals before cost of production was factored in.

Five thousand miners lost their jobs, mining diminished to the point where one closed new mine that into operation in 1976. The industry was devastated. The royalty was removed in 1978. Years later the industry still has not completely recovered.

Those who forget history are doomed to repeat it—let us not forget the experience of our neighbors to the north.

Patenting or the right to take title to lands containing minerals upon
demonstration that the parcel can support a profitable operation is another area targeted for intense criticisms by opponents to existing mining law. There is no doubt that there have been serious abuses of this provision of the 1872 mining law. Unscrupulous individuals have located mineral operations for the sole purpose of mining. Punishing everyone to get at the few is absolutely wrong and down right un-American.

The legislation we introduce today cures the problem without punishing the innocent. We would continue to issue patents to operators who are engaged in legitimate mining operations. However, we also include provisions allowing the Secretary to step in and reclaim lands should it be determined that they are no longer being used for mining. This approach protects the legitimate miner while insuring that unscrupulous operators can no longer turn mining operations into other activities.

Much criticism has been levied in the past at the 1872 mining laws for what has been called the encouragement of speculative activities on mineralized lands. No control was in place, any person could go out and stake lands purely for speculative purposes. This kept legitimate miners from accessing lands for development and burdened the bureaucracy with mining claims that had no real mineral potential.

The legislation we introduce today addresses this practice. It requires that a $25 filing fee be paid at the time the claim is filed, and makes permanent the $50 per year per claim maintenance fee. These fees will discourage speculative claim staking while allowing miners intent on mining access to lands.

The 1872 mining law did not address environmental protection. Our revisions weave a tight environmental safety net to protect the federal lands. We include a permit process which requires secretarial approval for all but the most minimal mineral related activities. To ensure that lands disturbed by mining be reclaimed to prevent undue and unnecessary environmental degradation. To correct situations where mine operations are abandoned, this legislation requires all operations be fully bonded to pay for reclamation. We do this in ways that allow individual miners the opportunity to choose the bonding tool that best suits their individual needs while not losing sight of the overall reclamation goal.

While bonding assures that no further reclamation responsibilities will fall to the public, what about sites which have been abandoned in the past? I won’t be breaking any secrets by telling you that discretionary funding for new projects around here is about as scarce as virtue at a lawyers convention. There is simply too much need with not enough dollars to go around. Does this mean that reclama-
tion is not important? Not at all—there is no question that the reclamation of these abandoned sites needs to occur. The only question is where the dollars are going to come from and what other priority must fall to the side.

This legislation addresses this issue through the establishment of a mine reclamation fund. This fund is capitalized by the funds collected by this legislation. Filing fees, maintenance fees, and royalty collected all goes into the fund to pay for the reclamation work. This fund dovetails with other reclamation funds and fills the gaps. It is not duplicative.

The Nation’s small miners will find that there are exemptions from the payment of fees for the first 25 claims, royalty relief for yearly profits of less than $50,000, authorizations to use state reclamation bonding pools, and the ability to maintain exclusive long term land use tenure.

For those who seek meaningful reform to the nation’s general mining laws, this legislation does the job. It fixes past abuses without punishing the innocent. It establishes a partnership among interests in profits of mining without putting people out of work. It works with existing environmental legislation to assure that mining operations are carried out with the least possible disturbance. It makes sure that the public does not have to pay for the inappropriate actions of a few while allowing the many to pursue their activities in a ways that do not jeopardize their financial well being. And, it sets up a process to pay for existing mine reclamation needs without taking money away from ongoing federal programs.

This is good legislation, it fixes existing problems without creating new ones. It establishes partnerships between the Federal and State governments and treats the mining community with respect and dignity without turning a blind eye to past indiscretion.

I recognize that we have an up-hill battle. Mining reform has been shrouded for far too long in a smoky veil of rhetoric and sensationalism. The complexity of the issue is such that before we can show any meaningful progress we must separate the voices of those who seek meaningful reform from those who propose myths. Not as poetic, but it does have a rock solid substance; it does not lend itself to catchy media blurbs, but it is genuine reform; it does not offer quick fixes; but it does make changes that are needed without punishing the innocent. It may not be pretty and it certainly is not easy to understand but I can promise you one thing—it will work.

Both sides of the mining reform debate have come a long way toward achieving meaningful compromise. I am certain that the legislative vehicle we launch today will carry us that last mile and finally bring us the reform that is needed.

Mr. BENNETT. Mr. President, I am pleased to join my colleagues in introducing the Mining Law Reform Act of 1997 today. The merits of this legislation have already been outlined by others, so I will not go into details. I believe that we have come a long way toward reaching a compromise and I congratulate the chairman for his willingness and his efforts to reach the middle ground.

Mr. President, in this time of economic prosperity, I find it worrisome that we must constantly remind the American people that our Nation’s economic prosperity is dependent upon our ability to create wealth. The ability to create wealth depends upon ability to take a raw material that has little or no economic worth and turn it into something of value. The economic prosperity which we have experienced in this decade is due, in part, to the increased ability of our Nation’s mining industry to create wealth out of our raw materials.

In my own State, there are some groups which argue that the mining industry is no longer needed, that it is a relic of the past. I hear from these same groups how tourism will be the savior of Utah’s rural communities and if the people of rural Utah would only accept this, then everything will work just fine. The economy will be strong, the environment will be protected and everyone will have a high standard of living.

Mr. President, I do not want to diminish in any way the important contribution that tourism provides to the economy of my State. Utahns encourage people to come and enjoy our ski slopes, our canyons, and our national parks. But much of the tourism industry is seasonal in nature. In some small communities in Southern Utah, it takes two and one-half incomes to generate the average income. It is not uncommon to strike up a conversation with a waitress in a small town and learn that her husband works two jobs to make ends meet. As one County Commissioner summarized recently, “If tourism was really the answer, making beds, frying hamburgers, and pouring coffee would have made us rich a long, long time ago.”

In 1995, the values of minerals mined in Utah exceeded $2.4 billion. Utah’s direct economic gain from mining exceeded $1.1 billion including $386 million in personal income gains. The average mining job in Utah pays about $36,000 a year. With this in mind, imagine the tremendous positive impact
Mr. MOYNIHAN. Mr. President, I rise with a distinguished group of my colleagues to introduce the Magnetic Levitation Transportation Technology Deployment Act of 1997.

Maglev is the first new transportation technology envisioned since the development of aviation in the early 1900's, and its adoption represents an opportunity for dramatic national gains in transportation efficiency and economic growth. This legislation proposes to demonstrate the feasibility of Maglev, with a designated Maglev system to connect Boston to New York and New York to Philadelphia. Maglev is also a very safe technology since properly designed Maglev is virtually impossible to derail.

While Maglev was invented by a young American nuclear engineer in the 1960's, the Germans have developed the technology and have already built a demonstration Maglev test facility. They are now proceeding with a public/private project to construct a 181-mile Maglev system to connect Hamburg to Berlin. The German system, which is expected to be operational by 2005, will provide 1-hour service between the two cities. Not far behind Germany, Japan has its own Maglev system under test. Meanwhile, our Federal Government has done relatively little to develop this extraordinary technology.

In the last few years, however, the Federal Rail Administration has identified the feasibility of deployment of Maglev systems on both major U.S. transportation corridors. Also, several public/private partnerships in the United States have begun to develop

Mr. MOYNIHAN. For the fifth year in a row, Nevada’s mines have collected a total of 7.08 million ounces of gold production in a row, Nevada’s mines have collected a total of 7.08 million ounces of gold production in 1995. The figures and statistics I have just outlined. It is my hope that this legislation addresses each of the concerns I have just outlined. It is my hope that this legislation will serve as the starting point for the debate over mining law reform this year.

The time has never been more critical for Congress to enact comprehensive mining law reform. The aura of uncertainty that the industry has been forced to operate under for the last decade is causing new companies to doubt the future for their future operations. The number of United States and Canadian mining companies exploring or operating in Latin America continues to grow dramatically. We must enact mining reform this Congress if we hope to secure the economic benefits we derive as a Nation from a healthy mining industry.

By Mr. MOYNIHAN (for himself, Mr. REID, Mrs. BOXER, Ms. MIKULSKI, and Mr. ROBB):

S. 1103. A bill to amend title 23, United States Code, to authorize Federal participation in financing of projects to demonstrate the feasibility of deployment of magnetic levitation transportation technology, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE MAGNETIC LEVITATION (MAGLEV) TRANSPORTATION TECHNOLOGY DEPLOYMENT ACT OF 1997

Mr. MOYNIHAN. Mr. President, responsible and realistic mining law reform should be enacted. But as we undertake these efforts, we must also recognize the important contribution of the mining industry to our Nation’s economy. It makes no sense to enact mining law reforms in the name of environmental protection or budgetary concerns, if these reforms in turn force industry offshore where environmental restrictions are not a consideration and some other country’s government receives tax revenues. I urge my colleagues to keep this in mind.

I congratulate the chairman for his efforts and I look forward to working closely with him to enact this legislation.

THE MINING LAW REFORM ACT OF 1997

Mr. BRYAN. Mr. President, I am pleased to join many of my colleagues from the West today in introducing the Mining Law Reform Act of 1997.

The mining industry has always played an important role in our national economy, and particularly in the economies of many western States. From the discovery of the Comstock Lode in the 19th century, to the silver boom of the Goldfield-Tonopah area in the early 20th century, to the record levels of gold and silver production in the last decade, the mineral industry has historically played a vital role in Nevada’s economy. For the fifth year in a row, Nevada’s mines have collectively topped the 6 million ounce mark in gold production. In 1996, there was a total of 7.08 million ounces of gold produced in Nevada. The State’s rich landscape has made Nevada the largest gold producer in the nation with 66.5 percent of all production. In addition, it now accounts for 10 percent of all the gold in the world.

The most recent information from the State of Nevada indicates that direct mining employment in Nevada exceeds 13,000 jobs. The average annual pay for these jobs, the highest of any industry that they enjoy a free ride for criticism often leveled against the industry to the State of Nevada, but also to provide a context for the industry that they enjoy a free ride for mining activities on Federal land. The bottom line is that mining industry pays taxes just like any other business, and in Nevada they pay an additional tax targeted specifically to their industry.

The issue of reclamation is also central to the mining law reform debate. I should note that Nevada has one of the toughest, if not the toughest, State reclamation programs in the country. Nevada mining companies are subject to a myriad of Federal and State environmental laws and regulations, including the Clean Water Act, Clean Air Act, and Endangered Species Act. Mining companies must secure literally dozens of environmental permits prior to commencing mining activities, including a reclamation permit, which must be obtained before a mineral exploration project or mining operation can be conducted. Companies must also file a surety or bond with the State or the Federal land manager in an amount sufficient to ensure reclamation of the area prior to receiving a reclamation permit.

It is in the context of promoting the economic viability of the mining industry and of encouraging strong environmental reclamation efforts administered by the States that I view the debate over the reform of the Mining Law of 1872. As I have stated many times over the years, I feel that certain aspects of the 1872 mining law are in need of reform. Specifically, I feel strongly that the patenting provision of the current law should be changed to provide for the payment of fair market value for the surface estate—our legislation does that. All patents should also include a reverter clause, which would ensure that public lands would revert to Federal ownership if no longer used for mining purposes—our legislation does that. I believe that mining laws reform legislation should ensure that any land used for mining purposes must be reclaimed pursuant to applicable Federal and State statutes—our legislation does that. And finally, I believe that mining law reform legislation should impose a reasonable royalty on mineral production from Federal land. I believe legislation does that.

The Mining Law Reform Act of 1997 addresses each of the concerns I have just outlined. It is my hope that this legislation will serve as the starting point for the debate over mining law reform this year.

The time has never been more critical for Congress to enact comprehensive mining law reform. The aura of uncertainty that the industry has been forced to operate under for the last decade is causing new companies to doubt the future for their future operations. The number of United States and Canadian mining companies exploring or operating in Latin America continues to grow dramatically. We must enact mining reform this Congress if we hope to secure the economic benefits we derive as a Nation from a healthy mining industry.

By Mr. MOYNIHAN (for himself, Mr. REID, Mrs. BOXER, Ms. MIKULSKI, and Mr. ROBB):
MAGLEV projects in a number of States, including California, Florida, Maryland, and Nevada. However, as with our European and Asian competitors, developing these MAGLEV projects will require Federal support to supplement the capital and other public funding sources. Our bill will establish a competition for Federal funds, based on economic and financial criteria, among the various public/private MAGLEV project partnerships.

Because MAGLEV is a proven technology that offers significant benefits for both passengers and freight, it is in the National interest to demonstrate these benefits by proceeding to construct and put into service, at an early date, a project in the United States. This legislation will encourage such a project at minimum public cost.

I ask unanimous consent that the section-by-section analysis and the text of the Magnetic Levitation (Maglev) Transportation Technology Deployment Act of 1997 be printed in the RECORD.

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

SEC. 2. FINDINGS AND POLICY.

(a) FINDINGS.ÐCongress finds thatÐ
to the extent non-United States MAGLEV technology is used within the United States, be carried out as a technology transfer project; and

"(7) to the extent non-United States MAGLEV technology is used within the United States, be carried out as a technology transfer project; and

"(8) to the maximum extent practicable (as determined by the Secretary), satisfy applicable Statewide and metropolitan planning requirements;

"(6) be approved by the Secretary based on an application submitted to the Secretary by a State or authority designated by 1 or more States;

"(4) be undertaken through a public and private partnership, with at least 1/3 of full project costs paid using non-Federal funds;

"(3) result in an operating transportation facility that provides a revenue producing service;

"(2) FULL PROJECT COSTS.—The term 'full project costs' means the total capital costs of a MAGLEV project, including eligible project costs and the costs of stations, vehicles, and equipment.

"(3) MAGLEV.—The term 'MAGLEV' means a transportation system employing magnetic levitation that would be capable of safe use by the public at a speed in excess of 240 miles per hour.

"(4) PARTNER POTENTIAL.—The term 'partnership potential' has the meaning given in the term in the commercial feasibility study of high-speed ground transportation conducted under section 1036 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 1978).

"(5) RECOGNIZED PILOT PROJECT.—The term 'recognized pilot project' means a project, identified in the report transmitted by the Secretary to Congress on the near-term applications of magnetic levitation ground transportation in the United States as required by section 359(d) of the National Highway System Designation Act of 1995 (Public Law 104–59; 109 Stat. 672).

"(6) HIGH-SPEED GROUND TRANSPORTATION PROGRAM.—

"(7) to the extent non-United States MAGLEV technology is used within the United States, be carried out as a technology transfer project; and

"(8) be carried out using materials at least 70 percent of which are manufactured in the United States;

"(6) financial assistance would foster public and private partnerships for infrastructure development and attract private debt or equity investment;

"(7) financial assistance would foster the timely implementation of a project; and

"(8) life-cycle costs in design and engineering are considered and enhanced.

"(f) PROJECT SELECTION CRITERIA.—Prior to soliciting applications, the Secretary shall establish criteria for selecting which eligible projects under subsection (b)1)(B) will receive financial assistance under subsection (b)1)(B). The criteria shall include the extent to which—

"(1) a project is nationally significant, including the extent to which the project will demonstrate the feasibility of deployment of MAGLEV technology throughout the United States;

"(2) timely implementation of the project will reduce congestion in other modes of transportation and reduce the need for additional MAGLEV projects;

"(3) States, regions, and localities financially contribute to the project;

"(4) implementation of the project will create new jobs in traditional and emerging industries;

"(5) the project will augment MAGLEV networks identified as having partnership potential;

"(6) financial assistance would foster public and private partnerships for infrastructure development and attract private debt or equity investment;

"(7) financial assistance would foster the timely implementation of a project; and

"(8) life-cycle costs in design and engineering are considered and enhanced.

"(g) JOINT VENTURES.—A project under taken by a joint venture of United States and non-United States persons (including a partnership or other arrangement of non-United States MAGLEV technology in the United States) shall be eligible for financial assistance provided under paragraph (1)(B) if the Secretary determines that—

"(A) exhibits partnership potential; or

"(B) is a portion of a recognized pilot project.

"(3) the study required by section 359(d) of the National Highway System Designation Act of 1995 (Public Law 104–59; 109 Stat. 672) further demonstrates the potential for MAGLEV systems.

"(b) POLICY.—It is the policy of the United States to establish a MAGLEV transportation technology system operating along Federal-aid highway and other rights-of-way as part of a national transportation system of the United States.

"(c) RECOGNIZED PILOT PROJECTS.—The term 'recognized pilot projects' means a project, identified in the report transmitted by the Secretary to Congress on the near-term applications of magnetic levitation ground transportation in the United States as required by section 359(d) of the National Highway System Designation Act of 1995 (Public Law 104–59; 109 Stat. 672).

"(d) MAGLEV.—The term 'MAGLEV' means a transportation system employing magnetic levitation that would be capable of safe use by the public at a speed in excess of 240 miles per hour.

"(e) MAGLEV.—(E) MAGLEV makes extensive use of existing highway rights-of-way and consumes less land for its guideway infrastructure than a comparable roadway;

"(f) MAGLEV.—(F) MAGLEV is virtually unaffected by weather conditions, which annually result in delays in other transportation modes employed by freight and passenger carriers; and

"(g) MAGLEV.—(G) MAGLEV makes extensive use of existing highway rights-of-way and consumes less land for its guideway infrastructure than a comparable roadway.

"(h) MAGLEV.—(H) MAGLEV is virtually unaffected by weather conditions, which annually result in delays in other transportation modes employed by freight and passenger carriers; and

"(i) MAGLEV.—(I) MAGLEV makes extensive use of existing highway rights-of-way and consumes less land for its guideway infrastructure than a comparable roadway.

"(j) MAGLEV.—(J) MAGLEV is virtually unaffected by weather conditions, which annually result in delays in other transportation modes employed by freight and passenger carriers; and

"(k) MAGLEV.—(K) MAGLEV makes extensive use of existing highway rights-of-way and consumes less land for its guideway infrastructure than a comparable roadway.
assistance under this section if the project is eligible under subsection (d) and selected under subsection (f).

Subsection (h) requires the Secretary to carry out additional research and provides authority to enter into research contracts with a variety of public and private businesses, institutions, and laboratories.

Subsection (i) requires a report to the Senate Committee on Environment and Public Works on the provision of the Federal share of the cost of design and construction of one or more MAGLEV projects selected by the Secretary. It also provides $10,000,000 annually for authorized research activities.

Paragraph (j)(1) permits any state to use a portion of Federal highway funds appropriated to the state for the Surface Transportation Program (STP) and the Congestion Mitigation Air Quality Program (CMAQ) to pay a portion of the full project costs.

Paragraph (j)(2) and (3) keep the authorized amounts available until expended and provide contract authority.

Paragraph (j)(3) specifies that the Federal funds authorized by this legislation may only be used to pay the capital costs of the fixed guideway infrastructure of a MAGLEV project.

Subsection (j)(4) permits any state to use a portion of Colleton County, SC, will remain in the Coastal Barrier Resources System even though the county never had an opportunity to officially become part of it.

Subsection (k) requires the Secretary to establish a report on the progress made in implementing the legislation, which includes an initial draft inventory in 1985. Comments were made following the release of the initial draft inventory in 1985. Additional comments were made following the release of a second draft in July 31, 1997

CONGRESSIONAL RECORD — SENATE S8565

MAGNETIC LEVITATION (MAGLEV) TRANSPORTATION TECHNOLOGY DEPLOYMENT ACT OF 1997—SECTION-BY-SECTION ANALYSIS Sec. 3 Magnetic Levitation Transportation Technology Deployment Program

Subsection (a) amends Chapter 3 of Title 23, U.S.C. to add a new Section 322 Magnetic Levitation transportation technology deployment program.

Subsection (b) of the new Section 322 provides definitions of several terms subsequently used in the legislative language.

Paragraph (b)(1) of the new Section 322 requires the Secretary to establish a High-Speed Ground Transportation Office in the Federal Railroad Administration to coordinate and administer all high-speed ground transportation projects and make available Federal funds authorized by this section for selected MAGLEV projects.

Paragraph (b)(2) specifies that the Federal share of costs of selected projects shall not exceed ⅓ of the full project costs which include guideway, stations, vehicles and associated facilities.

Paragraph (b)(3) specifies that the Federal funds authorized by this legislation may only be used to pay the capital costs of the fixed guideway infrastructure of a MAGLEV project.

Subsection (c) requires the Secretary to establish criteria for selection of eligible projects and provide a list of criteria to be included.

Subsection (e) requires the Secretary to establish criteria for selection of eligible projects and provides a list of criteria to be included.

Subsection (f) requires the Secretary to establish criteria for selection of eligible projects and provides a list of criteria to be included.

Subsection (g) requires the Secretary to establish criteria for selection of eligible projects and provides a list of criteria to be included.

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Paragraph (j)(3) specifies that the Federal funds authorized by this legislation may only be used to pay the capital costs of the fixed guideway infrastructure of a MAGLEV project.

Subsection (j)(4) permits any state to use a portion of Colleton County, SC, will remain in the Coastal Barrier Resources System even though the county never had an opportunity to officially become part of it.
the spring of 1987. The Department of the Interior received numerous comments on these draft inventories and incorporated many in their final report to Congress. This final report was the basis for the Coastal Barrier Resources System (CBRS) adopted in 1983.

I recite this history because without an understanding of it, Mr. President, one can't understand the intent of my legislation. While the Department of the Interior was drafting this proposed system, a strip of coastal South Carolina was being annexed by Colleton County from Charleston County. Unfortunately, this annexation occurred in 1987 in the midst of the 1987 CBRA comment period. Unfortunately, the notice of this second draft inventory was not received by Colleton County. The county never received any notice. It appears the draft inventory was provided to Charleston County—not Colleton County. In fact, the maps currently on file at the Department of the Interior, still, incorrectly show this tract in Charleston County—not Colleton County. Thus, the citizens of Colleton County, never had an opportunity to comment on these proposed changes, now find this tract included in the CBRS.

I proposed legislation in 1995 to correct this mistake, but it was never reported out of committee. It failed to win the Environment and Public Works Committee's support because the Fish and Wildlife Service, at the time, felt that the area in question had been mapped properly.

Mr. President, since the end of the 104th Congress, I have been working with the Fish and Wildlife Service to address this problem. They have now reevaluated this area and have come to the conclusion that the inundated procedural circumstances in this situation raise concerns of equity and fairness that warrant remapping." Mr. President, I ask unanimous consent to include in the Recess a letter from John Rogers, Acting Director of the U.S. Fish and Wildlife Service, dated May 1, 1997, that says just that.

In short, this bill corrects a mistake made 10 years ago. It rights a wrong. It does not drastically redraft the Coastal Barrier Resources System nor does it withdraw any lands which were included in the 1982 draft. It is narrowly drafted to address Colleton County's unique situation. My staff, working with the Fish and Wildlife Service, has not identified another area in the system which is similarly situated. That is, there are no other areas which changed jurisdictions at the time the Coastal Barrier Resources System boundary was developed and which never received notice of these changes, thus this bill would not prove a precedent for those seeking wholesale changes in the Coastal Barrier Resources System.

In conclusion, the bill simply returns a small portion of Edisto Island, SC to its 1982 status. I urge my colleagues to support this bill.

Ms. SNOWE. Mr. President, I am pleased to join the ranking member of the Commerce Committee, Senator HOLLINGS, in the introduction of the Oceans Act of 1997. This bill will establish a commission like the Stratton Commission of 1966 to reevaluate a number of ocean and coastal issues facing the United States, and to develop a comprehensive, coordinated, national ocean, and coastal policy.

Prior to introduction, I raised a few concerns with Senator HOLLINGS on some provisions of this bill. Basingly, I had recommended some language that made it clear that as we develop a new ocean and coastal policy for the Nation, we keep in mind the facts that our fiscal resources are limited, and that our Federal investments in ocean and coastal resources must be spent efficiently and wisely. I also raised some concerns about the fact that the original draft had the President appointing all of the members of this important commission.

Mr. President, Senator HOLLINGS has graciously agreed to make some changes to the bill pursuant to my recommendations. For instance, the bill now authorizes the Congress to appoint more than half of the Commission's members, and the Commission is directed to identify opportunities to re-form Federal ocean programs to improve efficiency and effectiveness. I commend Senator HOLLINGS for his willingness to work with me and other Republican Senators before introduction of the bill. After introduction, I look forward to working with the distinguished Senator from South Carolina, a Senator who worked on the original Stratton Commission bill 30 years ago and who is a true champion of ocean protection, in the Oceans and Fisheries Subcommittee on any further refinements along these lines that might be constructive.

Again, I thank Senator HOLLINGS and commend him upon introduction of this bill.

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

S. 1105. A bill to amend the Internal Revenue Code of 1986 to provide a sound budgetary mechanism for financ-ing health and death benefits of retired coal miners while ensuring the long-term fiscal health and solvency of such benefits, and for other purposes; to the Committee on Finance.

THE COMPREHENSIVE COAL ACT REFORM ACT

Mr. COCHRAN. Mr. President, today I am introducing legislation which will correct the abuses of Federal tax policy associated with the Reachback Tax on violations of the Coal Industry Health Benefit Act of 1992 (the Coal Act), while guaranteeing the solvency of the Combined Benefit Fund established by that Act.

The legislation will also guarantee retiree health care benefits to approximately 75,000 retired unionized bitu-minous coal miners, their spouses or widows, and dependents. These coal mine retirees have received uninterrupted health care benefits which are among the best available to any group of retirees.

The Coal Act also bestowed a windfall on one class of companies at the expense of another. It is estimated that 62 percent of the cost of these retiree health benefits from the companies which had contracted to pay for them. Those costs are now shouldered by Federal transfers and private employers, who has, no contractual obligation for retiree health care.

Since its passage as part of the National Energy Policy Act, the Coal Act has been the subject of debate in both houses of Congress and tens of millions of dollars has been spent on litigation filed in the Federal courts by companies subjected to its retroactive taxation. Every case has been lost, however, as the courts have ruled that Congress has the power to tax and that it is up to Congress to make or change tax law.

Mr. President, this confiscatory measure is called the Reachback Tax, because it reached back, over the decades and branded for taxation hundreds of companies, or their former owners. Many of these companies have gone out of business or out of the unionized coal business for decades. Many identified by the Social Security Administration as liable for Reachback Taxes, are nothing more than skeletons of business entities holding the dwindling assets of former small enterprises.

Some reachback companies were taxed because they, or a related party, had signed a UMWA multi-employer contract sometime between 1950 and 1988. When the contracts expired, however, each of the reachback companies had fulfilled its obligations to the union and the union members. There were no continuing ties between the reachback companies and former employers, and certainly no promises of lifetime benefits to those former employees, much less their dependents. Furthermore, the union had no claims pending against these companies for retiree health care.

Mr. President, the Reachback Tax, passed without benefit of hearings or debate, has brought economic disaster to hundreds of innocent American companies, and hardship for tens of thousands of their workers. It has caused a fundamental class of companies to receive what they admit is a $130 million annual savings in retiree health benefit costs, and transferred that burden to Federal transfers and private employers, who has, no contractual obligation for retiree health care.

The payment of this Federal tax is an unfair burden on all of the reachback companies. For every beneficiary as-signed, the reachback companies have a liability of approximately $2,400 per year, stretching to the year 2043. No reachback company was promised to absorb such an expense, nor should it have been. Obviously, jobs have been lost and job-creating projects have been delayed or canceled, and new
products and the opening of new markets have been sidetracked because of the Reachback Tax.

When the 102d Congress passed the Reachback Tax in the fall of 1992, it handed the UMWA Combined Fund Trustees a responsibility to require reachback companies to collect every cent of every premium due from every reachback company. It also conferred on the Department of Treasury and the Internal Revenue Service the statutory responsibility to impose $100 per day, per beneficiary penalties on any company that failed to comply with the requirements.

Furthermore, the Department of Treasury’s Office of Tax Policy reports non-paying reachback companies are liable for billions of dollars in penalties.

Mr. President, billions of dollars are due the United States Treasury, yet the Treasury and IRS have not moved to collect these penalties. And, despite this financial threat, some 60 percent of all the reachback companies have ignored their obligations. Some companies are unable to comply with a Federal law they view as unjust.

Mr. President, the Reachback Tax was promoted during the conference on the Energy Act as an emergency effort to address the deficits in the UMWA health benefits fund, and as necessary to save the retirees from an imminent suspension of health care benefits. However, the deficit never materialized. Instead, the General Accounting Office, the private firms Towery Perrin, Deloitte & Touche, and the UMWA Combined Benefit Fund trustees have confirmed a huge surplus in the fund.

The legislation I am introducing today will statutorily guarantee that those surpluses continue through the life of the fund, as several new and permanent cost containment measures by the fund managers have dramatically lowered its expenses below original projections. Furthermore, the number of beneficiaries in the closed pool continues to decline because of mortality.

Statutory relief is the only relief available to these reachback companies. It is needed immediately. I urge Senators to join in support of this legislation to mitigate an unintended impact of well-intended legislation.

Mr. CONRAD. Mr. President, I am pleased to join Senator COCHRAN in sponsoring this reachback tax relief bill to alleviate the inequitable hardships that the Coal Industry Retirees Health Benefits Act of 1992 imposed on certain companies.

First, it is important to note that the Coal Act of 1992 assured coal miners and their dependents that their health benefits were permanently secured. And, it provided a statutory foundation to implement that commitment. This legislation continues that commitment and maintains the legal foundation to carry it out.

However, the funding mechanism of the Act has produced severe financial hardship for many companies subject to it. Our legislation reforms the Coal Act to eliminate this very serious and growing problem. In order to fund the 1992 Coal Act, reachback companies, many long removed from deep coal mining, were subjected to a burdensome tax that in many cases threatens their existence. Many companies are no longer in business, and long ago withdrew from the Bituminous Coal Operators Association [BCOA] having met their legal obligations to fund retiree health benefits. It is the BCOA that negotiated a series of collective bargaining agreements with their employees and at the urging of the BCOA, the final contract contribution formula did not fully fund the benefits. The solution to this funding shortfall came down to asking others to help pay, even those who had long ago left the coal business.

We have now reached a point where reform is essential. As much as $16 billion in penalties have accumulated against companies for delinquent premiums. These companies are ignoring the law, and we must act now to preserve the solvency of the miners’ fund as well as provide a modest level of equitable relief for all reachback companies. When this comprehensive bill becomes law, BCOA companies will not be penalized for failure to act.

To make matters worse, a recent federal court decision has had the adverse effect of reducing the Combined Fund revenues by ten percent and thus threatening the solvency of the Fund. If the decision is left standing, the shortfall will be $1 billion by the year 2002. We must act now to preserve the solvency of the miners’ fund as well as provide the urgently needed reachback relief. This legislation reverses the court’s decision and increases BCOA premiums, to preserve the long-term solvency of the Fund and provide a modest level of reachback relief. Following are key reforms in our legislation:

(1) Eliminates premiums for certain reachback companies and significantly reduces premiums for other reachbacks;

(2) Creates a cap on all small company premiums;

(3) Creates relief for companies who paid withdrawal fees; and

(4) Strengthens the fiscal integrity of the miners’ fund by overturning the court decision and increasing BCOA premiums.

The passage of the Coal Act in 1992 has saved the coal producing members of the BCOA more than $130 million per year over their prior annual benefit payment liabilities. The BCOA companies’ $130 million annual windfall will need to be reduced in order to provide fiscal relief to the many reachback companies. When this comprehensive bill becomes law, BCOA companies will still benefit from about $100 million in annual savings.

Mr. President, the problems being caused by the Reachback Tax are severe and require a remedy. Congress should act now to reform the Coal Act in order to provide equitable relief for all reachback companies as well as to permanently secure the miners’ benefits. We should pass the Comprehensive Coal Act Reform proposal now.

By Mr. COATS: S. 1106. A bill to provide for the establishment of demonstration projects designed to determine the social, civic, psychological, and economic effects of providing to individuals and families with limited means an opportunity to accumulate assets, and to determine the extent to which an asset-based policy may be used to enable individuals and families with limited means to achieve economic self-sufficiency; to the Committee on Finance.

THE ASSETS OF INDEPENDENCE ACT

Mr. COATS. Mr. President, I am pleased to introduce for Independence Act, bipartisan legislation designed to help poor and working-poor Americans build the productive assets they need to get out of poverty and invest in their future.

Just as people can’t borrow their way out of debt, they can’t spend their way out of poverty. To move forward, America’s struggling families need assets. For assets are ““hope in concrete form.” While our Nation has wisely recognized this fact for our middle- and upper-income families by subsidizing, through the Tax Code, the acquisition of homes and retirement accounts, we have not extended these very sensible policies to our lower-income citizens. In fact, they are often penalized if they try to save.

Mr. President, the legislation will change that, and set them on a path to economic independence. And, by increasing our national savings rate, it will help set America on a path to greater productivity and prosperity. I truly believe that IDA’s can be to the 21st century what the Homestead Act was to the 19th and what the GI Bill was to the 20th—an investment in the common genius of the American people. The truth, Mr. President, is that we have spent billions on the poor, barely invested in them. And I say emphatically that IDA’s are not a give-away—they are an investment.

The Assets for Independence Act authorizes the Department of Health and Human Services to fund Community-based Individual Development Accounts [IDA] programs throughout the country. IDA’s are matched savings accounts that can be used by low-income people to acquire a first home, a small business or post-secondary education or training. To help the poor save and to encourage work, their earned income would be matched by federal,
non-federal, and private dollars. All payments would go directly to the third-party vendors (for example, directly to the mortgage company for people using their IDA to buy their first home) and, like IRA’s, there would be no contributions for this purpose. Community-based non-profit organizations would have to compete and raise money to be an IDA demonstration site. The legislation authorizes $25 million a year for 4 years for the demonstration.

President, IDA’s are not new to America. In fact, they’re spreading rapidly; in part as a result of legislation I proposed, and the Congress passed, last year in connection with the welfare reform bill.

Over 40 private, community-based IDA’s programs are operating around the country. I am pleased to say that one of the oldest and most successful IDA programs in the country, at Eastside Community Investments, is located in Indianapolis.

Fourteen States have already included IDA’s in their State welfare reform plans, as permitted by the passage of last year’s legislation.

Twenty States have sponsored their own IDA’s, some through refundable tax credits, others through direct appropriation. For example, Pennsylvania has allocated $1.25 million for IDA’s through a “Family Savings Accounts” program for low-income families.

Over 200 community-based groups in 43 States signified their intention to develop IDA’s in response to a large, privately-funded IDA demonstration, slated to begin later this summer.

When I talk about IDA’s, people often say to me that the poor cannot save. Well they’re wrong. The poor can and do save. As of 1995, some 171,000 low-income families saved more than $250 million through community development credit unions in many of America’s poorest neighborhoods. Also, I believe that the savings rate of the poor will rise tremendously once we start supporting saving, both institutionally and culturally. And finally, I doubt that all this IDA activity in the country would be going on—all the millions of dollars being committed by major foundations, corporations, and States to IDA’s—if there wasn’t a core belief in the ability and willingness of the poor to save for long-term, productive assets.

In closing, Mr. President, I would strongly encourage my colleagues to cosponsor this legislation. Just as the private sector and several State have invested in America’s poor through IDA’s, we—the Federal Government should invest too. Our commitment to IDA’s could leverage millions more in private and State contributions—and thereby help move millions of hard-working low-income families from poverty to independence. I ask unanimous consent that the text of the bill as introduced be printed in the RECORD at this point.

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

S. 1106

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 “Assets for Independence Act”.

(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. Purposes. |
| Sec. 4. Definitions. |
| Sec. 5. Applications. |
| Sec. 6. Demonstration authority; annual grants. |
| Sec. 7. Reserve fund. |
| Sec. 8. Eligibility for participation. |
| Sec. 9. Selection of individuals to participate. |
| Sec. 10. Deposits by qualified entities. |
| Sec. 11. Local control over demonstration projects. |
| Sec. 12. Annual progress reports. |
| Sec. 13. Sanctions. |
| Sec. 15. Authorization of appropriations. |
| Sec. 16. Funds in individual development accounts. |

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Economic well-being does not come solely from income, spending, and consumption, but also requires savings, investment, and accumulation of assets because assets can improve economic independence and stability, connect individuals with a viable and hopeful future, stimulate development of human and other capital, and enhance the welfare of offspring.

(2) Fully ½ of all Americans have either no, negligible, or negative assets available for investment, just as the price of entry to the economic mainstream, the cost of a house, an adequate education, and starting a business, is increasing. Further, the household savings rate in the United States lags far behind other industrial nations presenting a barrier to economic growth.

(3) In the current tight fiscal environment, the United States must target existing resources in high-yield initiatives. There is reason to believe that the financial returns, including increased income, tax revenue, and decreased welfare costs, resulting from individual development accounts, will far exceed the cost of investment in those accounts.

(4) Traditionally, public assistance programs concentrating on income and consumption have rarely been successful in promoting and supporting the transition to increased economic well-being, and in reducing poverty. Income-based domestic policy should be complemented with asset-based policy because, while income-based policies alone can provide only limited success in helping families and individuals accumulate assets to become self-sufficient, asset-based policies provide the means to achieve greater independence and economic well-being.

SEC. 3. PURPOSES.

The purposes of this Act are to provide for the establishment of demonstration projects designed to determine:

(1) the economic, psychological, and economic effects of providing to individuals and families with limited means an incentive to accumulate assets by saving a portion of their earned income in individual development accounts;

(2) the extent to which an asset-based policy that promotes saving for education, homeownership, and microenterprise development may be used to enable individuals and families with limited means to increase their economic self-sufficiency; and

(3) the extent to which asset-based policy stabilizes and improves families and the community in which they live.

SEC. 4. DEFINITIONS.

In this Act:

(1) APPLICABLE PERIOD.—The term “applicable period” means, with respect to amounts to be paid from a grant made for a project year, the calendar year immediately preceding the calendar year in which the grant is made.

(2) ELIGIBLE INDIVIDUAL.—The term “eligible individual” means an individual who is selected to participate by a qualified entity under section 9 of this Act.

(3) HOUSEHOLD.—The term “household” means all individuals who share use of a dwelling unit as primary quarters for living and eating separate from other individuals.

(4) INDIVIDUAL DEVELOPMENT ACCOUNT.—

(A) IN GENERAL.—The term “individual development account” means a trust created or organized in the United States exclusively for the purpose of paying the qualified expenses of an eligible individual, but only if the written governing instrument establishing the trust meets the following requirements: (i) No contribution will be accepted unless it is cash or checks; and (ii) The trustee is a federally insured financial institution.

(B) CUSTODIAL ACCOUNT.—For purposes of subparagraph (A), a custodial account shall be treated as a trust if the assets of the custodial account are held by a bank (as defined in section 408(n) of the Internal Revenue Code of 1986) or another person who demonstrates to the Secretary, that the manner in which such person will administer the custodial account will be consistent with the requirements of this Act, and if the custodial account (except for the fact that it is not a trust, constitutes an individual development account described in subparagraph (A). For purposes of this Act, the custodian of a custodial account treated as a trust by reason of the preceding sentence, the custodian of that custodial account shall be treated as the trustee thereof.

(C) NON-FEDERAL PUBLIC SECTOR FUNDS.—The term “non-Federal public sector funds” includes any non-Federal funds disbursed from a source pursuant to a program operated under the Social Security Act (42 U.S.C. 601 et seq.).

(D) PROJECT YEAR.—The term “project year” means, with respect to a demonstration project, any of the 4 consecutive 12-
CONGRESSIONAL RECORD — SENATE

July 31, 1997

S8569

month periods beginning on the date the project is originally authorized to be conducted.

(7) QUALIFIED ENTITY.—

(A) IN GENERAL.—The term "qualified entity" means—

(i) one or more not-for-profit organizations described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code; or

(ii) a State or local government agency submitting an application under section 5 joint with an organization described in clause (i).

(B) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed as preventing an organization described in subparagraph (A) from collaborating with a financial institution or for-profit community development corporation to carry out the purposes of this Act.

(8) QUALIFIED EXPENSES.—The term "qualified expenses" means 1 or more of the following, as provided by the qualified entity:

(A) POSTSECONDARY EDUCATIONAL EXPENSES.—Postsecondary educational expenses paid from an individual development account directly to the persons to whom the amounts have been credited under this Act.

(B) FIRST-TIME HOMEBUYER.—

(i) QUALIFIED ACQUISITION COSTS.—The term "qualified acquisition costs" means the costs of acquiring a principal residence on or before the date of acquisition of the principal residence to which this subparagraph applies.

(ii) IN GENERAL.—The term "date of acquisition" means the date on which a binding agreement is signed or recorded for the purchase or lease of the principal residence to which this subparagraph applies.

(C) BUSINESS CAPITALIZATION.—Amounts paid or incurred by a qualified entity to construct the principal residence to which this subparagraph applies.

(D) TYPICAL INCOME LIMITS.—Such other factors relevant to the purposes of this Act as the Secretary may specify.

(9) QUALIFIED EXPENDITURES.—The term "qualified expenditures" means expenditures included in a qualified plan, including capital, plant, equipment, working capital, and inventory expenses.

(10) QUALIFIED BUSINESS.—The term "qualified business" means any business that does not contravene any law or public policy (as determined by the Secretary).

(11) QUALIFIED PLAN.—The term "qualified plan" means a business plan or a plan to use a business asset purchased, which—

(i) is approved by a financial institution, a microenterprise development organization, or a nonprofit loan fund having demonstrated fiduciary integrity;

(ii) includes a description of services or goods to be sold, a marketing plan, and projected financial statements; and

(iii) may require the eligible individual to obtain the assistance of an experienced entrepreneur.

(12) TRANSFERS TO IDAS OF FAMILY MEMBERS.—Amounts paid from an individual development account directly into another account of such an individual or the benefit of an eligible individual who is—

(i) the individual’s spouse; or

(ii) any dependent of the individual with respect to whom the individual is allowed a deduction under section 151 of the Internal Revenue Code of 1986.

(13) QUALIFIED SAVINGS.—The term "qualified savings" means the aggregate of the amounts contributed by such an individual to such an account.

(14) COMMITMENT OF NON-FEDERAL FUNDS.—The aggregate amount of funds committed by private sources that are formally committed to the purposes of this Act and the Secretary shall give preference to an application that—

(i) demonstrates the willingness and ability of the project to achieve the project’s objectives; and

(ii) will be used to fill the gap between the availability of public sector funds and the project’s costs.

(15) ADEQUACY OF PLAN FOR PROVIDING INFORMATION.—The Secretary shall, on a competitive basis, approve an application to conduct demonstration projects under this Act as the Secretary deems appropriate, taking into account the assessments required by subsections (b) and (c). The Secretary is encouraged to ensure that the applications that are approved involve a range of communities (both rural and urban) and diverse populations.

(16) CONTRACTS WITH NONPROFIT ENTITIES.—The Secretary may enter into contracts with nonprofit entities to provide grants for 4 project years in accordance with the approved application and the requirements of this Act.

(17) GROCERIES.—Funds may be used for the purchase of groceries, including food, clothing, and household goods, for the benefit of an eligible individual.

(18) GRANTS.—The Secretary may contract with an entity to serve as a clearinghouse for information relevant to the purposes of this Act.

(19) OTHER FACTORS.—Such other factors relevant to the purposes of this Act as the Secretary may specify.

SEC. 5. DEMONSTRATION AUTHORITY; ANNUAL GRANTS.

(a) DEMONSTRATION AUTHORITY.—If the Secretary approves an application to conduct a demonstration project under this Act, the Secretary shall, not later than 10 months after the date of enactment of this Act, authorize the applicant to conduct the project on the first day of the project year in an amount not to exceed the lesser of—

(i) the aggregate amount of funds committed as matching contributions by non-Federal public or private sector sources; or

(ii) $1,000,000.

(b) GRANT AUTHORITY.—For each project year, a demonstration project conducted under this Act, the Secretary shall make a grant to the qualified entity authorized to conduct the project on the first day of the project year in an amount not to exceed the lesser of—

(i) the aggregate amount of funds committed as matching contributions by non-Federal public or private sector sources; or

(ii) $1,000,000.

SEC. 6. RESERVED FUND.

(a) ESTABLISHMENT.—A qualified entity under this Act, other than a State or local government agency, shall establish a Reserve Fund which shall be maintained in accordance with this section.

(b) DISTRIBUTION IN RESERVE FUND.—

(i) IN GENERAL.—As soon after receipt as is practicable, a qualified entity shall deposit
SEC. 8. ELIGIBILITY FOR PARTICIPATION.

(a) In General.—Any individual who is a member of a household that is eligible for assistance for needy families program established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), or that meets the following requirements shall be eligible to participate in a demonstration project conducted under this Act:

(1) INCOME TEST.—The adjusted gross income of the household of an individual does not exceed $10,000.

(2) DETERMINATION OF NET WORTH.—For purposes of subparagraph (A), the net worth of a household is the amount equal to:

(i) the fair market value of all assets that are owned in whole or in part by any member of the household; minus

(ii) the obligations or debts of any member of the household.

(b) APPLICATION.—The Secretary shall establish such regulations as are necessary to ensure compliance with the approved applications and the requirements of this Act.

(c) EFFECTIVE DATE.—This section shall take effect 90 days after the date of enactment of this Act.

(d) INCOME LIMITS.—The adjusted gross income limits shall be adjusted annually by the Secretary by means that the Secretary finds to be appropriate.

SEC. 9. SELECTION OF INDIVIDUALS TO PARTICIPATE.

From among the individuals eligible to participate in a demonstration project conducted under this Act, each qualified entity shall select the individuals:

(1) that the qualified entity deems to be best suited to participate and

(2) to whom the qualified entity will provide deposits in accordance with section 10.

SEC. 10. DEPOSITS BY QUALIFIED ENTITIES.

(a) IN GENERAL.—Not less than once every 3 months during each project year, each qualified entity under this Act shall deposit in the individual development account of each individual participating in the project, or into a parallel account maintained by the qualified entity:

(1) from the non-Federal funds described in section 6(b), a matching contribution of not less than $10.00 and not more than $4 for every $1 of earned income (as defined in section 911(d)(2) of the Internal Revenue Code of 1986) deposited in the individual development account by a project participant during that period;

(2) from the grant made under section 6(b), an amount equal to the matching contribution made under paragraph (1); and

(3) any interest that has accrued on amounts deposited under paragraph (1) or (2) on behalf of that individual into the individual development account of that individual or into a parallel account maintained by the qualified entity.

(b) LIMITATION ON DEPOSITS FOR AN INDIVIDUAL.—Not more than $2,000 from a grant made under section 6(b) shall be provided to any individual over the course of the demonstration project.

(c) LIMITATION ON DEPOSITS FOR A HOUSEHOLD.—Not more than $4,000 from a grant made under section 6(b) shall be provided to any household over the course of the demonstration project.

(d) WITHDRAWAL OF FUNDS.—The Secretary shall establish such guidelines as may be necessary to ensure that funds held in an individual development account or a parallel account maintained by a qualified entity shall be used by the qualified entity for the purposes described in subparagraphs (A), (C), and (D) of this section to the extent provided to a qualified entity by all sources to the qualified entity under section 6(b); during the period for which such amounts were withdrawn; and

(1) the balances remaining in the individual development accounts.

(2) the balances remaining in the individual development accounts.

(3) the balances remaining in the individual development accounts.

(4) the balances remaining in the individual development accounts.

(5) the balances remaining in the individual development accounts.

(6) the balances remaining in the individual development accounts.

(7) the balances remaining in the individual development accounts.

SEC. 11. LOCAL CONTROL OVER DEMONSTRATION PROJECTS.

A qualified entity conducting a demonstration project, other than a State or local government agency, shall, subject to the provisions of section 13, have sole authority over the administration of the project. The Secretary may prescribe only such regulations or guidelines with respect to demonstration projects conducted under this Act as are necessary to ensure compliance with the approved applications and the requirements of this Act.

SEC. 12. ANNUAL PROGRESS REPORTS.

(a) Qualified entity under this Act shall prepare an annual report on the progress of the demonstration project. Each report shall specify for the period covered by the report the following information:

(1) The number of individuals making a deposit into an individual development account.

(2) The amount of funds withdrawn from the individual development accounts.

(3) The amounts deposited in the individual development accounts.

(4) The amounts withdrawn from the individual development accounts.

(5) The balances remaining in the individual development accounts.

(6) The balances remaining in the individual development accounts.

(7) The balances remaining in the individual development accounts.

(8) The balances remaining in the individual development accounts.

SEC. 13. SANCTIONS.

(a) AUTHORITY TO TERMINATE DEMONSTRATION PROJECT.—If the Secretary determines that a qualified entity under this Act is not operating the demonstration project in accordance with the application or the requirements of this Act, the Secretary may take such steps as the Secretary finds necessary to terminate the authority of the Secretary to authorize the qualified entity to conduct the demonstration project, and subsequent reports shall be submitted every 12 months thereafter, until the conclusion of the project.

(b) ACTIONS REQUIRED UPON TERMINATION.—If the Secretary terminates the authority to conduct a demonstration project, the Secretary shall:

(1) suspend the demonstration project;

(2) shall take control of the Reserve Fund established pursuant to section 7;

(3) shall make every effort to identify another qualified entity (or entities) willing and able to conduct the project in accord-
Currently, the Postal Service charges $3.00 per item for its Priority Mail, which is advertised as reaching the recipient in two days, though that isn’t guaranteed. This means the lowest price a private competitor can offer for two-day delivery is $2.00, and the Postal Service raised its rate by $1.00 to $4.00 an item, a private delivery company offering $6.00 service would have no choice but to impose a $2.00 increase, to $8.00.

As you can see, the law gives the Postal Service great power to control the rates charged by its private competitors and limit competition. Combine that with the Postal Service’s ability to second-guess a consumer’s decision to use a private carrier and you have a very uneven playing field.

The Postal Service has displayed a willingness to use its governmental powers for competitive advantage. In 1993 it was reported that the Postal Service had audited corporations and fined them as much as $500,000 in back postage fees for using UPS and Federal Express when the Postal Service inspectors thought those choices were not warranted.

More recently, the Postal Service spent over $200 million on an advertising campaign for Priority Mail. The campaign was based on the Postal Service’s lower price—$3.00 for Priority Mail versus $6.00 for UPS and $8.00 for Federal Express. Of the ads left out the fact that the private companies were prohibited by law from matching the Postal Service price—or charging anything less than a $2.00 surcharge.

Mr. President, the bill I am introducing today does one simple thing to level the field of competition. It replaces the double postage rule with a ‘two-dollar rule.’ Under my bill, private companies will be able to legally charge any rate above $2.00 for their second-day products. If they want to match the Postal Service at $3.00, they may. The law will no longer impose an artificial ‘double postage’ rule forcing private companies to charge above market rates.

This legislation will stop government intrusions into private consumer decisions and will increase competition in the area of delivering urgent letters. I urge support for the Double Postage Rule Elimination Act of 1997.

By Mr. MOYNIHAN (for himself and Mr. D’AMATO):
S. 1108. A bill to designate the Federal building located at 230 Broadway in New York City as the Ronald H. Brown Federal Building; to the Committee on Environment and Public Works.

THE RONALD H. BROWN FEDERAL BUILDING DESIGNATION ACT OF 1997

Mr. MOYNIHAN. Mr. President, I rise to introduce a bill to honor and remember a truly exceptional American, Ronald H. Brown. The bill would designate the newly constructed Federal Building as the Ronald H. Brown Federal Building...
building located at 290 Broadway in the heart of lower Manhattan as the “Ronald H. Brown Federal Building.” It is a fitting gesture to recognize the passing of this remarkable American, and I would ask for my colleagues’ support for this legislation to place one more marker in history on Ron Brown’s behalf.

Ron Brown had a great love for enterprise and industry as reflected in his achievements as the first African-American to hold the office of U.S. Secretary of Commerce. His was also a life of outstanding achievement and public service: Army captain; vice president of the National Urban League; partner in a prestigious law firm; chairman of the National Democratic Committee; husband and father. And these are but a few of the achievements that demonstrated Ron Brown’s spirited and sweeping pursuit of life.

To have held any one of these posts in the government, and in the private sector, is extraordinary. To have held all of the positions he did and prevail as he did, is unique. Ron Brown was tragically taken from us too soon; we are diminished by his loss. I cannot think of a more fitting tribute to this uncommon man.

I ask unanimous consent that the text of the Ronald H. Brown Federal Building Designation Act of 1997 be printed in the RECORD.

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

SEC. 1. DESIGNATION.

The Federal building located at 290 Broadway in New York, New York, shall be known and designated as the “Ronald H. Brown Federal Building.”

SEC. 2. REFERENCES.

Any reference in any law, map, regulation, document, paper, or other record of the United States Code, to place a limitation on the Federal Building”.

By Mr. SPECTER: S. 1110. A bill to amend title 28, United States Code, to place a limitation on habeas corpus relief that prevents retrial of an accused; to the Committee on the Judiciary.

The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

This legislation is designed to prevent the U.S. District Courts from ordering a retrial in a case wherein the defendant has appealed his conviction to the United States Court of Appeals for the Third Circuit which will review the matter. A further appropriate response is legislation to make the statute explicit that the district court may not impose a remedy to bar new trial.

Under our Federal system, it should be—and this bill will establish the statutory authority—for the district attorney in Lancaster County to make the judgment whether the unsuppressed evidence is sufficient for a retrial. It would then be up to the court of Common Pleas of Lancaster County to make the first judicial judgment on the retrial issues with appropriate appellate procedures in the Superior and Supreme Courts of Pennsylvania.

This principled approach respects judicial independence.

When the District Court issued its opinion, there was an immediate public outcry for impeachment. At that time, I said and I repeat today, impeachment is not an appropriate response.

The appropriate response is an appeal to the United States Court of Appeals for the Third Circuit which will review the matter. A further appropriate response is legislation to make the statute explicit that the district court may not impose a remedy to bar a new trial.

This bill would not affect the otherwise extensive authority of the U.S. District Courts to protect rights where constitutional issues are raised. Obviously, a statute could not deal with the defendant’s constitutional rights. That would require a constitutional amendment.

However, this bill on the issue of retrial is within the purview of appropriate legislation pursuant to Article V of the 14th amendment.

By Mr. LAUTENBERG: S. 1111. A bill to establish a youth mentoring program; to the Committee on the Judiciary.

JUMP AHEAD ACT OF 1997

Mr. LAUTENBERG. Mr. President, millions of young people in America live in areas where drug use, violent and property crimes are a way of life. Unfortunately, these same young people come from one-parent homes, or from environments where there is no responsible, caring adult supervision. These at-risk children are on the brink—their lives could go in either a positive or destructive direction. There is indisputable evidence, however, that at-risk children who have responsible adult mentors choose the right path.

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This legislation respects the authority of the Federal courts to uphold a defendant’s constitutional rights in State court criminal proceedings. It may well be that the Court of Appeals for the Third Circuit will act to reverse the order barring a retrial.

Whatever action is taken in the case of Commonwealth versus Lisa Michelle Lambert, the Federal habeas corpus law should be clear that U.S. District Courts do not have the authority to bar a retrial.

This legislation is designed to prevent the U.S. District Courts from ordering a retrial in a case wherein the defendant has appealed his conviction to the United States Court of Appeals for the Third Circuit which will review the matter. A further appropriate response is legislation to make the statute explicit that the district court may not impose a remedy to bar new trial.

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Since its enactment, JUMP has funded 93 separate mentoring programs in over half the States in the Union. The competition for these JUMP awards is great: Over 479 communities submitted applications for the recent round of grants. JUMP grantees use a variety of program designs. Many programs involve mentoring, education and fire, local and school-based, national and community-based, and neighborhood-based. The opportunities are endless!
of all races they come from urban, suburban, and rural communities, and range in age from 5 to 20. Some are incarcerated or on probation, some are in school, and some are dropouts. In its first year, JUMP helped to keep thousands of at-risk young people in 25 States in school and away from the streets through one-to-one mentoring.

Mr. President, now is the time to take mentoring to the next level. The JUMP Ahead Act enhances the basic success and results of JUMP, and increases awards to up to $200,000. It also increases authorized funding to $50 million per year for 4 years, for a total of $200 million. This initiative will not only vastly increase the number of mentoring programs able to receive grants, but it also creates a new category of grants that will enable experienced national organizations to provide needed technical assistance to emerging mentoring programs nationwide. Also, the legislation mandates the Justice Department to rigorously evaluate the program to document what is effective, and what does not produce results. The increased funding allows the DOJ to award grants to a wider group of applicants, allowing for greater diversity. However, the high standards set by the JUMP program must still be met by all grantees. Mr. President, mentoring works. Not only is this confirmed by common sense and life experience, but also by scientific research. One of the best ways to encourage young people to stay in school, and showed modest gains in one-half as likely to initiate alcohol use. Hence, minority Little Sisters were only about one-half as likely to initiate alcohol use. Mentoring programs that have received funding grants; (7) unfortunately, despite the recent growth in public and private mentoring initiatives, it is reported that between 5,000,000 and 15,000,000 additional children in the United States could benefit from being matched with a mentor; and (8) although great strides have been made in reaching at-risk youth since the inception of the JUMP program, millions of vulnerable American children are not being reached, and without an increased commitment to connect these young people to responsible adult role models, our country risks losing an entire generation to drugs, crime, and unproductive lives.

SEC. 3. JUVENILE MENTORING GRANTS.

(a) IN GENERAL.ÐThe Administrator of the Office of Juvenile Justice and Delinquency Prevention of the Department of Justice may make grants to national organizations or agencies serving youth, in order to enable those organizations or agencies to:

(1) conduct a multisite demonstration project, involving between 5 and 10 project sites, that...
Mr. CAMPBELL. Mr. President, it gives me great personal pleasure to introduce the Buffalo Nickel Commemorative Coin Act of 1997. I am also pleased to have Senators INOUYE, CONRAD, and WELLSTONE as cosponsors of this legislation.

For those of us old enough to remember or for those who have seen one, the buffalo nickel holds a special place in history. This coin was in general circulation from 1913 to 1938, and it featured an Indian head design on one side with a buffalo design on the reverse.

The coin's history is an interesting one, and I would like to share it with my colleagues. The artist who designed this coin, James Earle Fraser, wanted to produce a coin which was truly unique and American. I believe Mr. Fraser put it best himself when he said, "In designing the buffalo nickel, my first object was to produce a design which was truly American, and that could not be confused with the currency of any other country. I made sure, therefore, to use none of the attributes that other nations had used in the past. And, in my search for symbols, I found no motif within the boundaries of the United States so distinctive as the American buffalo or son.

According to historical sources, the Indian head on the nickel was created by Mr. Fraser based upon three models: Iron Tail, an Oglala Sioux; Two Moons, a Northern Cheyenne; and Big Tree, a Seneca Iroquois. Supposedly all three Indians were appearing in wild-west shows in New York City at the time they posed for Mr. Fraser.

As for the buffalo, historians generally agree that the model was Black Diamond, a bull bison residing in the Central Park Zoo. Unfortunately, after being immortalized on the buffalo nickel, Black Diamond was slaughtered.

The end result was a coin which was, indeed, truly unique. It has been roughly 60 years since the U.S. Bureau of the Mint ended production of the buffalo nickel. The bill I am offering today would direct the Secretary of the Treasury to mint a limited-edition commemorative buffalo nickel coin to begin in the year 2000. I believe it is fitting to reintroduce this beloved coin to new generations of Americans.

These coins will also serve another important purpose appropriate to its representation of a Native American, and on the reverse side a representation of a buffalo.

For those of us old enough to remember or for those who have seen one, the buffalo nickel holds a special place in history. This coin was in general circulation from 1913 to 1938, and it featured an Indian head design on one side with a buffalo design on the reverse.

The origins of this legislation stem from my personal interest in the American buffalo nickel, a coin minted under the Coin Act of 1913. As for the buffalo, historians generally agree that the model was Black Diamond, a bull bison residing in the Central Park Zoo. Unfortunately, after being immortalized on the buffalo nickel, Black Diamond was slaughtered.

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The end result was a coin which was, indeed, truly unique. It has been roughly 60 years since the U.S. Bureau of the Mint ended production of the buffalo nickel. The bill I am offering today would direct the Secretary of the Treasury to mint a limited-edition commemorative buffalo nickel coin to begin in the year 2000. I believe it is fitting to reintroduce this beloved coin to new generations of Americans.
SEC. 5. ISSUANCE OF COINS.

(a) QUALITY OF COINS.—Coins minted under this Act shall be issued in uncirculated and proof qualities.

(b) MINT FACILITY.—Only 1 facility of the United States Mint may be used to strike any particular combination of denomination and quality of the coins minted under this Act.

(c) TERMINATION OF MINTING AUTHORITY.—No coins may be minted under this Act after December 31, 2000.

SEC. 6. SALE OF COINS.

(a) SALE PRICE.—The coins issued under this Act shall be sold by the Secretary at a price equal to the sum of—

(1) the face value of the coins; and

(2) the surcharge provided in subsection (d).

(b) BULK SALES.—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.

(c) PREPAID ORDERS.—Prepaid orders under paragraph (1) shall be at a reasonable discount.

(d) SURCHARGES.—All sales shall include a surcharge of $1.00 per coin.

SEC. 7. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this Act.

(b) EQUITY IN EMPLOYMENT OPPORTUNITY.—Subsection (a) does not relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

SEC. 8. DISTRIBUTION OF SURCHARGES.

(a) PERMISSIBLE PURPOSES.—All surcharges received by the Secretary from the sale of coins issued under this Act shall be paid promptly by the Secretary to the National Museum of the American Indian for the purposes of—

(1) commemorating the tenth anniversary of the establishment of the Museum; and

(2) supplementing the endowment and education outreach funds of the Museum.

(b) AUDITS.—The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the National Museum of the American Indian as may be related to the expenditures of amounts paid under subsection (a).

SEC. 9. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to assure that netting and pooling of coins under this Act will not result in any net cost to the United States Government.

(b) PAYMENT FOR COINS.—A coin shall not be issued under this Act unless the Secretary has received—

(1) full payment for the coin; and

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

By Mr. GRASSLEY (for himself, Mr. DURBIN, Mr. HATCH, Mr. DEWINE, Mr. HAGEL, and Mr. WARNER): S. 1113. A bill to extend certain temporary judgeships in the Federal judiciary; to the Committee on the Judiciary.

TEMPORARY JUDGESHIP LEGISLATION

Mr. GRASSLEY. Mr. President, as Chairman of the Judiciary Subcommittee on Administrative Oversight and the Courts, I have studied the recommendations of the Judicial Conference regarding the extension of a number of temporary article III judgeships. I am offering this bill along with Senators DURBIN, HATCH, DEWINE, WARNER, and HAGEL in response to the Judicial Conference’s recommendations.

Much anecdotal evidence and rhetorical commentary have been given, in both the press and from this body, regarding the burdened and overworked state of the Federal judiciary. My experience does not bear this out. I have been a member of the Judiciary Subcommittee on Administrative Oversight and the Courts for a number of years. In past years, this committee was likely to take the Judicial Conference’s recommendations as given. Recently, in any role as chairman, I have taken a more hands on approach to the appointment and extension of judgeships in the Federal system. As part of this approach, I have held hearings on this subject and I have made suggestions to the Judicial Conference on ways to improve their surveys. In part, as a result of my input, the Judicial Conference added a question to its Biennial Judicial Survey that asks not only if the circuit or district has need of additional judgeships, but also whether the circuit or district might have too many judgeships for its current caseload. Because caseloads in some districts will inevitably decline, this question addresses a problem not previously addressed. The purpose of the question is to help the Judicial Conference decide, when faced with a district that has a declining caseload, whether to reallocate resources to another district or to eliminate an unnecessary judgeship.

As I noted, I have studied various judiciary issues and have worked with the judiciary to address some of these issues. From my studies and from conversations I’ve had with those on the bench, there is no judicial crisis looming on the horizon. However, changing circumstances in some judicial districts do need to be addressed. That is why I am proposing this bill. It addresses the needs of some of these districts in a substantive, rational manner.

Biennially, the Judicial Conference makes judgeship recommendations to Congress regarding the needs of the Federal courts. The Conference sends recommendations to the district judge in each district. A Biennial Judicial Survey that they are to submit with the caseloads and weighted caseloads of the district and report on the status of the district. This survey includes information on how the district makes use of its senior and magistrate judges and any recommendations that the chief judge may have regarding additional judgeships or extension of judgeships in the district. The Conference then reviews this information and passes its recommendations on to Congress for review.

For the 1996 survey, the Judicial Conference recommended that 12 districts not have their current or expired temporary judgeships either make or add permanent positions or extend the temporary judgeships for an additional 5 years. The Judicial Conference only made recommendations for those districts which would have weighted caseloads in excess of the 430 maximum recommended caseload per article III judge, should the temporary position expire.

Weighted caseloads are the actual caseloads per district, weighted or altered to reflect the difference in time and attention needed for certain types of cases. For example, criminal cases, in general, are more time consuming and thus are more heavily weighted. However, prior to this petition, petitions are generally easier to resolve because the petition usually addresses issues previously addressed and resolved by the court.

Based on this survey, the Judicial Conference recommended a permanent judgeship position be added to the northern district of Alabama to replace the temporary judgeship Congress allowed to expire last year. In addition, the Conference would like to make the temporary judgeships in the eastern district of California, northern district of New York, eastern district of Virginia, and the southern district of Illinois permanent. The survey indicated that the weighted caseload per article III judge exceeded the recommended 430 caseload in these cases. The Judicial Conference also recommended, based on this survey, that the temporary judgeships in the districts of Hawaii, Kansas, Nebraska, eastern Missouri, central Illinois, and southern Ohio be extended for another 5 years. The Biennial Judicial Survey indicated that these districts would be above the recommended 430 weighted cases per article III judge if the temporary judgeships were eliminated.

Based on my studies, most of the districts that currently have temporary judgeships are able to show the need for the extension of these judgeships. I used additional factors, not used in the Biennial Judicial Survey, to arrive at more recommendations for the districts. My investigation takes into consideration the cases handled by magistrate and senior judges. These studies show that when these cases are factored out, some districts fall below the recommended 430 cases per article III judge, even after expiration of the temporary judgeships.

In deference to the Judicial Conference, I have given those districts the
benefit of the doubt on their need for an extension and have recommended an extension of their temporary judgeships. My willingness to accommodate the Judicial Conference recommendations underlines my willingness to work constructively to reach a reasonable compromise when possible.

The Judicial Conference's recommendation for permanent status in the districts of eastern California, northern New York, eastern Virginia, and southern Illinois differs from my recommendation. After my review, I do not believe the Conference's recommendation can be justified. Among the factors I considered for extending permanent status for these districts is whether the district showed a consistent increase in its per judge caseload over the past several years. When plotted, caseloads from most of these districts show a roller coaster ride regarding the number of cases filed per article III judge. Over the period tracked, caseload increases were inconsistent and filings frequently decreased compared to previous years. Additionally, the Judicial Conference does not take into consideration, in the caseload statistics, article III judges as to how many cases are performed or could be performed by magistrate judges or senior judges. Cases, such as prisoner petitions and Social Security cases could, in most instances, be performed by magistrate judges. When prisoner petitions and Social Security cases are weighted and removed from the weighted caseload total per article III judge, the districts have a lower and much more representative calculation of the actual caseload per article III judge. And these figures don't even adjust for the consent cases the magistrate's handle.

The data I have indicates that prisoner petitions and Social Security cases are included in computing the judicial caseload figures used by the Judicial Conference to calculate each article III judge's caseload. For example, the eastern district of California commenced 1,747 cases dealing purely with prisoner petitions in the fiscal year ending September 30, 1996. In that district, magistrate judges resolved 1,028 prisoner petition cases during that period. The difference in the number of cases resolved during that period would be those cases commenced in the prior year, but carried over into the current year. Additionally, my study indicates that some of the district's surveyed are not utilizing magistrate judges as effectively or efficiently as other districts in the survey. This factor needs to be taken into account prior to granting any additional or permanent article III judgeships to these districts.

It is, in part, such considerations that led me not to recommend an additional permanent judgeship in Alabama, contrary to the recommendation of the Judicial Conference. In addition, Congress chose not to extend the temporary judgeship in that district before it expired last year.
Mr. Davis hit his $1 million lifetime cap in 1994. That was 14 years after his son Todd was hit by a drunk driver, causing severe brain injury. Before Todd qualified for Medicaid, his father received a $90,000 bill for his son's care—a bill he's still struggling to pay. The solution? It's time to work on catastrophic injury, chronic illness or significant disability are arbitrary. They hit young and old, rich and poor. You plan for routine illness, but no one plans for this kind of illness or injury. At least if you have a health insurance policy with a $1 million cap, you can get the medical treatment you need.

Most people don't even know if their insurance policy has a lifetime cap. The insurance companies don't talk about them. The caps are stuck in the fine print. People assume that if you buy insurance, you're covered. Unfortunately, that's not the case. About 60 percent of employer-sponsored health plans have lifetime caps. Several modifications were made to this year's bill. We include an exemption for small businesses. We give all businesses 2 years to comply. We phase the cap in—first raising it to $5 million and then lifting it to $10 million by the year 2000. This matches a roughly 1 percent increase in premiums, according to Price-Waterhouse. That's it.

The Federal Employees Health Benefits Program doesn't allow participating insurers to set lifetime limits on their basic health insurance policies for federal employees. Members of Congress don't have lifetime caps. We know our health insurance will be there when we need it. All Americans should have that same security.

Raising the cap is something we can and should do. It's the right thing to do. It's good policy and it can save Medicaid up to $7 billion over the next 7 years. Mr. President, the idea behind insurance is simple: no matter how sick you are, you should be covered. It's about basic decency and fairness.

By Mr. LOTT (for himself, Mr. DASCHLE, Mr. SHELBY, Mr. ROCKEFELLER, Mr. WARNER, Mr. ROBB, Mr. INHOFE, Mr. INOUYE, Mr. COCHRAN, and Mr. CONRAD):

S. 1115. A bill to amend title 49, United States Code, to improve one-call notification process, and for other purposes; introduced by the Committees on Commerce, Science, and Transportation—

COMPREHENSIVE ONE-CALL NOTIFICATION ACT

Mr. LOTT. Mr. President, I stand here today with my friend and colleague Senator Daschle, the majority leader, to introduce an important public safety bill. I am also joined by initial cosponsors Senators Shelby, Rockefeller, Warner, Robb, Inhofe, Inouye, Cochran, and Conrad.

The Comprehensive One-Call Notification Act is designed to protect a very important component of America's infrastructure. With roots going back several Congresses, this legislation enjoys widespread bipartisan support and is supported by several members of the Senate's Committee for Commerce, Science and Transportation—the committee of jurisdiction. This legislation provides a public policy statement which is long overdue. The legislation is straightforward and I look forward to working with my colleagues across the aisle and on the Commerce Committee to further fine-tune this bill as the process moves forward.

America's underground infrastructure contains many buried communications fiber optic cables, water lines, and sewer pipes, electric lines, and oil and gas pipelines. All too often people inadvertently damage these facilities causing harmful consequences. Often a nick or a bump which goes unreported can, over time, become a problem and have a delayed harmful effect.

Mr. President, this bill is important because it will prevent some of the damage to underground facilities that causes accidents across America. These accidents often are a result of excavation without notice or by inaccurate markings of our underground facilities. This damage to the infrastructure may cause environmental harm and disrupt essential services and even cause injuries and fatalities.

I am not here today to condemn those who excavate. I am here today to say that one-call safety legislation is necessary because many excavation accidents are preventable.

Mr. President, America needs a single, nationwide system to forward excavators' toll free calls to the appropriate State or local one-call center. To delay further is to unnecessarily jeopardize America's underground infrastructure.

Let me make it clear this is not a new idea. It is a concept that has been embraced by many States. Already 49 States have some form of a one-call system on the State level. I am proud to say that my State of Mississippi has a one-call system; however, many of these systems can be improved with Federal assistance. Our bill does that.

This bill uses an approach that will create uniform national standards and provide grants to establish or improve State one-call systems. This bill does not dictate how a one-call system should operate or how a State's law should be written. On the contrary, it requires input from States and stakeholders before adopting the best practices and gives States the latitude to continue to determine the details of its one-call statute. This analysis will serve as the catalyst for a national effort to improve State one-call programs.

Mr. President, the administration also recognizes the necessity for a one-call safety statute. When the President introduced his method for the reauthorization of America's Intermodal Surface Transportation Efficiency Act, he included a one-call provision. Our bill is different, but it is compatible. In addition to working with my initial cosponsors during the drafting phase, I
have worked with the administration to address their concerns. We are not
done yet, but we are committed to con-
tinuing the dialog. The introduction of
our bill is the Senate's first step.

By introducing the legislation today, we hope that the results
will be used by organizations and stake-
holders who have an interest in this
policy to enter into the discussion. It is
the desire of the initial sponsors to in-
clude those with an interest in this
public safety policy in preparing the legis-
lation. Let us not forget the death of an
84-year-old woman in Indianapolis, IN
last week where a blast leveled seven
homes. The Indianapolis Star/News
reported that for one-half day the Internet and long
distance communications on one carrier
were disrupted by a backhoe cutting
through a fiber optic cable.

Let us also not forget the 1994 acci-
dent in Indianapolis, IN, where there was a
much larger explosion. Significant
property damage occurred and again
there was loss of life. This event
prompted one of our former colleagues
and the senior Senator from New Jer-
sy to actively work for tougher laws
governing America's infrastructure.

Former New Jersey Senator, Bill Brad-
ley and Senator Frank Lautenberg
were actively involved in seeking a leg-
islative approach and today's bill is a
direct result of their efforts.

I am convinced that this Congress
will champion meaningful safety re-
forms and leadership for America's un-
derground infrastructure. It will not be
a traditional big government approach.
It will help ensure that our system is
adequate, convenient, accountble, meaningful and
overdue protection for citizens.

I want to thank my colleagues for
their attention, and I hope they will
join us as cosponsors.

Mr. President, this bill is neither a
mandate nor unfunded. I want to re-
peat this. There is no mandate that
every State must participate. We are
simply proposing the authorization of
funds to study State activi-
ties and to administer assistance to
States wanting to participate.

I expect those industries which place
a premium on operational convenience
will recognize that one-call is respon-
sible and a small price to pay for ensur-
ing safety of the public and envi-
ronment. I am optimistic that all affected
parties will work in genuine partner-
ship with us to finalize the legislation
rather than sit on the sidelines and cri-
crize.

Mr. President, the information high-
way offers many opportunities and
challenges for our society and culture
but, it too can be put in a peril by sim-
ple events. Just 2 weeks ago an article
in the Washington Post reported that
for half a day the Internet and long
distance communications on one carrier
were disrupted by a backhoe cutting
through a fiber optic cable.
the required call has been made to a one-call notification system;

"(3) reduced or waived penalties for a violation of a requirement of a State one-call notification program that results in, damage that is promptly reported by the violator;

"(4) personnel training;

"(5) citation of violations.

§ 6104. Compliance with minimum standards

(a) Requirement.—In order to qualify for a grant under section 6106, each State shall, within the time period after the date of the enactment of the Comprehensive One-Call Notification Act of 1997, submit to the Secretary a grant application under subsection (b).

(b) Grant application.—(1) Upon application by a State, the Secretary shall review that State's one-call notification program, including the provisions for implementation of the program and the record of compliance and enforcement under the program.

(2) Based on the review under paragraph (1), the Secretary shall determine whether the State's one-call notification program meets the minimum standards for such a program in section 6103 in order to qualify for a grant under section 6106.

(3) In order to expedite compliance under this section, the Secretary may consult with the State in determining that an existing State one-call notification program, a specific modification thereof, or a proposed State program would result in a positive determinate findings under paragraph (2).

(4) The Secretary shall prepare the form of, and manner of filing, an application under this section that shall provide sufficient information about a State's one-call notification program for the Secretary to evaluate its overall effectiveness. Such information may include, but need not include, such exceptions from required participation, the types of enforcement available, and such other information as the Secretary deems necessary.

(5) The application of a State under paragraph (1) and the record of actions of the Secretary under this section shall be available to the public.

(c) Alternative program.—A State may maintain an alternative one-call notification program if that program provides protection for public safety, the environment, and excavators that is equivalent to, or greater than, protection under a program that meets the minimum standards set forth in section 6103.

(d) Compliance.—(1) At least 3 years after the date of the enactment of the Comprehensive One-Call Notification Act of 1997, the Secretary shall begin to include the following information in reports submitted under section 6024 of this title—

"(1) a description of the extent to which each State has adopted and implemented the minimum Federal standards under section 6103 or maintains an alternative program under subsection (c);

"(2) an analysis by the Secretary of the overall effectiveness of the State's one-call notification program and the one-call notification systems operating under such program in achieving the purposes of his chapter;

"(3) the impact of the State's decisions on the extent of required participation in one-call notification systems on prevention of damage to underground facilities; and

"(4) areas where improvements are needed in one-call notification systems in operation in the State.

The report shall also include any recommendations the Secretary determines appropriate. If the Secretary determines that the proposed alternative program has substantially achieved, no further report under this section shall be required.
(3) a national effort to improve state one-call programs can enhance protection of the public and the environment.

SEC. 3. ESTABLISHMENT OF PROGRAM

Subsection (a)

Adds a new Chapter 61 (sections 6101-6107) to sub-title III of title 49, United States Code:

6101. Purposes

(1) enhance public safety;
(2) protect the environment;
(3) minimize risks to excavators; and
(4) prevent disruption of vital services, by reducing damage to underground facilities.

6102. Definitions

Defines “state one-call notification program” and “one-call notification system”.

6103. Minimum Standards for State One-Call Programs

(1) appropriate participation by all underground facility operators;
(2) appropriate participation by all excavators;
(3) flexible and effective enforcement.

“Appropriate” determined taking into consideration the risk associated with the damage to types of facilities and the type of excavation.

State must consider risk in provisions for enforcement.

Reasonable relationship between benefits and costs of implementing and complying with one-call notification program requirements.

Voluntary participation possible for de minimum risks.

Penalties:

(1) liability for administrative or civil penalty;
(2) increased penalties for repeated damage or repeated inaccurate or untimely marking;
(3) reduced penalties for prompt reporting;
(4) citation of violation.

6104. Compliance with Minimum Standards

A State may apply for a grant under section 6106 within two years after the date of enactment. The application must contain information specified by the Secretary of Transportation. Secretary reviews each application and determines whether the state one-call notification program meets the minimum standards in order to qualify for the grant.

The grant application and the record of the Secretary’s actions are available to the public.

State may provide greater protection than minimum federal standard.

Within three years the Secretary reports on State compliance with the Act.

6105. Review of One-Call Systems Best Practices

If needed, Secretary conducts a study of best practices of one-call notification systems in operation in the States. Secretary reports and promotes adoption of the most successful practices.

6106. Grants to States

The Secretary of Transportation may make a grant to a State if the State qualifies by having a one-call notification program meeting minimum standards. Secretary takes into consideration a State’s commitment to improvement in its one-call notification program, including actions taken by the State after enactment of this legislation.

State may provide funds directly to one-call notification systems that substantially adopt best practices identified under section 6105.

6107. Authorization of Appropriations

Authorizes $1 million in fiscal year 1999 and $5 million in fiscal year 2000 for grants to States to improve one-call notification systems. Funds available until expended. Such sums as are necessary may be appropriated for studies and administration of the Act.

All funding must come from general revenues only; no funding may be derived from pipeline user fees.

6108. Appropriations

By Mr. ROTH: S. 1126. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives for education; to the Committee on Finance.

EDUCATION LEGISLATION

Mr. ROTH. Mr. President, the budget reconciliation package we have passed—and again, I congratulate my colleagues in such a tremendous bipartisan effort—that reconciliation package contains important measures to promote education. A full 80 percent of the tax relief we offered goes to a $500 credit for children and provisions that will promote education.

As I mentioned in my statement, I strongly supported those measures to help our young people—to help our families—pay for college. These youth are our future, and investing in them is fundamental to keeping that future bright and prosperous.

However, as I also mentioned earlier, I had hoped that we could have gone further in promoting the educational aspects of the tax relief bill.

There were a number of very innovative and very effective provisions that were contained in the Senate Finance Committee bill, but that were excluded during the conference.

For example, there was a provision to offer tax-free treatment for State-sponsored prepaid tuition plans. There was a provision for a permanent extension of employer provided education assistance. And there was also a comprehensive education IRA. Unfortunately, these were knocked out of the reconciliation package by the White House.

What I want to do now, Mr. President, is introduce these measures as a bill—a bill that will expand education IRA’s to permit families to invest up to $3,000 a year in an IRA in order to fund their children’s education. These IRA’s would permit withdrawals for expenses incurred during elementary and secondary school.

Second, this bill will allow employers to assist their employees’ in their graduate and undergraduate education without the employees having that assistance taxed as income.

It will expand State-sponsored pre-paid tuition and savings programs to permit tax-free savings for educational needs. And, finally, this bill will allow universities to defer payment tuition and savings programs that will permit tax-free savings for tuition, fees, book, school, supplies, room, and board.

These are much needed tools to promote education. Over the past 15 years, tuition at a 4-year college has increased by 234 percent. The average student loan has increased by 367 percent. In contrast, median household income rose only 82 percent during this period, and the consumer price index only rose 74 percent.

Our students—our families—need these resources to help them meet the costs and realize the opportunities of quality education. And I encourage my colleagues to support this effort.

By Ms. SNOWE: S. 1117. A bill to amend Federal elections law to provide for campaign finance reform, and for other purposes; to the Committee on Rules and Administration.

CAMPAIGN FINANCE REFORM LEGISLATION

Ms. SNOWE. Mr. President, the American people are suffering a crisis of confidence when it comes to the way in which campaigns for Federal office are financed. They no longer feel that they are in control of who gets elected, or that those who do get elected are fully accountable. Today, I am introducing a bill that would restore Americans’ confidence in their elected officials, and put elections back into the hands of average citizens.

Last year, for the first time since coming to Congress, I had the opportunity to watch Fannie and之美ेंs Gossips not as a candidate, but as a citizen and a voter. And what I saw confirmed all the reasons I have been a longtime proponent of campaign finance reform. What I saw was vast sums of money and very little accountability. I saw attacks paid for with unlimited funds by out-of-State groups. And I saw contributions from PAC’s to Federal candidates climb 12 percent higher than the record levels reached in the 1993-1994 election cycle.

And the 1996 elections were barely over when allegations of illegal and improper activities began flying, centered around the issues of so-called soft money and foreign influence peddling through campaign contributions. Subpoenas are being issued at a faster pace than Ken Griffey, j r., hits home runs, and while it remains to be seen what the results of congressional investigations will yield, it is clear that these latest scandals only serve to further erode the public’s confidence in our system of government.

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And if there is even the perception that elections are being bought and sold, the solution must be likewise.

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And make no mistake, there is a pervasive perception that the system is out of hand and in need of fixing. A poll taken last year by a major newspaper in my home State, the Maine Sunday Telegram, showed that over 70 percent of respondents believe politicians listen more to special interests than to individual voters. Findings like these are endemic of a deep systemic problem, one that we cannot afford to ignore any longer.

I have been voted for major changes in the campaign finance system throughout my career and introduced measures that I felt would make real and positive changes. Today, I am introducing the Restoration of America’s Confidence in Elections Act, a comprehensive but realistic approach to fixing our broken system.

One of the chief aims of my bill is to increase the impact of the small, individual contributor in election campaigns so that we place the campaign process in the hands of average Americans—rather than in the hands of special interests. My bill will lower the amount of money a PAC could contribute from $5,000 to the limit for individual contributors, $1,000—a change which corresponds to recent New York Times poll say they support. It will also encourage small, individual contributors from a candidate’s home State to participate by providing the incentive of a tax credit for contributions of up to $100 for an individual or $200 in the case of a joint return.

Soft money has also become a major issue, and for good reason. It is money that skirts the intent of the law, and unaccounted for money which influences Federal campaigns above and beyond legal limits. My bill will close the soft money loophole by prohibiting national parties from raising or spending any soft money on behalf of any Federal candidates—State parties and PAC’s could only spend hard money on behalf of Federal candidates. In order to keep parties healthy, individuals could contribute up to an aggregate amount of $20,000 to State party grassroots funds, and the existing limits on aggregate contributions to national parties by individuals and PAC’s would be raised by $5,000 each. In that way, money is accountable, parties can remain viable, and the soft money chase is ended.

My bill also addresses the issue of candidates facing independently wealthy opponents. As we all know, the amount of personal funds a candidate spends on his or her campaign cannot be constitutionally limited, but the playing field can and should be leveled. The perception that an individual who means can buy their way to the top of the American political arena certainly does nothing to inspire confidence in our Government.

My bill would make it easier for a candidate facing a wealthy opponent to compete by allowing that candidate to raise the necessary funding through increased contribution limits, depending on the amount the wealthy candidate spends of his or her own money. It would also require candidates to declare the amount of personal money they intend to spend, and encourage them to stick to their pledge by requiring disclosure should they violate that pledge.

Any successful campaign finance reform bill must address the realities of elections as we approach the new millennium. One of those realities is the so-called “voter education ads.” We have all seen these ads: threatening music over provocative images blatantly designed to influence voters to vote against a candidate. But because these ads don’t specifically say “vote against candidate X” there is currently no limit on how much can be spent on them, and no accountability. It is obvious to anyone the purpose of these ads: to skirt current campaign finance laws that require that ads designed to influence Federal elections be paid for or disclosed, and regulated by, the Federal Election Commission. Under my bill, the law would be changed in such a way to include these types of ads under hard money limits and disclosure requirements. It would also require that these ads be attack ads and give the public the information they need about who is paying for these ads and how much they are spending. An informed electorate is the key to any democratic system of government, and my bill will give people the information they need to make up their own minds.

My bill also includes provisions to protect individuals from having their money involuntarily collected and used for politics by a corporation or labor organization. These provisions mirror those of Senator Nickles’ Paycheck Protection Act. This measure will require prior authorization from workers before a corporation, national bank, or labor union finances political activities with any money from dues or from payments made as a condition of employment.

The legislation I am introducing will also close a conduit for campaign money that should have been closed a long time ago. It will ban contributions from all individuals not eligible to vote in U.S. elections. After all, if a person cannot legally participate in a Federal election by voting, why should they be able to participate with their wallet?

And finally, my bill will close the loopholes and ambiguities that exist about soliciting Federal soft money from Federal buildings or with Federal equipment. Because I think everyone agrees that it is not appropriate to raise political funds with taxpayer-financed equipment, or from the very office that might have influence over the interests of the potential donor.

These are all commonsense approaches—measures which I believe the majority of Americans feel are sensible and long overdue. The Restoration of Americans’ Confidence in Elections Act addresses a range of issues and does so in a way that does not single out any one group, or any particular political affiliation. Because if we are to pass meaningful reform, it will require that we all take our hits.

I urge my colleagues to join me in passing this bill, and making a historic statement that the old ways of doing business must be relegated to the annals of history. Let’s return elections to the American people—and let’s re-store confidence in our Government.

By Mr. MURkowski:
S. 1118. A bill to amend the Land and Water Conservation Fund for purposes of establishing a Community Recreation and Conservation Endowment with certain escrowed oil and gas revenues; to the Committee on Energy and Natural Resources.

Thank you to Senate appropriators for honoring my request to fund the LWCF matching grants. The 1998 Interior appropriations bill ensures the program’s short-term viability. I wish we could have marked up more, but I understand the challenges members face and thank them for their accomplishment. Special thanks to Senators TED STEVENS and SLADE GORTON.

I am confident we can win on the Senate floor, in conference and with the administration because the program is truly worthy.

The LWCF matching grants have helped build thousands of miles of trails, protect thousands of acres of open space, and develop parks, campgrounds, and recreation facilities in every State.

Every Federal dollar has been matched—we get two for the price of one. Unfortunately, Congress and the administration defunded the program 2 years ago.

That’s too bad, given what candidate Bill Clinton said: “I would increase funding for several programs * * * and reinvigorate the Land and Water Conservation Fund to make more funds available for the acquisition of public outdoor spaces”.

He also said, “I would also make funds available from the Land and Water Conservation Fund to help address critical infrastructure needs in state and local facilities.”

The millions of Americans who benefit from the matching grants need more than promises. Thankfully, the Interior appropriations bill saves the program for the short term and I am here today to offer a long-term solution.

At a recent hearing before the Senate parks subcommittee, former Park Service Director Roger Kennedy said...
that as long as there is competition between Federal and State programs for LWC
appropriations, the State matching grants will lose. He suggested a separate source of funds.

I am taking his advice to heart, and calling for Congress to establish a separate and permanent fund for State matching grants.

My legislation creates an $800 million permanent endowment to provide LWC matching grants to the States. Interest from this account will help provide parks, campgrounds, trails, and recreation facilities for millions of Americans. It will also help preserve open spaces for the future.

Where does that money come from? On June 19, 1997, the Supreme Court ruled the Federal Government retains title to lands underlying tidal waters off Alaska's North Slope. As the result, the government will receive $1.6 billion in escrowed oil and gas lease revenues. This sum is twice the amount the Congressional Office of Budget estimated for the concurrent budget resolution. My bill places this bonus $800 million in a permanent endowment account.

This new approach is consistent with the vision of the Land and Water Conservation Fund Act and a promise made to the American people 30 years ago.

Our Government promised us that a portion of proceeds from offshore oil and gas leases would fund our outdoor recreation and conservation. My bill makes good on that promise—permanently. It makes sure the State grants are never forgotten again.

That sound we hear on the doors to this Chamber is opportunity knocking. We must seize the opportunity and use those funds to renew and reinvigorate the bipartisan vision of the LWC.

I urge my colleagues to join me in this endeavor and support the Community Recreation and Conservation Endowment Act of 1997.

By Mr. ABRAHAM:

S. 1119. A bill to amend the Perishable Agricultural Commodities Act, 1930 to increase the penalty under certain circumstances for commission merchants, dealers, or brokers who misrepresent the country of origin or other characteristics of perishable agricultural commodities; to the Committee on Agriculture, Nutrition, and Forestry.

FOOD SAFETY LEGISLATION

Mr. ABRAHAM. Mr. President, in March of this year, over 200 school children in my State contracted the hepatitis A virus from food served by the school lunch program. As news of the outbreak began to pour in, the Michigan Department of Community Health and the Centers for Disease Control went into action to determine the cause. They soon found the culprit: frozen strawberries sold to the school lunch program by a San Diego company named Andrews and Williamson.

Investigators also discovered that some of the strawberries sold to the school lunch program had been illegally certified as domestically grown when, in fact, they had been grown in Mexico. There does not currently exist a method for testing strawberries for the hepatitis A virus. Thus, we may never know which of the strawberries brought in from Mexico were the source of this pathogen. Given the growing conditions that USDA investigators found at the farm, however, the likelihood is strong.

And one thing we do know, Mr. President, is that these strawberries should never have been served in the school lunch program in the first place. By law, products sold to the school lunch program must be certified as being domestically grown. Unfortunately, because the USDA lacks the resources to effectively enforce this requirement, companies have typically been trusted to do the right thing. Andrews and Williamson chose to do something else. They chose to break the law by misrepresenting the country of origin, and over 200 people were poisoned as a result.

This dangerous incident, the poisoning of Michigan children by their own school lunch program, compounded my interest in my amendment. Shortly after the outbreak, I called for, and was granted, a hearing on the matter. I arranged to have officials from the CDC come to my state to brief the families of those affected. During this process I learned of the similar efforts being made by a private organization called Safe Tables Our Priority (STOP). Their assistance throughout this process has been invaluable.

One of the first things I learned while studying this issue was that a specific statute exists which states that misrepresenting the country-of-origin of a perishable good is a crime. Unfortunately, the penalty for such fraud is a $2,000 fine and possible loss of license; a rather small price to pay for poisoning over 200 people. Of course, this does not mean that A&W will walk away from this incident without paying a price. After reviewing the case made by investigators from the USDA, the U.S. Attorneys Office filed 47 charges against A&W. The first charge is conspiracy to defraud the United States. Counts two, three and four are for making false statements, and counts five through forty-seven are for making false statements. For each of these counts, the maximum penalty is 5 years and/or $250,000 per count or $500,000 for a corporation.

I state these charges because they do not include any mention of the specific crime which A&W is accused of violating, namely, misrepresenting the country-of-origin for a perishable food.

Well, Mr. President, I intend to rectify this oversight. Today I am introducing legislation which modifies current law so that criminal misrepresentation of the origin, kind, or character of any perishable commodity, the reckless disregard of the effects on the public safety of such action, or violations which result in serious injury, illness or death will constitute a felony with a maximum penalty of five years imprisonment and/or a fine of $250,000 per count.

This change in law will ensure that individuals who intentionally misrepresent their goods will now suffer the appropriate consequences of their actions. The recent outbreaks of hepatitis A, Cyclospora and E Coli demonstrate that a new commitment to food safety is sorely needed. I will continue working to see that Congress takes the appropriate measures to assist the USDA, FDA and Centers for Disease Control in their efforts to keep America's food supply the safest in the world.

Mr. President, I ask that the full 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. 1119

To be enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MISREPRESENTATION OF COUNTRY ORIGIN OF FOOD PRODUCTS.

Section 2(5) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499c(5)), is amended by adding at the end the following:

"If a court of competent jurisdiction finds that a person has intentionally, or with reckless disregard, engaged in a misrepresentation described in this paragraph and the misrepresentation resulted in a serious bodily injury (as defined in section 1365(g) of title 18, United States Code) to, or death of, an individual, the person shall be guilty of a Class D felony that is punishable under title 18, United States Code."

By Mr. HATCH (for himself, Mr. LEAHY, Mr. THOMPSON, and Mr. KOHL):

S. 1121. A bill to amend Title 17 to implement the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty; to the Committee on the Judiciary.

THE WIPO COPYRIGHT AND PERFORMANCE AND PHONOGRA MENTS TREATY IMPLEMENTATION ACT OF 1997

Mr. HATCH. Mr. President, today I am introducing legislation proposed by the Clinton administration to implement two important treaties that were adopted last December by the World Intellectual Property Organization (WIPO). The distinguished Ranking Member of the Senate's jurisdiction, Sen. LEAHY, the distinguished Senator for Tennessee, Sen. THOMPSON, and the distinguished Senator from Wisconsin, Sen. KOHL, join me as original cosponsors.

I strongly support adoption of the treaties, and I am introducing this bill on behalf of the Administration as an essential step in that process. I believe that the Administration's bill provides an excellent starting point for the debate on exactly what must be changed in the law in order to comply with the treaties.

The WIPO Copyright Treaty and the WIPO performances and Phonograms
Treaty—completed after years of intense lobbying by the United States government—will update international copyright law for the digital age and ensure the protection of American creative products abroad. I want to commend the chairman of the Committee on Commerce, Bill Daley, Commissioner of Patents and Trademarks Bruce Lehman, and their staffs for their efforts in moving this important issue forward, and I welcome the opportunity to work with them during the legislative process.

The United States leads the world in the production of creative works and high-technology products—including software, movies, recordings, music, books, video games, and information. Copyright industries represent nearly 6% of the U.S. gross domestic product, and nearly 5% of U.S. employment. Yet American companies lose $18–20 billion every year due to international piracy of copyrighted works. The film industry alone estimates its annual losses due to pirated CDs at $3 billion, even though full-length motion pictures are not yet available on the Internet. The recording industry estimates that it loses more than $1.2 billion each year due to piracy, with seizures of pirated products up some 22% since 1995. These figures will only continue to grow with the recent technological developments that permit creative products to be pirated and distributed globally with the touch of a button. The Administration has tried to preserve the delicate balance that U.S. law already strikes between copyright owners and users, since the WIPO treaties were not intended to upset that balance.

I urge my colleagues to give this legislation serious consideration. The Judiciary Committee will begin hearings on this bill shortly. I would like to see the treaties go into effect this year, and I will try hard to meet this goal. However, I cannot state that the Administration has submitted the legislation may render this goal unachievable.

In any event, we must act promptly to ratify and implement the WIPO treaties in order to demonstrate leadership on international copyright protection, so that the WIPO treaties can be implemented globally and so that further theft of our nation’s most valuable creative products may be prevented.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the Record.

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

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “WIPO Copyright and Performances and Phonograms Treaty Implementation Act of 1997”.

SEC. 2. TECHNICAL AMENDMENTS.

(a) Section 101 of Title 17, United States Code is amended by:

(1) deleting the definition of “Berne Convention work”;
(2) in the definition of “the country of origin; of a Berne Convention work,” by deleting “The country of origin; of a Berne Convention work,”; capitalizing the first letter of the word “for”, deleting “is the United States”, and inserting “is a United States work” only after “For purposes of section 41L.”
(3) in subsection (1)(C) of the definition of “The country of origin; of a Berne Convention work”, by inserting “treaty party of parties” and deleting “nation of nations adhering to the Berne Convention”; and
(4) in subsection (1)(D) of the definition of “The country of origin; of a Berne Convention work”, by inserting “is not a treaty party” and deleting “does not adhere to the Berne Convention”;
(5) in subsection (1)(D) of the definition of “The country of origin; of a Berne Convention work”, by inserting “is not a treaty party” and deleting “does not adhere to the Berne Convention”;
(6) in section (3) of the definition of “The country of origin; of a Berne Convention work”, by deleting “For the purposes of section 41L, the country of origin; of any other Berne Convention work is not the United States”;
(7) after the definition for “fixed”, by inserting “The ‘Geneva Phonograms Convention’ is the Agreement between the Producers of Phonograms Against Unauthorized Duplication of Their Phonograms, concluded at Geneva, Switzerland on October 29, 1971.”;
(8) after the definition for “including”, by inserting “An international agreement is—”;
(9) after the definition for “work for hire”, by deleting “The ‘WTO Agreement’ is the Agreement Establishing the World Trade Organization entered into on April 15, 1994.”
(10) after the definition for “work for hire”, by deleting “The ‘WTO Agreement’ is the Agreement Establishing the World Trade Organization entered into on April 15, 1994.”
(11) after the definition for “The ‘WIPO Copyright Treaty’ is the WIPO Copyright Treaty”, by inserting “The WIPO Performances and Phonograms Treaty is the WIPO Performances and Phonograms Treaty concluded at Geneva, Switzerland, on December 20, 1996.”;
(12) after the definition for “The ‘WIPO Performances and Phonograms Treaty’ is the WIPO Performances and Phonograms Treaty concluded at Geneva, Switzerland on December 20, 1996.”;
(13) by inserting, after the definition for “work for hire”, “The ‘WTO Agreement’ is the Agreement Establishing the World Trade Organization entered into on April 15, 1994.”
(14) by inserting, after the definition for “work for hire”, “The ‘WTO Agreement’ is the Agreement Establishing the World Trade Organization entered into on April 15, 1994.”
(15) “(7) any other copyright treaty to which the United States is a party,”;
(16) “(8) after the definition for ‘transmit’, by inserting “A ‘treaty party’ is a country or intergovernmental organization other than the United States that is a party to an international agreement.”;
(17) after the definition for “wider”, by inserting “The ‘WIPO Copyright Treaty’ is the WIPO Copyright Treaty”, by inserting “The WIPO Performances and Phonograms Treaty is the WIPO Performances and Phonograms Treaty concluded at Geneva, Switzerland on December 20, 1996.”
(b) Section 104 of Title 17, United States Code is amended—

(1) in section 104(b)(1), by deleting “foreign nation that is a party to any copyright treaty to which the United States is a party and inserting “treaty party”;“;
(2) in section 104(b)(2), by deleting “party to the Universal Copyright Convention” and inserting “treaty party”;
(3) by renumbering the present section (b)(3) as (b)(5) and moving it to its proper sequential location and inserting a new section (b)(3) and to read:
(3) the work is a sound recording that was first fixed in a treaty party; or “;
(4) in section (b)(4) by deleting “Berne Convention work” and inserting “pictorial, graphic or sculptural work that is incorporated in a building or other structure, or an architectural work that is in a building and the building or structure is located in the United States or a treaty party”;“;
(5) by renumbering present section (b)(5) as (b)(6);
(6) by inserting a new section (b)(7) to read:
“Any other copyright treaty to which the United States is a party and the work that is published in the United States or a treaty party within thirty days of publication in foreign nation that is not a treaty party shall be considered first published in the United States or such treaty party as the case may be.”
and
(7) by inserting a new section (d) to read:
“Effect of Phonograms Treaties.—Notwithstanding the provisions of section (b), no works other than sound recordings shall be eligible for protection under this
title solely by virtue of the adherence of the United States to the Geneva Phonograms Convention or the WIPO Performances and Phonograms Treaty.

"Section 1201 of Title 17, United States Code, is amended—

(1) in paragraph (3), by deleting "(A) a nation adhering to the Berne Convention or a WTO member country; or (B) a national adhering to the WIPO Copyright Treaty;"

(2) paragraph (3) is amended to read as follows—

"(3) the term "eligible country" means a nation, other than the United States that—

"(A) becomes a WTO member country after the date of enactment becomes, a nation adhering to the Berne Convention;

"(B) adheres to the WIPO Copyright Treaty;

"(C) adheres to the WIPO Performances and Phonograms Treaty; or

"(D) a nation adhering to the Berne Convention becomes subject to a proclamation under subsection (g);

"(E) if the source country for the work is an eligible country solely by virtue of its adherence to the WIPO Performances and Phonograms Treaty, is a sound recording;

"(F) a national that is in the custody or control of an enforcement agency of the United States, a notice of copyright; or a process or a treatment, with the purpose of circumventing protection afforded by a technological protection measure that effectively protects a right of a copyright owner under Title 17 in a work or a portion thereof;

"(G) has been removed or altered without authority of the copyright owner; or

"(H) is primarily designed or produced for the purpose of circumventing a technological protection measure that effectively controls access to a work protected under Title 17, or

"(I) intentionally removes or alters any copyright management information, including the following information conveyed in connection with copies or phonorecords of a work or performances or displays of a work, including in digital form—

"(a) the title and other identifying information about the author of a work;

"(b) the name of, and other identifying information about, the author of a work;

"(c) The name of, and other identifying information about, the copyright owner of the work, including the information set forth in a notice of copyright;

"(d) Terms and conditions for use of the work;

"(e) Identifying numbers or symbols referring to such information or links to such information; or

"(f) Such other information as the Register of Copyrights may prescribe by regulation, except that the Register of Copyrights may not require the provision of any information concerning the user of a copyrighted work.

"§ 1203. Civil Remedies

"(a) CIVIL ACTION.—Any person injured by a violation of section 1201 or 1202 may bring a civil action in an appropriate United States district court for such violation.

"(b) POWERS OF THE COURT.—In an action brought under subsection (a), the court—

"(1) may grant temporary and permanent injunctions on such terms as it deems reasonable to prevent or restrain a violation;

"(2) at any time while an action in pending, may order the impounding, on such terms as it deems reasonable, of any device or product that is in the custody or control of the alleged violator and that the court has reasonable cause to believe was involved in a violation;

"(3) may award damages under subsection (c);

"(4) in its discretion may allow the prevailing party reasonable attorney's fees to the prevailing party; and

"(5) in its discretion may award reasonable costs by or against any other than the United States or an officer thereof.

"§ 1202. Integrity of Copyright Management Information

"(a) FALSE COPYRIGHT MANAGEMENT INFORMATION.—No person shall—

"(1) provide copyright management information that is false, or

"(2) distribute or import for distribution copyright management information that is false, with the intent to induce, enable, facilitate or conceal the infringement of any right under Title 17.

"(b) REMOVAL OR ALTERATION OF COPYRIGHT MANAGEMENT INFORMATION.—No person shall, without the authority of the copyright owner or the law, knowing or, with respect to civil remedies under section 1203, having reasonable grounds to know, that it will induce, enable, facilitate or conceal an infringement of any right under Title 17.

"(c) DEFINITION.—As used in this chapter, "copyright management information" means the following information conveyed in connection with copies or phonorecords of a work or performances or displays of a work, including in digital form—

"(1) The title and other identifying information about the author of a work;

"(2) The name of, and other identifying information about, the copyright owner of the work, including the information set forth in a notice of copyright;

"(3) Terms and conditions for use of the work;

"(4) Identifying numbers or symbols referring to such information or links to such information; or

"(5) Such other information as the Register of Copyrights may prescribe by regulation, except that the Register of Copyrights may not require the provision of any information concerning the user of a copyrighted work.

"§ 1201. Circumvention of Copyright Protection Systems

"(a) No person shall circumvent a technological protection measure that effectively controls access to a work protected under Title 17.

"(b) No person shall manufacture, import, offer to rent, or rent, distribute, or otherwise distribute, or distribute or import for distribution, in a work or a portion thereof, in any technology, product, service, device, component, or part thereof that

"(1) provides copyright management information that is false, or

"(2) is primarily designed or produced for the purpose of circumventing a technological protection measure that effectively controls access to a work protected under Title 17.

"§ 1200. Civil Remedies

"(a) CIVIL ACTION.—Any person injured by a violation of section 1201 or 1202 may bring a civil action in an appropriate United States district court for such violation.

"(b) POWERS OF THE COURT.—In an action brought under subsection (a), the court—

"(1) may grant temporary and permanent injunctions on such terms as it deems reasonable to prevent or restrain a violation;

"(2) at any time while an action in pending, may order the impounding, on such terms as it deems reasonable, of any device or product that is in the custody or control of the alleged violator and that the court has reasonable cause to believe was involved in a violation;

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or product involved in the violation that is in the custody or control of the violator or has been impounded under subsection (2).

"(c) AWARD OF DAMAGES.—(1) IN GENERAL.—Except as otherwise provided in this chapter, a person committing a violation of section 1201 or 1202 is liable for either—

(A) the actual damages and any additional profits of the violator, as provided by subsection (2), or

(B) statutory damages, as provided by subsection (3).

(2) ACTUAL DAMAGES.—The court shall award to the complaining party the actual damages sustained by the plaintiff as a result of the violation. The United States, and clause (8) of the definition of “international agreement” as amended by section 2(a)(8) of this Act, section 2(a)(10) of this Act, clause (B) of section 404(h)(1) of Title 17 as amended by section 2(c)(2) of this Act, and sections 2(c)(4) and 2(c)(5) of this Act shall take effect upon entry into force of the WIPO Copyright Treaty with respect to the United States.

Mr. LEAHY. Mr. President, the successful adoption by the World Intellectual Property Organization [WIPO] of two new treaties—one on written material and one on sound recordings—in Geneva last December was appropriately lauded in the United States. The WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty will give a significant boost to the protection of intellectual property rights around the world, and stand to benefit important American creative industries—films, recordings, computer software, and many other copyrighted materials that are subject to piracy on-line.

According to Secretary Daley of the Department of Commerce, for the most part, “the treaties largely incorporate intellectual property norms that are already part of U.S. law.” What the treaties will do is give more teeth to American creativity. Owner of copyrighted material an important tool to protect their intellectual property in those countries that become a party to the treaties. With an ever-expanding global marketplace, such international protection is critical to protect American companies and, ultimately, American jobs and the U.S. economy.

Over the past few months, I spoke and wrote to Secretary Daley urging him to transmit without delay the administration’s proposal for implementing legislation. I am very pleased that earlier this week, the administration did so. The legislative package we received is an excellent start for making the treaties move forward, as the administration, Secretary Daley and, in particular, Assistant Secretary Bruce Lehman of the Patent and Trademark Office for their hard work on this proposal.

I am glad to introduce this legislation, with Senator HATCH, on behalf of the administration. I hope we will take this matter up for hearings and further deliberation and action promptly after the recess.

In sum, this bill makes certain technical changes to conform our copyright laws to the treaties and substantive amendments to comply with two new Treaty obligations. Specifically, the treaties oblige the signatories to provide legal protections against circumvention of technological measures used by copyright owners to protect their works, and against violations of the integrity of copyright management information [CMI], which identifies a work, its author, the copyright owner and other important information and terms and conditions of use of the work. The bill adds a new chapter to U.S. copyright law to implement the anti-circumvention and CMI provisions, along with corresponding civil and criminal penalties.

Technological developments, such as the development of the Internet and remote computer information data bases, have led to important advancements in accessibility and affordability of art, literature, music, film and information and services for all Americans. As Vinton Cerf, the coinventor of the computer networking protocol for the Internet, recently stated in The New York Times:

The Internet is now perhaps the most global and democratic form of communications. No other medium can so easily render out our traditional distinctions among localities, regions and nations.

We see opportunities to break through barriers previously facing those living in rural settings and those with physical disabilities. Democratic values can be served by making more information and services available.

These methods of distribution also dramatically affect the role of copyright. Properly balancing copyright interests to encourage and reward creativity, while serving the needs of public interest groups, is the challenge.

The public interest requires the consideration and balancing of such interests. In the area of creative rights that balance has rested on encouraging creativity by ensuring rights that reward it while encouraging its public performance, distribution and availability.

I was glad to have played a role in the development and enactment of the Digital Performance Right in Sound Recording Act, Public Law 104-39. That legislation served in many respects as the precursor to the WIPO Treaty on performance rights adopted last December. Performance rights for sound recordings is an issue that has been in dispute for over 20 years. I was delighted in 1995 when we were finally able to enact a U.S. law establishing that right.

I believe that musicians, singers and featured performers on recordings ought to be compensated like other creative artists for the public performances of works that they create and that we all enjoy. I wanted companies that export American music not to be disadvantaged internationally by the lack of U.S. recognition of such a performance right. Most of all, I wanted to be sure that our laws be fair to all parties—to performers, musicians, songwriters, music publishers, performing rights societies, emerging companies expanding new technologies, and, in particular, consumers and the public.

I am glad to have been able to play a role in redesigning the performance right in sound recording law to meet these objectives. Our substitute, which was ultimately enacted, preserved existing rights, encouraged the development of important new technologies and promoted competition as the best protection for consumers. Working with Senator THURMOND, then chairman of the Antitrust Subcommittee, and with the
CONGRESSIONAL RECORD – SENATE

July 31, 1997

S8586

help of the Antitrust Division of the Department of Justice, we were able to strengthen the bill in significant regard. I was pleased to cosponsor the substitute and to work for its passage. I have also been supportive of copyright protection efforts, participating in copyright legislation over the past several years and been working on ways to utilize copyright management information to protect and inform consumers.

I anticipate that at Judiciary Committee hearings on this important measure, we will examine the impact of the treaties and this implementing legislation, both domestically and internationally, on the careful balance we always strive to maintain between the authors’ interest in protection along with the public’s interest in the accessibility of information.

Ours is a time of unprecedented challenge to copyright protection. Copyright has been the engine that has traditionally allowed the energy of artistic creativity into publicly available arts and entertainment. Historically, the Government’s role has been to encourage creativity and innovation by protecting copyrights that create incentives for the dissemination of public information and forms of expression. That is the tradition which I intend to continue.

Mr. KOHL. Mr. President, along with my colleagues, Senators HATCH and LEAHY, I rise in support in the WIPO Copyright and Performances and Phonograms Treaty Implementation Act of 1997. This proposal, while clearly not a final product, is nevertheless an important step forward in our ongoing battle against illegal copying of protected works—such as movies, books, musical recordings, and software. Let me also commend the administration, especially the Commerce Department and the Patent and Trademark Office, for their hard work in pushing for the underlying treaty and assembling a bipartisan coalition, especially the Commerce Department and the Patent and Trademark Office, for their hard work in pushing for the underlying treaty and assembling a bipartisan coalition, including the Antitrust Division of the Department of Justice, we were able to strengthen the bill in significant regard. I was pleased to cosponsor the substitute and to work for its passage. I have also been supportive of copyright protection efforts, participating in copyright legislation over the past several years and been working on ways to utilize copyright management information to protect and inform consumers.

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and abusive workers. There are no Federal requirements or guidelines on information sharing about abusive workers—even those who have been convicted in a court of law.

Because no national registry of abusive healthcare workers exists, people with histories of abuse or serious crimes in one State can simply travel to another State to find work. These workers can also move from a nursing home to home health agencies or to hospitals, and never undergo a complete background check.

Problems also exist with reporting abuse. Rather than going through the trouble of making a report and drawing possible unwanted attention, a facility often will dismiss a worker without a report ever filed. Further, States hesitate to document problem workers due to the fact that a listing means barring a worker from nursing homes for life.

Many states believe patient abuse has focused on nursing homes. But this is not the only care setting that should have increased protections. Home health care has been dramatically growing as a preferred long-term care option. Yet, protections for home care recipients are even more lax than those for nursing home residents.

While I am pleased to report that some States—including Wisconsin, have begun working to establish criminal background checks and improve their registries, it is clear that effective national protections must be in place to fill the gaps in the system. The effort to today builds on recommendations by State ombudsman programs who are the watch guards for long-term care residents. This effort is also in response to calls from consumer groups and the Long-Term Care Industry for a streamlined, accurate way to screen potential workers for abusive or criminal histories.

The Patient Abuse Prevention Act creates a national registry of abusive health care providers and requires criminal background checks for those entrusted to care for vulnerable patients.

This would enable States and employers—either by computer or by phone—to check if a potential employee has a criminal record or other problem in their past that should preclude them from caring for the infirm.

The national registry would also create a coordinated information network between States that violate their laws to not simply travel to another state to find work in a nursing home or other setting.

By far, the best way to stop abuse is to address the situations that lead to problem behaviors. Most studies that have looked into patient abuse indicate that better training would make a big difference. Therefore, this bill creates a demonstration program to investigate best practices in patient abuse prevention. What care workers on this program can learn can be disseminated by the Department of Health and Human Services and made available to all health care settings.

Mr. President, when a patient moves into a nursing home, or hires a home health care agency, they are entrusting that company with an enormous responsibility.

Any instance of patient abuse is intolerable and inadequate background checks of health care workers is inexcusable.

I believe that protecting our Nation’s elderly and infirm Americans from abuse, neglect, and mistreatment should be a national priority. When a potential Americans checks into a nursing home or other care setting, they should not have to check their right to a safe environment at the door.

I urge my colleagues to join in this effort so that all Americans can rest more comfortably knowing that their loved ones are receiving the best and safest care possible.

Mr. President, I ask that the text of the Patient Abuse Prevention Act, along with this summary now appear in the Record.

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

\[ S. 1122 \]

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 “Patient Abuse Prevention Act”.

SEC. 2. ESTABLISHMENT OF NATIONAL REGISTRY OF ABUSIVE WORKERS.

(a) IN GENERAL.—The Secretary shall establish, under the Registry, a registry concerning covered health care workers who have been determined under section 1128o of the Social Security Act (42 U.S.C. 1320a–7e), a registry to be known as the “National Registry of Abusive Workers” (hereafter referred to in this section as the “Registry”).

(b) SUBMISSION OF INFORMATION BY STATE OMBUSDMEN.—Each State shall submit to the Registry any existing or newly acquired information concerning covered health care workers who have been determined under section 1128o of the Social Security Act (42 U.S.C. 1320a–7e), a registry concerning covered health care workers who have been determined under section 1128o of the Social Security Act (42 U.S.C. 1320a–7e), a registry concerning covered health care workers who have been determined under section 1128o of the Social Security Act (42 U.S.C. 1320a–7e).

(c) SUBMISSION OF INFORMATION BY STATE REGISTRIES.—Each State shall submit to the Registry any existing or newly acquired information concerning covered health care workers who have been determined under section 1128o of the Social Security Act (42 U.S.C. 1320a–7e), a registry concerning covered health care workers who have been determined under section 1128o of the Social Security Act (42 U.S.C. 1320a–7e).

(d) SUBMISSION OF INFORMATION BY FACILITIES.—Each covered health care facility shall report to the Secretary concerning the covered health care worker who has engaged in an act of patient abuse. The State shall, in accordance with the procedures described in part 483 of title 42, Code of Federal Regulations (July 1, 1995), conduct an investigation with respect to a report under this subsection to determine the validity of such a report.

(e) BACKGROUND CHECK.—

(1) REQUIREMENTS.—

(A) IN GENERAL.—Each covered health care facility (as defined in subsection (b)), prior to employing a covered health care worker, shall—

(i) in the case of a covered health care worker who has not undergone a criminal background check as part of the licensing requirements of a State, as determined under regulations promulgated by the Secretary, provide for the conduct by the State of a criminal background check (through an existing State database (if any) and through the Integrated Automated Fingerprint Identification System) concerning such worker, and provide the worker with prior written notice of the requirement for such a background check;

(ii) obtain from a covered health care worker prior to employment a written certification that such worker does not have a criminal record, and that such worker has not been related to such worker, that would preclude such worker from carrying out duties that require direct patient care; and

(iii) in the case of all such workers, contact the State health care worker registries established under sections 1819(e)(2) and 1919(e)(2) which shall also contain the Registry for information concerning the worker.

(B) IMPOSITION OF FEES.—A State may assess a covered health care facility a fee for the conduct of a criminal background check under subparagraph (A)(i) in an amount that does not exceed the actual cost of the criminal background check. Such a facility may recover from the covered health care worker involved a fee in an amount equal to not more than 50 percent of the amount of the fee assessed by the State for the criminal background check.

(C) EFFECTIVE DATE.—The requirement in subparagraph (A)(i) shall become applicable 1 year after the date as the Director of the Federal Bureau of Investigation determines that the Integrated Automated Fingerprint Identification System has become operational.

(2) PROBATIONARY EMPLOYMENT.—Each covered health care facility shall provide a probationary period of employment for a covered health care worker pending the completion of the background checks required under paragraph (1)(A). Such facility shall maintain direct supervision of the covered health care worker during the worker’s probationary period of employment.

(3) PENALTY.—

(A) IN GENERAL.—A covered health care facility that violates paragraph (1)(A) shall be subject to a civil penalty in an amount not to exceed—

(i) for the first such violation, $2,000; and

(ii) for the second and each subsequent such violation within any 5-year period, $5,000.

(B) KNOWN RETENTION OF WORKER.—In addition to any civil penalty under subparagraph (A), a covered health care facility that—

(i) knowingly continues to employ a covered health care worker in violation of paragraph (1)(A) shall be subject to a civil penalty in an amount not to exceed $5,000 for each such violation.
violation, and $10,000 for the second and each subsequent violation within any 5-year period.

(f) Definitions.—In this section:

(1) COVERED HEALTH CARE FACILITY.—The term "covered health care facility" means—

(A) with respect to application under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), a provider of services, as defined in section 1861(u) of such Act (other than a fund for purposes of sections 1814(g) and 1833(e);

(B) with respect to application under the medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), any nursing facility, home health agency, community mental health center facility, hospice, home care center, adult family home, assisted living facility, hospice program, hospital, treatment facility, personal care worker agency, supportive home care worker agency, board and care facility, or any other entity that receives assistance or benefits under the medicaid program under that title;

(C) a facility of the National Institutes of Health;

(D) a facility of the Indian Health Service;

(E) a health center under section 330 of the Public Health Service Act (42 U.S.C. 254b);

(F) a hospital or other patient care facility owned or operated under the authority of the Department of Veterans Affairs or the Department of Defense.

(2) COVERED HEALTH CARE WORKER.—The term "covered health care worker" means any individual that has direct contact with a patient who has been determined to have committed patient abuse, or who has been determined to have committed patient mistreatment or misappropriation of patient property.

(3) PATIENT ABUSE.—The term "patient abuse" means any incident of abuse, neglect, mistreatment, or misappropriation of property of a patient of a covered health care facility. The terms "abuse," "neglect," "mistreatment," and "misappropriation of property" have the meanings given such terms in part 483 of title 42, Code of Federal Regulations.

(4) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(g) Consultation.—In carrying out this section the Secretary shall consult with the Director of the Federal Bureau of Investigation.

(h) Regulations.—Not later than 6 months after the date of enactment of this Act, the Secretary shall promulgate regulations to carry out this section. With respect to subsections (b) and (c), the regulations shall call for the submission of information to the Registry not later than 30 days after the date of a conviction or on which a finding is made.

SEC. 3. EXCLUSION OF CERTAIN INDIVIDUALS FROM PARTICIPATION IN PROGRAMS.

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

"(i) knowingly continued to employ an individual described in subparagraph (A) in a position involving direct patient care; or

(ii) knowingly failed to report an individual who has been determined to have committed a crime described in subparagraph (A),";

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

(A) in subsection (b), by adding at the end the following:

"(16) FINDING RELATING TO PATIENT ABUSE.—Any individual or entity that—

(A) is or has been a subject of a specific documented finding of patient abuse by a State (as determined under procedures utilized by a State under section 1119(e)(2) or 1119(e)(2)); or

(B) has been found to have—

(i) knowingly continued to employ an individual described in subparagraph (A) in a position involving direct patient care; or

(ii) knowingly failed to report an individual who has been determined to have committed patient abuse as described in subparagraph (A),";

(B) in subsection (c)(3), by adding at the end the following:

"(G) In the case of an exclusion of an individual or entity under subsection (b)(16), the period of exclusion shall be determined in accordance with regulations promulgated by the Secretary based on the severity of the conduct that is the subject of the exclusion.",

(2) REGULATIONS.—Not later than 6 months after the date of enactment of this Act, the Secretary of Health and Human Services shall promulgate regulations to establish periods of exclusion for purposes of section 1128(c)(3)(B) of the Social Security Act.

(c) EXCLUSIONS APPLY TO ANY ENTITY ELIGIBLE FOR FEDERAL REIMBURSEMENT.—Section 1120 of the Social Security Act (42 U.S.C. 1320a–7) is amended by adding at the end the following:

"(j) APPLICABILITY OF CERTAIN EXCLUSION REQUIREMENTS TO FEDERAL REIMBURSEMENT.—(1) In general.—The Secretary shall provide that such individual or entity under sections (a)(2) and (b)(16) shall be subject to exclusion for purposes of this section when such individual or entity is excluded from or has failed to report an individual or entity under section 1128(b)(16), or is subject to an involuntary commitment for purposes of section 1128(b)(16)."

SEC. 4. PREVENTION AND TRAINING DEMONSTRATION PROJECT.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services shall establish a demonstration program to provide grants to develop information on best practices in patient abuse prevention training (including behavior training and interventions) for managers and staff of hospital and health care facilities.

(b) ELIGIBILITY.—To be eligible to receive a grant under this section, entities shall—

(1) be public or private nonprofit entities and purposefully collaborate with appropriate state agencies in order to carry out the purposes of this section.

(2) be willing to allow the Secretary to use the information collected as part of the demonstration project to develop information on best practices in patient abuse prevention training that is subsequently disseminated to other entities.

(3) develop a comprehensive, participatory, and interactive plan for the project.

(4) maintain a list of participants in the project.

SEC. 5. USE OF NATIONAL REGISTRY DATABASE.

(a) USE.—The Secretary of Health and Human Services shall establish the National Registry of Nurse Aides who have been convicted of a criminal offense involving the abuse, neglect, or mistreatment of a patient, or misappropriation of property of a patient, or who have been subject to an involuntary commitment for purposes of section 1128(b)(16) of the Social Security Act, or who have been subject to a finding of patient abuse by a State, or who have been subject to a finding of patient neglect or misappropriation of property of a patient by a State.

(b) TERRITORIES.—The National Registry shall also include all health care workers who have been convicted of an abuse, or who have been subject to an involuntary commitment for purposes of section 1128(b)(16) of the Social Security Act, or who have been subject to a finding of patient neglect or misappropriation of property of a patient by a State, that are residents of any territory of the United States.

(c) USE OF NATIONAL CRIMINAL HISTORY DATABASE.—The National Registry shall also include all health care workers who have been convicted of an abuse, or who have been subject to an involuntary commitment for purposes of section 1128(b)(16) of the Social Security Act, or who have been subject to a finding of patient neglect or misappropriation of property of a patient by a State, that are residents of any territory of the United States.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 6. PATIENT ABUSE PREVENTION ACT

(a) SHORT TITLE.—This title may be cited as the "Patient Abuse Prevention Act."
and other workers who will have unsupervised contact with a vulnerable patient.

States will submit check requests to the FBI national criminal background check system (fingerprints) for the applicant. The current backlog at FBI for fingerprint checks, the provision is delayed until no later than January 1, 1999. At that time, FBI should have the Integrated Automated Fingerprint Identification System fully operational. That system should operate within a two-day turn around and at less cost than the current manual system.

Fees: States may charge fees to cover cost of FBI check, not to exceed their cost. Facilities may split the cost of the fees with the applicant.

**Penalties for Non-Compliance**

If a provider fails to inquire with the state and hires a known abuser, the provider is subject to a fine of $2,000 for the first violation, and $5,000 for subsequent violations. If there is willful disregard of the background check and reporting requirements, the fines increase up to $10,000.

**Section 3. Changes to Current Law  Exclusions and ObA’R Provisions**

Current law requires only that nurse aides are listed on state registries. This requirement will be expanded to cover all direct care workers.

Current law already mandates exclusion for those convicted of patient abuse or other crimes within the health care setting. This adds to the existing health care workers who have been convicted of the most serious crimes outside of the health care setting, including homicide, battery, sexual assault, and child or spousal abuse.

Varying degrees of abuse “findings” will be allowed on state and national registry. One of the main complaints of providers and state retirement agencies is that a finding of abuse equates to a “death sentence” by banning an individual from working as a nurse aide for life. Due to the severity of the ban, facility directors are hesitant to aggressively pursue abuse reports that may or may not lead to a “finding.” Therefore, other health facilities may be unaware of instances of abuse or mistreatment. This bill will allow HHS to issue regulations on varying degree’s findings and exclusions so that those who have had proven instances of abuse but not necessarily prohibited from working for life.

**Definitions**

**Covered Care Workers**—Patient care workers who have direct access to vulnerable patients.

**Covered Health Care Facilities**—Those receiving Medicare or Medicaid reimbursement, such as: nursing homes, skilled nursing facilities, home health agencies, community-based residential facilities, board and care facilities, adult day care centers, adult family homes, assisted living facilities, hospice programs, and retirement communities. Federal health care facilities are also subject to the requirements.

**Abuse**—Any finding of abuse, neglect, mistreatment, or exploitation of persons, as defined byЛО their property as defined in current Federal regulations relating to nurse aides (CFR, Sec. 483.13 (c)(iii)).

Crimes that could have the intent to deflect a clear disregard for the health, well-being, safety and general welfare of other people must be prohibited from working in direct contact with vulnerable individuals or residents or consumers. Current law already requires exclusion of those convicted of health care fraud and acts of abuse in the health care setting. Other crimes that could have the intent to deflect a clear disregard at the discretion of the Secretary of HHS. This bill adds a mandatory exclusion of those convicted of serious crimes that occur outside of the health care setting.

**Section 4. Abuse Prevention/Training Demonstration**

Because the best way to combat patient abuse is to prevent it from occurring, a demonstration program is created to compile information on best practices in abuse prevention training for managers and staff of health care facilities. The demonstration program will focus on ways to improve collaboration between state health care survey and certification agencies, long-term care ombudsman programs, and national, state and local community members. Current patient abuse prevention training programs will be studied for effectiveness and application to other health care settings.

By Mr. HATCH (for himself, Mr. BAUCUS, Mr. D’AMATO, and Mrs. BOXER). S. 1123. A bill to amend the Internal Revenue Code of 1986 relating to the unemployment tax for individuals employed in the entertainment industry; to the Committee on Finance Under our current Unemployment Compensation (UC) system States pay and administer UC benefits. The federal government shares in the cost of these benefits. Since 1980, the Federal Government has made it clear that UC benefits be offset or reduced by any pension benefits that an individual receives from a base-period employer. A base-period employer is any employer of the recipient during the 52-week period before the loss of a job.

Here is how it works. If you are voluntarily separated from the same employer that is paying your retirement benefits and your employment caused your retirement benefits to increase your unemployment compensation benefits, you may qualify for will be offset by any retirement income received for this same employer. Thus, retirement benefits received could significantly reduce or eliminate any unemployment benefits.

Mr. President, this policy was implemented, in part, to prevent employees from receiving pension benefits and qualifying for unemployment compensation from the same employment. Under current law, any employee in a multi-employer plan group are considered base-period employers for unemployment compensation purposes. Because of this, members of a multiemployer pension plan can unfairly penalize some taxpayers. Under current law, all employers in a multi-employer plan group are considered base-period employers for unemployment compensation purposes. Because of this, members of a multiemployer pension plan, such as actors and actresses that return to work, even through it may be for another employer, are treated as reentering for the same employer because all entertainment industry employers are part of the same multiemployer pension plan. Thus, when they return to work in their later years and their pension is increased by a nominal amount their unemployment compensation benefits are offset by their full pension amount. This can leave some with the little or no unemployment compensation benefits.

Mr. President, to correct this, I am introducing legislation that will simply limit the unemployment benefit offset to the amount of the pension increase rather than the full pension amount received. Similar legislation has been introduced in the House by Rep. English as H.R. 841.

Mr. President, I hope we can pass this change to allow workers in multiemployer pension plans to receive the same treatment as participants in other plans.

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. 1123

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, SECTION 1. INDIVIDUALS EMPLOYED IN ENTERTAINMENT INDUSTRY.

(a) In General.—Section 3304(a)(15) of the Internal Revenue Code of 1986 (relating to reductions in tax) is amended.

(1) by striking “and” at the end of subparagraph (A),

(2) by striking the period at the end of subparagraph (B) and inserting “; and”, and

(3) by adding at the end of the following:

“(C) in the case of a pension, retirement or retired pay, annuity, or any other similar periodic payment under an entertainment industry plan contributed to by an employer—

“(i) such a reduction shall not be required by reason of such a payment unless—

“(ii) such individual worked for such employer before the base period, and

“(iii) such employer contributed to such plan an account of such individual’s work for such employer before the base period and

“(ii) subject to subparagraph (B), such reduction shall not exceed the amount (if any) of the increase referred to in subparagraph (A)(ii) attributable to services performed by such individual for such employer;”.

(b) ENTERTAINMENT INDUSTRY PLAN AND EMPLOYER.—Section 3304 of such Code is amended by adding at the end of the following new subsection:

“(g) ENTERTAINMENT INDUSTRY PLANS AND EMPLOYERS.—For purposes of subsection (a)(15)(C)—

“(2) ENTERTAINMENT INDUSTRY PLAN.—The term ‘entertainment industry plan’ means any multi-employer plan paying substantially all of the contributions to which are made by entertainment industry employers.

“(b) ENTERTAINMENT INDUSTRY EMPLOYER.—The term ‘entertainment industry employer’ means any employer substantially all of the trades or businesses of which consists of either or both—

“(A) radio or television broadcasting, and

“(B) the production or distribution of visual images or sound on—

“(i) film, or

“(ii) film or computer-generated or other visual for audio media.

“(c) PUBLICATION DISSEMINATION.—The term ‘entertainment, informational, commercial, educational, religious, or other purposes’.”

Mr. President, to correct this, I am introducing legislation that will simply limit the unemployment benefit offset to the amount of the pension increase rather than the full pension amount received. Similar legislation has been introduced in the House by Rep. English as H.R. 841.
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

WORKPLACE RELIGIOUS FREEDOM ACT

Mr. KERRY. Mr. President, I send a bill to the desk and ask for its appropriate referral.

Mr. President, I am introducing today a bipartisan bill, together with Senator COATS of Indiana. This is the Workplace Religious Freedom Act of 1997.

This bill would protect workers from on-the-job discrimination related to religious beliefs and practices. It represents a milestone in the protection of the religious liberties of all workers. Senator COATS and I developed this new bill based on a similar bill introduced earlier this session.

In 1972, Congress amended the Civil Rights Act of 1964 to require employers to reasonably accommodate an employee's religious practice or observance unless doing so would impose an undue hardship on the employer. This 1972 amendment, although completely appropriate, has been interpreted by the courts so narrowly as to place little restraint on an employer's refusal to provide religious accommodation. The Workplace Religious Freedom Act will restore to the religious accommodation provision the weight that Congress originally intended and help assure that employers have a meaningful obligation to reasonably accommodate their employees' religious practices.

The restoration of this protection is no small matter. For many religiously observant Americans, the greatest peril to their ability to carry out their religious faiths on a day-to-day basis may come from employers. I have heard accounts from around the country about a small minority of employers who will not make reasonable accommodation for employees to observe the Sabbath and other holy days or for employees who must wear religiously-required garb, such as a yarmulke, or for employees to wear clothing that meets religious-based modesty requirements. These employers present undue hardship, to provide reasonable accommodation of a religious practice should be seen as a form of religious discrimination, as originally intended by Congress in 1972. And religious discrimination should be treated fully as seriously as any other form of discrimination that stands between Americans and equal employment opportunities. Enacting the Workplace Religious Freedom Act will constitute an important step toward ensuring that all members of society, whatever their religious beliefs and practices, will be protected from an invidious form of discrimination.

It is important to recognize that, in addition to protecting the religious freedom of employees, this legislation protects employees from an undue burden. Employees would be allowed to take off work only if their doing so does not pose a significant difficulty or expense for the employer. This common sense definition of undue hardship is used in the "Americans with Disabilities Act" and has worked well in that context.

We have little doubt that this bill is constitutional because it simply clarifies existing law on discrimination by private employers, strengthening the existing rights of employees. Unlike the Religious Freedom Restoration Act [RFRA], which was declared unconstitutional recently by the Supreme Court, the bill does not deal with behavior by State or Federal Governments or substantively expand 14th amendment rights.

I believe this bill should receive bipartisan support. This bill is endorsed by a wide range of organizations including the American Jewish Committee, Baptist Joint Committee, Christian Legal Society, Seventh-day Adventists, National Association of Evangelicals, National Council of the Churches, National Sikh Center, and Presbyterian Churches. I ask unanimous consent that the letter from the Coalition for Religious Freedom in the Workplace, which represents all of these groups, be included in the RECORD.

I want to thank Senator COATS for joining me in this effort. I look forward to working with him to pass this legislation so that all American workers can be assured of both equal employment opportunities and the ability to practice their religion.

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

S. 1124

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

CONGRESSIONAL RECORD — SENATE J July 31, 1997

SEC. 2. AMENDMENTS.

(a) DEFINITIONS.—Section 701(j) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(j)) is amended—

(1) by inserting "(I)" after "(J);"

(2) by inserting ", after initiating and engaging in an affirmative and bona fide effort, after "unable," and

(3) by striking "an employee's" and all that follows through "religious" and insert "an employee's religious"; and

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to weeks beginning after December 31, 1997.

(2) SPECIAL RULE.—In the case of any State the legislature of which has not been in session for at least 30 calendar days (whether or not successive) between the date of the enactment of this Act and December 31, 1997, the amendments made by this section shall apply to weeks beginning after the date which is 30 calendar days after the first day on which such legislative is in session on or after December 31, 1997.

By Mr. KERRY (for himself and Mr. COATS):

S. 1124. A bill to amend title VII of the Civil Rights Act of 1964 to establish provisions with respect to religious accommodation in employment, and for other purposes; to the Committee on the Judiciary.
"(B) the employee and any other employee would voluntarily exchange shifts or job assignments, or voluntarily make some other arrangement between the employees.

"(D) shall not be required to pay premium wages or confer premium benefits for work performed during hours to which such premium wages or premium benefits would ordinarily be applicable, if work is performed during such hours only to accommodate religious requirements of an employee.

"(B) As used in this paragraph—

"(i) the term 'premium benefit' means an employment benefit, such as seniority, group life insurance, unemployment insurance, sick leave, annual leave, an educational benefit, or a pension, that is greater than the employment benefit due the employee for an equivalent period of work performed during the regular work schedule of the employee; and

"(ii) the term 'premium wages' includes overtime pay and compensatory time off, premium pay for night, weekend, or holiday work, and premium pay for standby or irregular duty.'

SEC. 3. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by section 2 shall take effect on the date of enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by section 2 do not apply with respect to conduct occurring before the date of enactment of this Act.

COALITION FOR RELIGIOUS FREEDOM IN THE WORKPLACE,

The Coalition for Religious Freedom in the Workplace is a broad coalition of religious and civil rights groups that has come together to promote the passage of legislation to strengthen the religious accommodation provisions of Title VII of the Civil Rights Act of 1964. We applaud Senators Dan Coats and J ohn Kerry for their action today in introducing the Workplace Religious Freedom Act of 1997.

Current civil rights law defines the refusal of an employer reasonably to accommodate an employee's religious practice as undue hardship, which such accommodation would impose on the employer, as a form of religious discrimination. But this standard has been interpreted too narrowly by courts, placing little restraint on an employer's ability to refuse to provide religious accommodation.

It is time to correct an interpretation of the law that needlessly forces upon religiously observant employees a conflict between the dictates of religious observance and their employment. The bipartisan effort of Senators Coats and Kerry in crafting and introducing the Workplace Religious Freedom Act sends exactly the right message. The case where such accommodation would not be an undue hardship is defined as an action requiring "significant difficulty or expense." Our bill takes into account a number of factors, including: First the cost of the accommodation as determined by the costs of lost productivity and of retraining or hiring employees or transferring employees from one facility to another; second the size of the employer; third the number of employees required to accommodate the employee; and; fourth for an employer with multiple facilities, the degree to which the geographic separateness or administrative or fiscal relationship of the facilities will make the accommodation more difficult or expensive.

The bill also provides a number of safeguards for the employer. For example, an employer is not required to provide an accommodation which will result in the inability of an employee to perform the essential functions of the job nor is an employer required to pay premium wages or additional benefits to employees requesting the accommodation if the change in schedule is instituted specifically to accommodate an employee's religious observance or practice.

The Workplace Religious Freedom Act is an important step toward restoring the original intent of Title VII. Though we know that only a minority of employers refuse to make reasonable accommodations to observe the Sabbath or other Holy days, the fact of the matter is that no worker in America should be forced to choose between a job and violating deeply held religious tenets. Religious discrimination in America must not be tolerated. It should be treated as seriously as any other form of discrimination.

Mr. President, let me conclude by reminding us that the best and oldest tradition of America is religious accommodation without coercion. We have no established religion in this country, and do not want one. But we must recognize and respect the important role of religion in our society. Values that stem from religious faith enrich our common life. As a society, we must continue to guarantee that religious liberty. I urge my colleagues to support this important legislation.

COALITION FOR RELIGIOUS FREEDOM IN THE WORKPLACE

Agudath Israel of America
America Jewish Committee
American Jewish Congress

Mr. COATS. Mr. President, to private religious belief is to trivialize it. When we treat religion as purely personal—irrelevant to the way we live our lives and write our laws—this is not neutrality to religion, it is hostility to religion. The reason is simple: because faith is more than an internal belief, it is a guide to external conduct. And for religious liberty to have any meaning, government and business must accommodate that conduct, within the bounds of reason and order. Consider one case:

Ms. Jones, a line worker at Bigco Enterprises approaches her supervisor with a problem: According to her religion, Ms. Jones will work any other day— including Saturday evenings—without extra pay. But the mandate of her religion is absolute. If given the choice of working on Sunday or losing her job, Ms. Jones will have to resign or risk being fired. The supervisor explains that Bigco has a random shift-assignment policy which requires that every employee work the assigned shift or find a replacement worker. Unable to find a replacement worker, Ms. Jones misses two Sundays, and is fired.

Mr. President, presumably, Title VII of the Civil Rights Act of 1964, which prohibits an employer from discriminating against an employee on the basis of religion, would provide Ms. Jones some recourse. But that is not necessarily the case.

Since 1972, title VII has required an employer to make an accommodation "unless an employer demonstrates that such accommodation would impose undue hardship on the employer, as a form of religious discrimination. But this standard has been interpreted too narrowly by courts, placing little restraint on an employer's ability to refuse to provide religious accommodation.

It is time to correct an interpretation of the law that needlessly forces upon religiously observant employees a conflict between the dictates of religious observance and their employment. The bipartisan effort of Senators Coats and Kerry in crafting and introducing the Workplace Religious Freedom Act sends exactly the right message. The case where such accommodation would not be an undue hardship is defined as an action requiring "significant difficulty or expense." Our bill takes into account a number of factors, including: First the cost of the accommodation as determined by the costs of lost productivity and of retraining or hiring employees or transferring employees from one facility to another; second the size of the employer; third the number of employees required to accommodate the employee; and; fourth for an employer with multiple facilities, the degree to which the geographic separateness or administrative or fiscal relationship of the facilities will make the accommodation more difficult or expensive.

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CONGRESSIONAL RECORD — SENATE
July 31, 1997

S8592

Americans for Democratic Action
Anti-Defamation League
Baptist Joint Committee on Public Affairs
Central Conference of American Rabbis
Christian Legal Society
Church of Scientology International
Council on Religious Freedom
General Federation of Women's Clubs
The United Methodist Church
General Conference of Seventh-day Adventists
Guru Gobind Singh Foundation
Hadasah-WZO
International Association of Jewish Lawyers and Jurists
Jewish Council for Public Affairs
National Association of Evangelicals
National Council of Churches
National Council of Jewish Women
National Sikh Center
North American Council for Muslim Women
People for the American Way
Presbyterian Church (USA), Washington Office
Rabbincal Council of America
Traditional Values Coalition
Union of American Hebrew Congregations
Union of Orthodox Jewish Congregations
United Synagogue of Conservative Judaism

By Ms. MOSELEY-BRAUN (for herself and Mr. DURBIN):
S. 1126. A bill to amend title 23, United States Code, to extend the discretionary bridge program; to the Committee on Environment and Public Works.

HIGHWAY BRIDGE IMPROVEMENT ACT OF 1997
Ms. MOSELEY-BRAUN. Mr. President, I rise today to introduce a bill to extend the Highway Bridge Improvement Act of 1997 with my colleague from Illinois, Senator DURBIN.

This legislation would increase the authorization for the Discretionary Bridge Program from its current level of around $50 million annually to $800 million annually. This change would allow States with large bridge improvement projects to compete for discretionary grants at the Federal level.

Mr. President, in 1995 approximately 25 percent of America's Interstates and bridges were classified as deficient. In addition, 28 percent of the 130,000 bridges on all other arterial systems were deficient. As the Congress considers ISTEA reauthorization legislation this year, it is vitally important that we continue the successful Highway Bridge Repair and Rehabilitation Program, and substantially increase the authorization level of the Discretionary Bridge Program.

Since its creation in 1978, the Discretionary Bridge Program has been a valuable source of funds for many States. Demand for funding under the program has vastly exceeded available resources. In 1996 alone, States submitted 29 requests totaling $250 million. The program was authorized at less than one-tenth that level.

The Highway Bridge Improvement Act would increase the authorization for the Discretionary Bridge Program to allow States to compete for discretionary bridge repair grants above and beyond their formula allocation for bridge repairs.

Mr. President, this bill does not include a set-aside for the Highway Timber Bridge Research and Demonstration Program, nor does it include a new proposal I support to create a Steel Bridge Research and Construction Program. Our legislation is a very simple package of actions to increase the authorization for the Discretionary Bridge Program.

As my colleagues on the Environment and Public Works Committee draft legislation to reauthorize the Intermodal Surface Transportation and Efficiency Act, I hope they will include the timber and steel bridge set-asides, and I hope they will include the Highway Bridge Improvement Act.

I urge all of my colleagues to consider the needs of the bridges in their States, and to support this important legislation.

By Mrs. BOXER (for herself and Ms. MOSELEY-BRAUN):
S. 1126. A bill to repeal the provision in the Balanced Budget Act of 1997 relating to base periods for Federal unemployment tax purposes; to the Committee on Labor and Human Resources.

LEGISLATION TO REPEAL CERTAIN SECTION OF THE BALANCED BUDGET ACT OF 1997
Mrs. BOXER. Mr. President, I rise today to introduce a bill to repeal section 5401 of the conference report to H.R. 2015, the Balanced Budget Act of 1997.

This provision, entitled "clarifying," actually overturns a very important 3-year-old Federal court decision. A provision with such far-reaching implications for all of the working men and women in our country who are currently unemployed, or, in this era of downsizing, may become unemployed, should not be tucked away in a 1,000-plus page bill.

Let me briefly explain to my colleagues why this provision has such a devastating impact on unemployed workers. On February 21, 1997, a state-downsizing, may become unemployed, was reported that "workers get the benefits; the only issue is when the State will pay the benefits. There is no question that these workers are entitled to unemployment benefits; the only issue is when the State will pay the benefits.

In order to receive unemployment benefits a worker must have earned a prescribed amount in the 12-month period prior to his unemployment. However, because many States, including my home State of California, are slow to obtain and process wage data, a worker's unemployment compensation is often not calculated based upon his most recent wages. Rather, it is often calculated based upon wages which were earned up to 7 months prior to the date the worker files a claim. For example, if a worker files a claim for benefits in January 1997, any amounts he earned after July 1996, will be disregarded because it is outside of the "base period."

This policy of delaying payment of unemployment benefits causes severe hardship to unemployed workers, pushing many of these workers onto the welfare roles. The bill I have introduced today will enable these unemployed workers get the benefits they are owed in a timely fashion.

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. 1126

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

SECTION 1. REPEAL OF SECTION 5401 OF BALANCED BUDGET ACT OF 1997.

(a) IN GENERAL.—Section 5401 of the Balanced Budget Act of 1997 is hereby repealed.

(b) EFFECTIVE DATE.—The effective date made by subsection (a) shall apply for purposes of any period beginning on, or after the date of the enactment of this Act.

By Mr. WELLSTONE:
S. 1128. A bill to provide rental assistance under section 8 of the United States Housing Act of 1937 for victims of domestic violence to enable such victims to relocate; to the Committee on Banking, Housing, and Urban Affairs.

THE DOMESTIC VIOLENCE VICTIMS HOUSING ACT
Mr. WELLSTONE. Mr. President, I rise today to introduce legislation that will ensure that battered women have increased access to affordable housing through tenant-based rental assistance. The lack of safe, affordable housing is a major factor in forcing women to return to their violent partners, either directly from battered or after attempting to set up an independent home.

This bill would address the important problem by providing section 8 housing certificates to low-income women who are victims of domestic violence.

Domestic violence in our society is a staggering problem. An estimated 4 million American women experience a serious assault by a husband or boyfriend each year. In 1993 alone, over 1,300 women were reportedly killed by abusive partners or former partners. Battered women are confronted with numerous obstacles in their efforts to survive and escape domestic violence. Some obstacles arise from the dynamics of abusive relationships—dependence, isolation, and fear. Economic obstacles, however, create some of the most difficult problems for women trying to leave a violent partner, including child and health care costs, and the lack of housing, affordable or otherwise. Battered women and their children are a large proportion of the emergency shelter population. Even if shelter space is available, access to affordable housing,
CONGRESSIONAL RECORD — SENATE
S8593

July 31, 1997

housing subsidies and services are needed to keep women from having to return to a violent home. A study in Michigan found that 60 percent of those who left shelters and returned to their violent partners did so because of too little affordable housing. Equally disturbing is the fact that 50 percent of all homeless women and children in this country are fleeing domestic violence.

There have been cases brought to my attention in my home State of Minnesota. When trying to escape abusive relations could have benefited from this legislation, and we know that sadly there are many more stories from around the country.

One case involves a young mother from a small town in central Minnesota. Rachel left her child’s father after suffering 2 years of abuse at his hands. She and her baby stayed in a battered women’s shelter for a month until she found an apartment. After paying her rent each month, Rachel was unable to provide for her family. Seeing no other options, she returned to the home of her abuser; after a 2 month respite, he began to batter her again.

This legislation would assist women, like Rachel, fleeing abuse to get affordable housing by authorizing $50 million in funding for section 8 housing certificates. The Department of Housing and Urban Development (HUD) would allocate the resources to public housing authorities, which would issue the housing certificates to domestic violence victims. Only those victims who met the other requirements of the section 8 program would be eligible. HUD estimates that this program would provide 7,500 housing units nationwide for victims of domestic violence.

Mr. President, this legislation will go a long way in removing a major roadblock for battered women who are trying to escape domestic violence—the lack of affordable housing. We need to give these women an opportunity other than living on the streets, in shelters, returning to their batters. This legislation would provide battered women and their children an opportunity to rebuild their lives in a stable home. Furthermore, this legislation conveys the message to abusers that we will not tolerate their violence, that we will not continue to allow them to drive their victims into the shelters and the streets.

I ask unanimous consent that the full 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. 1128

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

SECTION 1. SHORT TITLE.
This Act may be cited as the “Domestic Violence Victims Housing Act”.

SEC. 2. DEFINITIONS.
In this Act:

(1) ABUSE.—The term “abuse” includes any act that constitutes or causes, any attempt to commit, or any threat to commit—
(A) any bodily injury or physical illness, including placement of a person in fear of imminent injurious bodily injury; 
(B) any rape, sexual assault, or involuntary sexual activity; or 
(C) the infliction of false imprisonment or other nonconsensual restraints on liberty of movement; 

(2) DOMESTIC VIOLENCE.—The term “domestic violence” means abuse that is committed against an individual by—
(A) a spouse or former spouse of the individual; 
(B) an individual who is the biological parent or stepparent of a child of the individual subject to the abuse, who adopted such child, or who is a legal guardian to such a child; 
(C) an individual with whom the individual subject to the abuse is or was cohabiting; 
(D) a current or former romantic, intimate, or sexual partner of the individual; or 
(E) an individual who is the biological parent of a child (other than a married or former spouse) of the individual subject to the abuse who was subject to the domestic violence, if the public housing agency determines that, in the determination of the Secretary, best demonstrates—
(i) information provided by any medical, legal, counseling, or other clinic, shelter, or center licensed, recognized, or authorized by the State or unit of general local government to provide services to victims of domestic violence; 
(ii) information provided by any agency of the State or unit of general local government that provides or administers the provision of shelter, legal, or health services; 
(iii) information provided by any hospital, clinic, medical facility, or doctor licensed or authorized by the State or unit of general local government to provide medical services; 
(iv) a petition or complaint filed in a court or law or documents or records of action of any court or law enforcement agency, including any record of any protection order, injunction, or temporary or final order issued by civil or criminal courts or any police report; or 
(v) any other reliable evidence that domestic violence has occurred.

(4) PUBLIC HOUSING AGENCY.—The term “public housing agency” has the meaning given in the term in section 21 of the United States Housing Act of 1937 (42 U.S.C. 1437d).

(5) SECRETARY.—The term “Secretary” means the Secretary of Housing and Urban Development.

(6) STATE.—The term “State” means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, and any other territory or possession of the United States.

(7) UNIT OF GENERAL LOCAL GOVERNMENT.—The term “unit of general local government” has the meaning given the term in section 8 of the Housing and Community Development Act of 1974 (42 U.S.C. 15302(a)).

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.
The budget authority under section 9 of the United States Housing Act of 1937 for assistance under sections (b) and (o) of section 8 of such Act is authorized to be increased by—

(a) $50,000,000 on or after October 1, 1997; and 
(b) such sums as may be necessary on or after October 1, 1998.

SEC. 4. USE OF AMOUNTS FOR HOUSING ASSISTANCE FOR VICTIMS OF DOMESTIC VIOLENCE.
(a) IN GENERAL.—Amounts available pursuant to section 3 shall be made available by the Secretary of Housing and Urban Development only to public housing agencies only for use in providing tenant-based rental assistance on behalf of families victimized by domestic violence who have left or who are leaving a residence as a result of the domestic violence.

(b) DETERMINATION.—For purposes of subsection (a), a family victimized by domestic violence shall be considered to have left or to be leaving a residence as a result of domestic violence, if the public housing agency providing rental assistance under this Act determines that the member of the family who was subject to the domestic violence reasonably believes that relocation from such residence will assist in avoiding future domestic violence against such member or another member of the family.

(c) ALLOCATION.—Amounts made available pursuant to section 3 shall be allocated by the Secretary to one or more public housing agencies that submit to the Secretary that, in the determination of the Secretary, best demonstrate—

(i) a need for such assistance; and 
(ii) the ability to use that assistance in accordance with this Act.

By Mr. WELLSTONE (for himself and Mr. DURBIN):
S. 1129. A bill to provide grants to States for supervised visitation centers; to the Committee on Labor and Human Resources.

THE SAFE HAVENS FOR CHILDREN ACT OF 1997
Mr. WELLSTONE. Mr. President, I rise today to introduce legislation that will provide safe havens for children who are members of families in which violence is a problem. I am pleased to have my distinguished colleague from Illinois, Mr. DURBIN, join me in this effort.

The prevalence of family violence in our society is staggering. Studies show that 25 percent of all violence occurs among people who are related to one another. Data also indicate that the incidence of violence in families escalates during separation and divorce. In
CONGRESSIONAL RECORD — SENATE

July 31, 1997

S8594

SEC. 4. GRANTS TO STATES TO PROVIDE SUPERVISED VISITATION CENTERS.

(a) IN GENERAL. — The Secretary of Health and Human Services (in this Act referred to as the "Secretary") is authorized to award grants to States to enable States to enter into contracts and cooperative agreements with public or private nonprofit entities to assist such entities in establishing and operating supervised visitation centers for the purposes of facilitating supervised visitation and visitation exchanges.

(b) CONSIDERATIONS. — In awarding such grants, contracts, and cooperative agreements under this Act, the Secretary shall take into account—

(1) the number of families to be served by the proposed visitation center to be established under the grant, contract, or agreement;

(2) the extent to which the proposed supervised visitation center serves underserved populations; and

(3) the extent to which the applicant demonstrates cooperation and collaboration with advocates in the local community served, in the State domestic violence coalition, State sexual assault coalition, local shelters, and programs for domestic violence and sexual assault victims.

(c) USE OF FUNDS. — (1) IN GENERAL. — Amounts provided under a grant, contract, or cooperative agreement awarded under this section shall be used to establish supervised visitation centers and for the purposes described in section 2. Individuals shall be permitted to use the services provided by the center on a sliding fee basis.

(2) ANNUAL REPORTS. — The Secretary shall submit to Congress an annual report that includes information concerning—

(A) the number of individuals served and the number of individuals turned away from supervised visitation centers in the State and type of presenting problems that underlie the need for supervised visitation services; and

(B) the number of public or private nonprofit entities treated for domestic violence in emergencies and the number of such entities that provide support services to children.

(3) USE OF FUNDS. — The Secretary shall use the funds to—

(A) provide long-term supervised visitation and visitation exchange services to promote continuity and stability;

(B) demonstrate recognized expertise in the area of family violence and a record of high quality service to victims of domestic violence and sexual assault; and

(C) provide long-term supervised visitation and visitation exchange services to promote continuity and stability.

(1) IN GENERAL. — The Secretary of Health and Human Services (in this Act referred to as the "Secretary") is authorized to award grants to States to enable States to enter into contracts and cooperative agreements with public or private nonprofit entities to assist such entities in establishing and operating supervised visitation centers for the purposes of facilitating supervised visitation and visitation exchanges.

(b) CONSIDERATIONS. — In awarding such grants, contracts, and cooperative agreements under this Act in accordance with such regulations as the Secretary may promulgate, the Secretary shall consider—

(1) the number of families to be served by the proposed visitation center to be established under the grant, contract, or agreement;

(2) the extent to which the proposed supervised visitation center serves underserved populations; and

(3) the extent to which the applicant demonstrates cooperation and collaboration with advocates in the local community served, in the State domestic violence coalition, State sexual assault coalition, local shelters, and programs for domestic violence and sexual assault victims.

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(B) demonstrate recognized expertise in the area of family violence and a record of high quality service to victims of domestic violence and sexual assault; and

(C) provide long-term supervised visitation and visitation exchange services to promote continuity and stability.
Mr. CAMPBELL. Mr. President, I ask unanimous consent to introduce the Indian Gaming Enforcement and Integrity Act of 1997.

The purpose of this legislation is to reform the current regulatory fee structure administered by the National Indian Gaming Commission (NIGC), the regulatory agency responsible for monitoring and regulating Indian tribal gaming. The purpose of any regulatory agency is in its ability to monitor activities within its purview and to act decisively in enforcing violations of the law. The NIGC is no different and it has depended on regulatory assessments and Federal appropriations to carry out these vital roles.

When Congress enacted and the President signed into law, the Indian Gaming Regulatory Act [IGRA], two principal goals were sought: To provide a statutory basis for the operation of Indian gaming as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments; and, second, to provide a statutory basis for the regulation of the Indian gaming industry to shield it from corrupting influences. Since its enactment in 1988, the Indian gaming industry has grown tremendously and is now a multi-billion dollar industry. As a result, the IGRA is beginning to provide many tribal governments with the wherewithal to provide basic services to their members. Where poverty once reigned on reservations, economic opportunity now abounds. In many cases, tribal governments are able to employ large numbers of their own members, as well as non-Indians from surrounding communities. Further, it is no coincidence that in many communities around the Nation, welfare rolls have dropped and employment has risen as a direct result of tribal gaming.

The second objective of the IGRA is to provide adequate regulatory oversight to shield Indian gaming from corruption influences and to ensure the games are fair, and conducted in accordance with all applicable laws. IGRA established the National Indian Gaming Commission and empowered it to monitor certain aspects of Indian gaming. The act authorizes the Commission to assess regulatory fees on these gaming activities. In addition to these assessed fees, the act authorizes an annual Federal appropriation to complement the funds available for the efficient operation of the Commission.

To date, the Commission is responsible for monitoring and regulating 273 Indian gaming establishments operated by 184 tribes in 28 States. While it attempts to keep up with this tremendous growth, the Commission is currently statutorily constrained from securing the level of funding it needs to fulfill its mandates under the law.

Current law authorizes the NIGC to assess fees on class II gaming activities at a level not to exceed $1.5 million per year. In addition to Federal appropriations of $1 million over the last 3 fiscal years, and other fees collected, the NIGC has been operating on a budget that slightly exceeds $3 million.

To further illustrate the funding dilemma, the Committee on Indian Affairs conducted an oversight hearing on July 10, 1997 to review the current Indian Gaming Regulatory Fee structure. Testimony provided to the committee indicated that for fiscal year 1997, the Commission has an overall operating budget of $4.3 million which consists of, a $1 million direct appropriation, $1.5 million in fees assessed on class II tribal gaming revenue, and $1.8 million in unobligated funds from prior years. However, for fiscal year 1998 it is indicated that funds from prior year unobligated balances would be nearly depleted, resulting in an estimated general fund budget of $2.5 million to $3.0 million for fiscal year 1998. According to the NIGC, without additional funding reductions in staff would take place, with a commensurate decrease in its regulatory, compliance and enforcement efforts.

Further, testimony indicated that greater resources need to be available to the NIGC in order to meet their statutorily mandated responsibilities. To accomplish this the NIGC proposed expanding their collection to class III gaming activities.

As a result of the hearing, I have developed legislation that reflects testimony provided by the NIGC and tribal interest. This legislation will require the NIGC to assess minimum mandatory fees on each gaming operation that conducts a gaming activity regulated under the act. In addition to these minimum fees, the Commission is authorized to assess fees on class II gaming and on class III gaming. In order to provide a reasonable fee assessment approach, the legislation proposes a $5 million in fiscal year 1999, $8 million in fiscal year 1999, and $10 million in fiscal year 2000. Similarly, fees collected on class III activities shall not exceed $1.5 million in fiscal year 1998, $4 million in fiscal year 1999, and $5 million in fiscal year 2000.

The Commission is required to take into account its duties and the services it provides to Indian tribes, in setting the annual fees under the act. The legislation creates a special fund in the U.S. Treasury for amounts equal to the fees paid by the gaming operations, and requires that all amounts deposited into the special fund shall be used only to the fund the activities of the Commission under the IGRA.

As a result of the hearing, I have developed legislation that reflects testimony provided by the NIGC and tribal interest. This legislation seeks to ensure the integrity of the Indian gaming industry by providing the tools necessary to the agency responsible for regulating this industry. That is why I urge my colleagues to join me in supporting it.

Mr. President, I ask unanimous consent to introduce the Indian Gaming Enforcement and Integrity Act of 1997.

By Mr. CAMPBELL (for himself and Mr. INOUYE).

S. 1130. A bill to provide for the assessment of fees by the National Indian Gaming Commission, and for other purposes; to the Committee on Indian Affairs.

THE INDIAN GAMING ENFORCEMENT AND INTEGRITY ACT

Mr. CAMPBELL. Mr. President, today I introduce the Indian Gaming Enforcement and Integrity Act of 1997.

The purpose of this legislation is to reform the current regulatory fee structure administered by the National Indian Gaming Commission [NIGC], the regulatory agency responsible for monitoring and regulating Indian tribal governments. The purpose of any regulatory agency is in its ability to monitor activities within its purview and to act decisively in enforcing violations of the law. The NIGC is no different and it has depended on regulatory assessments and Federal appropriations to carry out these vital roles.

When Congress enacted the President signed into law, the Indian Gaming Regulatory Act [IGRA], two principal goals were sought: To provide a statutory basis for the operation of Indian gaming as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments; and, second, to provide a statutory basis for the regulation of the Indian gaming industry to shield it from corrupting influences. Since its enactment in 1988, the Indian gaming industry has grown tremendously and is now a multi-billion dollar industry. As a result, the IGRA is beginning to provide many tribal governments with the wherewithal to provide basic services to their members. Where poverty once reigned on reservations, economic opportunity now abounds. In many cases, tribal governments are able to employ large numbers of their own members, as well as non-Indians from surrounding communities. Further, it is no coincidence that in many communities around the Nation, welfare rolls have dropped and employment has risen as a direct result of tribal gaming.

The second objective of the IGRA is to provide adequate regulatory oversight to shield Indian gaming from corruption influences and to ensure the games are fair, and conducted in accordance with all applicable laws. IGRA established the National Indian Gaming Commission and empowered it to monitor certain aspects of Indian gaming. The act authorizes the Commission to assess regulatory fees on these gaming activities. In addition to these assessed fees, the act authorizes an annual Federal appropriation to complement the funds available for the efficient operation of the Commission.

To date, the Commission is responsible for monitoring and regulating 273 Indian gaming establishments operated by 184 tribes in 28 States. While it attempts to keep up with this tremendous growth, the Commission is currently statutorily constrained from securing the level of funding it needs to fulfill its mandates under the law.

Current law authorizes the NIGC to assess fees on class II gaming activities at a level not to exceed $1.5 million per year. In addition to Federal appropriations of $1 million over the last 3 fiscal years, and other fees collected, the NIGC has been operating on a budget that slightly exceeds $3 million.

To further illustrate the funding dilemma, the Committee on Indian Affairs conducted an oversight hearing on July 10, 1997 to review the current Indian Gaming Regulatory Fee structure. Testimony provided to the committee indicated that for fiscal year 1997, the Commission has an overall operating budget of $4.3 million which consists of, a $1 million direct appropriation, $1.5 million in fees assessed on class II tribal gaming revenue, and $1.8 million in unobligated funds from prior years. However, for fiscal year 1998 it is indicated that funds from prior year unobligated balances would be nearly depleted, resulting in an estimated general fund budget of $2.5 million to $3.0 million for fiscal year 1998. According to the NIGC, without additional funding reductions in staff would take place, with a commensurate decrease in its regulatory, compliance and enforcement efforts.

Further, testimony indicated that greater resources need to be available to the NIGC in order to meet their statutorily mandated responsibilities. To accomplish this the NIGC proposed expanding their collection to class III gaming activities.

As a result of the hearing, I have developed legislation that reflects testimony provided by the NIGC and tribal interest. This legislation will require the NIGC to assess minimum mandatory fees on each gaming operation that conducts a gaming activity regulated under the act. In addition to these minimum fees, the Commission is authorized to assess fees on class II gaming and on class III gaming. In order to provide a reasonable fee assessment approach, the legislation proposes a $5 million in fiscal year 1999, $8 million in fiscal year 1999, and $10 million in fiscal year 2000. Similarly, fees collected on class III activities shall not exceed $1.5 million in fiscal year 1998, $4 million in fiscal year 1999, and $5 million in fiscal year 2000.

The Commission is required to take into account its duties and the services it provides to Indian tribes, in setting the annual fees under the act. The legislation creates a special fund in the U.S. Treasury for amounts equal to the fees paid by the gaming operations, and requires that all amounts deposited into the special fund shall be used only to the fund the activities of the Commission under the IGRA.

As a result of the hearing, I have developed legislation that reflects testimony provided by the NIGC and tribal interest. This legislation seeks to ensure the integrity of the Indian gaming industry by providing the tools necessary to the agency responsible for regulating this industry. That is why I urge my colleagues to join me in supporting it.

Mr. President, I ask unanimous consent to introduce the Indian Gaming Enforcement and Integrity Act of 1997.
SECTION 1 ASSESSMENT OF FEES.

(a) In General.—Section 18(a) of the Indian Gaming Regulatory Act (25 U.S.C. 2717(a)) is amended—

(1) by striking paragraphs (4) through (6) as paragraphs (5) through (7), respectively;

(2) by striking [“(a)1”] and all that follows throughout the text of paragraph (3) and inserting the following:

“(a) Annual Fees.—

“(1) Minimum Regulatory Fees.—In addition to assessing fees pursuant to a schedule established under paragraph (2), the Commission shall require each gaming operation that conducts a class II or class III gaming activity that is regulated by this Act to pay to the Commission a quarterly basis, a minimum regulatory fee in an amount equal to $250.

“(2) Class II and Class III Gaming Fees.—

“(A) Class II gaming fees.—

“(i) In General.—The Commission shall establish a schedule of fees to be paid to the Commission that includes fees for each class II gaming activity that is regulated by this Act.

“(ii) Rate of Fees.—For each gaming activity covered under the schedule established under clause (i), the rate of fees imposed under that schedule shall not exceed 0.5 percent of the gross revenues of that gaming activity.

“(iii) Amount of Fees Assessed.—Subject to paragraph (3), the total amount of fees imposed during any fiscal year under the schedule established under clause (i) shall not exceed—

“(I) $5,000,000 for fiscal year 1998;

“(II) $8,000,000 for fiscal year 1999; and

“(III) $12,000,000 for fiscal year 2000, and for each fiscal year thereafter.

“(B) Class III Gaming Fees.—

“(i) In General.—The Commission shall establish a schedule of fees to be paid to the Commission that includes fees for each class III gaming activity that is regulated by this Act.

“(ii) Rate of Fees.—For each gaming activity covered under the schedule established under clause (i), the rate of fees imposed under that schedule shall not exceed 0.5 percent of the gross revenues of that gaming activity.

“(iii) Amount of Fees Assessed.—Subject to paragraph (3), the total amount of fees imposed during any fiscal year under the schedule established under clause (i) shall not exceed—

“(I) $3,000,000 for fiscal year 1998;

“(II) $5,000,000 for fiscal year 1999; and

“(III) $10,000,000 for fiscal year 2000, and for each fiscal year thereafter.

“(3) Graduated Fee Limitation.—

“(A) In General.—The aggregate amount of fees collected under paragraph (2) shall not exceed—

“(i) $8,000,000 for fiscal year 1998;

“(ii) $12,000,000 for fiscal year 1999; and

“(iii) $15,000,000 for fiscal year 2000, and for each fiscal year thereafter.

“(B) Factors for Consideration.—In assessing and collecting fees under this section, the Commission shall take into account the duties of, and services provided by, the Commission under this Act.

“(4) Special Funds. The Secretary of the Treasury shall establish a special fund into which the Secretary of the Treasury shall deposit amounts equal to the fees paid under this section, and such amounts deposited into the special fund shall be used only to fund the activities of the Commission under this Act.

“(5) Failure. In paragraph (4), as redesignated by paragraph (1) of this section, by striking “(5) Failure” and inserting the following:

“(5) Consequences of Failure to Pay Fees.—Failure;

“(6) in paragraph (6), as redesignated by paragraph (1) of this section, by striking “(6) To the extent” and inserting the following:

“(7) Credit.—To the extent; and

“(8) in paragraph (7), as redesignated by paragraph (1) of this section, by striking “(7) For purposes of this section,” and inserting the following:

“(7) Gross Revenues.—For purposes of this section,

“(b) Budget of Commission. Section 18(b) of the Indian Gaming Regulatory Act (25 U.S.C. 2717(b)) is amended—

“(1) by striking “(b)(1)” and the Commission and inserting the following:

“(1) Requests for Appropriations.—

“(2) by striking paragraph (2) and inserting the following:

“(2) Contents of Budget.—For fiscal year 1998, and for each fiscal year thereafter, the budget of the Commission may include a request for appropriations, as authorized by section 19, in an amount equal to the sum of—

“(A)(i) for fiscal year 1998, an estimate (determined by the Commission) of the amount of funds to be derived from the fees collected under subsection (a) for that fiscal year; or

“(ii) for each fiscal year thereafter, the amount of funds derived from the fees collected under subsection (a) for the fiscal year preceding the fiscal year for which the appropriation request is made; and

“(B) $1,000,000.

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

Section 19 of the Indian Gaming Regulatory Act (25 U.S.C. 2718) is amended to read as follows:

“SEC. 19. AUTHORIZATION OF APPROPRIATIONS.

“Subject to section 18, for fiscal year 1998, and for each fiscal year thereafter, there are authorized to be appropriated to the Commission an amount equal to the sum of—

“(1)(A) for fiscal year 1998, an estimate (determined by the Commission) of the amount of funds to be derived from the fees collected under subsection (a) for that fiscal year; or

“(B) for each fiscal year thereafter, the amount of funds derived from the fees collected under subsection (a) for the fiscal year preceding the fiscal year for which the appropriation request is made; and

“(2) $1,000,000.

Mr. INOUYE. Mr. President, I am pleased to join my chairman today, Senator Ben Nighthorse Campbell, as a cosponsor of legislation to provide for the Commission’s annual request for appropriations, as authorized by section 19, in an amount equal to the sum of—

“(A)(i) for fiscal year 1998, an estimate (determined by the Commission) of the amount of funds to be derived from the fees collected under subsection (a) for that fiscal year; or

“(ii) for each fiscal year thereafter, the amount of funds derived from the fees collected under subsection (a) for the fiscal year preceding the fiscal year for which the appropriation request is made; and

“(B) $1,000,000.

Mr. INOUYE. Mr. President, I am pleased to join my chairman today, Senator Ben Nighthorse Campbell, as a cosponsor of legislation to provide for the Commission’s annual request for appropriations, as authorized by section 19, in an amount equal to the sum of—

“(A)(i) for fiscal year 1998, an estimate (determined by the Commission) of the amount of funds to be derived from the fees collected under subsection (a) for that fiscal year; or

“(ii) for each fiscal year thereafter, the amount of funds derived from the fees collected under subsection (a) for the fiscal year preceding the fiscal year for which the appropriation request is made; and

“(B) $1,000,000.

Mr. President, it has been 9 years since the Indian Gaming Regulatory Act was enacted into law. In the ensuing years, there has been a substantial increase in the number of tribal government-sponsored gaming operations, with a significant shift in the number of operations that are engaged in the conduct of class III gaming operations.

The bill we introduce today might be considered as companion legislation to a bill introduced earlier this week by Senator John McCain, and a bill that Senator Campbell is developing for introduction in the fall. All three measures are intended to reflect the current realities of tribal gaming and the need for a regulatory framework that can respond to the growth in Indian gaming.

Mr. President, we proceed with this separate legislation because of the need to assure that the Commission is adequately funded, and that the Commission has the capacity, independent of Federal appropriations, to address a far wider array of regulatory demands than we could have anticipated in 1988.

By Mr. MACK:

Mr. MACK. Mr. President, we have good reason to celebrate what we have just accomplished by passing the Taxpayer Relief Act of 1997.

We set out to help families pay for the education of their kids. It’s done. We set out to provide meaningful death tax relief. It’s done. We set out to expand IRA’s to encourage savings. It’s done. We set out to provide significant capital gains relief. And it’s done, too.

The Taxpayer Relief Act is a great victory for the American people. But we cannot rest on this accomplishment, when there is much else that needs to be done. I am today introducing legislation to permanently extend the research and experimentation tax credit. In the tax bill we just passed, the research and experimentation tax credit is extended a mere 13 months, to June 30, 1998. This extension is disappointing.

The research credit has provided a valuable economic incentive for U.S. companies to increase their investment in research and development in order to maintain their competitive edge in the global marketplace. A permanent extension of the research credit is critical to fast-growing research-intensive companies such as those in the computer, telecommunications, and biotechnology industries.

For these companies, an incentive to increase investment in research plays a critical role in determining whether future research projects, many of which span many years in length, are started, continued, or abandoned. The incentive benefits of the current research credit is reduced because of its temporary and uncertain nature. The bill I am today introducing will correct this problem, and make the research tax credit an incentive that our high-technology companies can count on.

By Mr. BINGAMAN: S. 1132. A bill to modify the boundaries of the National Monument to include the lands within the headwaters of the Upper Alamo Watershed which drain into the monument and which are not currently within the...
jurisdiction of a Federal land management agency, to authorize purchase or donation of those lands, and for other purposes; to the Committee on Energy and Natural Resources.


Mr. BINGAMAN. Mr. President, I rise today to introduce a bill to extend the boundaries of the Bandelier National Monument. Since 1916 when President Wilson established the monument to protect the "archeological resources of a vanished people," both Congress and the President have adjusted the monument's boundaries on numerous occasions to protect these treasures, and the ecological balance within the monument. The latest example was in 1976, when Congress set aside over 70 percent of the monument to create the Bandelier Wilderness area. Because we have acted to conserve this valuable land in the past, today's visitors to the monument and the neighbors of New Mexico and Americans from around the Nation, have a wonderful place to go to. In the same morning you can see varieties of wildlife, including herds of elk and deer, and explore the homes of early can people. This bill continues that foresighted tradition of protection.

The greatest threat to the monument at this time is potential development in the upper watershed that drains into the park. This compact could lead to the loss of the upper watershed that drains into the park, and could seriously harm the ecological balance within the monument. The potential for soil erosion, flooding, and siltation of streams from upstream development is of grave concern, and this bill seeks to address the problem. Under this bill the boundaries of the monument would be extended to include all of the lands which are not currently in public ownership in the upper Alamo watershed which drains into the monument.

This bill will allow the Park Service to enter into agreements with private landowners to either purchase their land, or to restrict the development of their land in order to protect the monument. I want to note that the current landowners support this, and have stated that they would like to enter into such agreements that will protect the monument for future generations. Because of this, I have written this bill to give the Park Service authority to enter into contracts with willing sellers. This bill does not give the Park Service condemnation authority.

Mr. President, because we have a situation where we can protect this treasure for generations to come with the help and cooperation of the private landowners that neighbor the monument, I am pleased to offer this bill.

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

S. 1332

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 "Bandelier National Monument Administrative Improvement and Watershed Protection Act of 1997."

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that:

(1) Bandelier National Monument (hereinafter, the Monument) was established by Presidential proclamation on February 11, 1916, to preserve the archeological resources of a "vanished people", with as much land as may be necessary for the proper protection thereof * * * (No. 1322; 39 Stat. 746).

(2) At various times since its establishment, the Congress and the President have adjusted the Monument's boundaries and purpose to further preservation of archeological and natural resources within the Monument:

(A) On February 25, 1932, the Otowi Section of the Santa Fe National Forest (some 4,699 acres of land) was transferred to the Monument from the Santa Fe National Forest (Presidential Proclamation No. 1191; 17 Stat. 250).

(B) In December 1959, 3,600 acres of Frjoles Mesa were transferred to the National Park Service from the Atomic Energy Committee (hereinafter, AEC) and subsequently added to the Monument on January 9, 1991, because of "pueblo-type archeological ruins germane to those in the Monument" (Presidential Proclamation No. 3389).

(C) On May 27, 1963, Upper Canyon, 2,882 acres of land previously administered by the AEC, was added to the Monument to preserve "their unusual scenic character together with the extraordinary and unique features, the preservation of which would implement the purposes of the Monument" (Presidential Proclamation No. 3539).

(D) In 1976, concerned about upstream land management activities that could result in flooding and erosion in the Monument, Congress included the headwaters of the Rito de los Frijoles and the Ca{n}ada de Cochiti Grant (a total of 7,310 acres) within the Monument's boundaries (Pub. L. 94-578; 90 Stat. 2722), and

(E) In 1996, Congress created the Bandelier Wilderness, a 23,267-acre area that covers over 70 percent of the Monument.

(3) The Monument still has potential threats from fire, and water quality deterioration because of the mixed ownership of the upper watersheds along its western border, particularly in Alamo Canyon.

(b) PURPOSES.—The purposes of this Act are to modify the boundary of the Monument to allow for acquisition and enhanced protection of the lands within the monument's upper watershed.

SEC. 3. BOUNDARY MODIFICATION.

Effective on the date of enactment of this Act, the boundaries of the Monument, shall be modified to include approximately 935 acres of land comprised of the Elk Meadows subdivision, the Gardner parcel, the Clark parcel, and the Baca Land & Cattle Co. lands within the Upper Alamo watershed as depicted on the National Park Service map entitled "Alamo Headwaters Proposed Additions" dated May 1996 and available for public inspection in the office of the Director of the National Park Service, Department of the Interior.

SEC. 4. TRANSFER AND ACQUISITION OF LANDS.

Within the boundaries of the Monument, the Secretary of the Interior is authorized to acquire lands (or interests in land such as he determines shall adequately protect the Monument from flooding, erosion, and degradation of its drainage waters) by donation, purchase with donated or appropriated funds, exchange of lands acquired by other Federal agencies.

SEC. 5. ADMINISTRATION.

The Secretary of the Interior, acting through the Director of the Park Service, shall manage the monument, including lands added to the Monument by this Act, in accordance with this Act and the provisions of law generally applicable to units of the National Park System, including the Act of August 25, an act to establish a National Park Service (39 Stat. 16 U.S.C. 1 et seq.), and such specific legislation as heretofore has been enacted regarding the Monument.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out the purpose of this Act.

By Mrs. MURRAY (for herself, Mr. CRAIG, Mr. WYDEN, Mr. BAUCUS, Mr. MURKOWSKI, Mr. SMITH of Oregon, Mr. BURNS, Mr. GORTON, and Mr. KEMPThorne):

S. 1334. A bill granting the consent and approval of Congress to an interstate forest fire protection compact; to the Committee on the Judiciary.

The NORTHWEST WILDFIRE COMPACT.

Mrs. MURRAY. Mr. President, today I am introducing the Northwest Wildland Fire Protection Agreement. This compact will help our States throughout the Northwest respond more quickly and efficiently to wildfires. Senators CRAIG, WYDEN, MURKOWSKI, KEMPThorne, GORTON, G. SMITH, BAUCUS, and BURNS have joined me in original cosponsorship because this compact affects all of our States of Washington, Oregon, Alaska, Idaho, and Montana. It establishes an agreement with the provinces of Alberta, British Columbia, and the Yukon Territory to mutually aid in prevention, suppression and control of forest fires.

Mr. State's Commissioner of Public Lands, J. Jennifer Belcher, brought this compact to my attention. She explained how for the State of Washington, this means the Department of Natural Resources will have access to the excellent firefighting tools of British Columbia, including helicopters and other aircraft stationed close to the border. This will increase her ability to quickly mobilize forces to suppress wildfires that might otherwise get out of control.

The Washington DNR has been fighting wildfires since the early 1900's. According to a DNR Forest Fire Study, in the past 25 years, the department has fought 28,000-plus wildfires involving more than 370,000 acres of Washington forest land. In recent years, firefighting budgets have decreased and the intensity of fires has increased, with the terrible fire season of 1994 breaking the record at 79,000 acres burned in Washington. We need this compact to enable our States to better protect the life and property of our citizens.
All eight affected States and provinces have agreed to this compact. However, before the States and provinces can legally enter this agreement, the U.S. Congress must pass enabling legislation. Congress did so in 1992 with the wildfire compact after which this legislation was patterned, which was signed by five northeastern States and eastern Provinces, and remains in effect today.

I urge my colleagues to help us move this compact through the process so our States will be poised to quickly and cost-efficiently suppress dangerous wildfires. I would also like to urge colleagues to support another compact introduced by Senator Craig and cosponsored by all Northwest Senators to help us join forces in cases of natural disasters.

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 1134

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED, THAT:

SECTION 1. CONSENT OF CONGRESS.

(a) IN GENERAL.—The consent and approval of Congress is given to an interstate forest fire protection compact, as set out in subsection (b).

(b) COMPACT.—The compact reads substantially as follows:

THE NORTHWEST WILDLAND FIRE PROTECTION AGREEMENT

"THIS AGREEMENT is entered into by and between the State, Provincial, and Territorial wildland fire protection agencies signatory hereto, hereinafter referred to as "Members";

FOR AND IN CONSIDERATION OF the following terms and conditions, the Members agree:

ARTICLE I

1.1 The purpose of this Agreement is to facilitate such aid to another Member pursuant to this Agreement.

ARTICLE II

1.1 The Members may develop cooperative operating plans for the programs covered by this Agreement. Operating plans shall include definition of terms, fiscal procedures, personnel, available, and standards applicable to the program. Other sections may be added as necessary.

ARTICLE III

1.1 The Members may develop cooperative operating plans for the programs covered by this Agreement. Operating plans shall include definition of terms, fiscal procedures, personnel, available, and standards applicable to the program. Other sections may be added as necessary.

ARTICLE IV

4.1 A majority of Members shall constitute a quorum for the transaction of its general business. Motions of Members present shall be decided by a simple majority except as stated in Article II. Each Member shall have one vote on motions brought before them.

ARTICLE V

5.1 Whenever a Member requests aid from any other Member in controlling or preventing wildland fires, the Members agree, to the extent they possibly can, to render all possible aid.

ARTICLE VI

6.1 Whenever the forces of any Member are aiding another Member under this Agreement, the employees of such Member shall operate under the direction of the officers of the Member to which they are rendering aid and be considered agents of the Member they are rendering aid to and, therefore, have the same privileges and immunities as comparable employees of the Member to which the are rendering aid.

6.2 Members shall hold their officers or employees rendering aid within another State, Territory, or Province, pursuant to this Agreement shall be liable on account of any act or omission on the part of such forces while so engaged, or on account of the maintenance or use of any equipment or supplies in connection therewith to the extent authorized by the laws of the Member receiving the assistance. The receiving Member, to the extent authorized by the laws of the State, Territory, or Province, agrees to indemnify and save-harmless the assisting Member from any such liability.

6.3 Any Member rendering outside aid pursuant to this Agreement shall be reimbursed by the Member receiving such aid for any loss or damage to, or expense incurred in the operation of any equipment and for the cost of all materials, transportation, wages, salaries and other expenses of personnel and equipment incurred in connection with such request in accordance with the provisions of this Agreement. Nothing contained herein shall prevent any assisting Member from assuming such loss, damage, expense or other cost or from loaning such equipment or from donating such services to the receiving Member without charge or cost.

6.4 For purposes of this Agreement, personnel shall be considered employees of each sending Member for the payment of compensation to injured employees and death benefits to the representatives of deceased employees injured or killed while rendering aid to another Member pursuant to this Agreement.

6.5 The Members shall formulate procedures for claims and reimbursement under the provisions of this Article.

ARTICLE VII

7.1 When appropriations for support of this agreement, or for the support of common services in executing this agreement, are needed, contributions shall be allocated equally among the Members.

7.2 As necessary, Members shall keep accurate records of all money received in full, its receipts and disbursements, and the books of account shall be open at any reasonable time to the inspection of representatives of the Members.

7.3 The Members may accept any and all donations, gifts, and grants of money, equipment, supplies, and materials and services from the Federal or any local government, or any agency thereof and from any person, firm or corporation, for any of its purposes and functions under this Agreement, and may receive and use the same subject to the terms, conditions, and regulations governing such donations, gifts, and grants.

ARTICLE VIII

8.1 Nothing in this Agreement shall be construed to limit or restrict the powers of any Member to provide for the prevention, control, and extinguishment of wildland fires or to prohibit the Member for the enforcement of State, Territorial, or Provincial laws, rules or regulations intended to aid in such prevention, control and extinguishment of wildland fires in such State, Territory, or Province.

8.2 Nothing in this Agreement shall be construed to affect any existing or future Co-operative Agreement between Members and/or their respective Federal agencies.

ARTICLE IX

9.1 The Members may request the United States Forest Service to act as the coordinating agency of the Northwest Wildland Fire Protection Agreement in cooperation with the appropriate agencies for each Member.

9.2 The Members will hold an annual meeting to review the terms of this Agreement, any applicable Operating Plans, and make necessary modifications.

9.3 Amendments to this Agreement can be made by simple majority vote of the Members and will take effect immediately upon passage.

ARTICLE X

10.1 This Agreement shall continue in force on each Member until such Member takes action to withdraw therefrom. Such action shall not be effective until 60 days after notice thereof has been sent to all other Members.

ARTICLE XI

11.1 Nothing is this Agreement shall obligate the funds of any Member beyond those approved by appropriate legislative action.

SEC. 2. OTHER STATES.

Without further submission of the compact, the consent of Congress is given to any State to become a party to it in accordance with its terms.

SEC. 3. RIGHTS RESERVED.

The right to alter, amend, or repeal this Act is expressly reserved.

By Mr. McConnell:

S. 1135. A bill to provide certain immunities from civil liability for trade and professional associations, and for other purposes; to the Committee on the Judiciary.

THE TRADE AND PROFESSIONAL ASSOCIATION FREE FLOW OF INFORMATION ACT

Mr. McCONNELL. Mr. President, I rise today to introduce the Trade and Professional Association Free Flow of Information Act, and ask my colleagues to join me by cosponsoring this important legislation.

Our society is increasingly litigious, especially in the area of product liability. Unfortunately, complex product liability litigation ensnares trade and professional associations that do not manufacture, buy, or sell the product. As a result, these associations often enter into, or face suits associations who do nothing more than publish good-faith factual information for its members regarding various products.
This service is particularly helpful to small business owners who become involved in product litigation, but lack the funds to conduct expensive and time-consuming product research. Additionally, trade and professional associations have their members to avoid litigation by alerting them to critical characteristics of different products. This research and information service is clearly in the best interest of both consumers and small businesses.

My bill would accomplish three goals. First, it would grant trade and professional associations limited protection from liability when acting in good faith to provide information to their members. The associations may still be held liable for fraudulently or recklessly distributing false information to their members.

Second, before information may be subpoenaed from an association, a clear case must be made that the information is vital to the case and is unavailable from any other source. Let me emphasize that this provision does not prevent associations from being served with subpoenas. It merely ensures that the information requested is vital to a particular action and unavailable from any other source.

Finally, the bill establishes a qualified privilege between an association and its members to ensure that confidential materials can be provided for the benefit of association members. This privilege is not absolute—it may be overcome upon proof that the party seeking the materials has a compelling need for the information. This provision is based on a joint defense privilege currently recognized by state and federal courts.

Additionally, this bill includes an opt-out provision similar to the one we included in the Volunteer Protection Act, which the President recently signed into law. This provision permits a State to opt-out of the bill's coverage in any civil action in which all parties are citizens of the State.

Mr. President, the need for this bill was recently discussed in an article of the Legal Times. I ask unanimous consent that this article be published in the RECORD.

In closing, I would like to emphasize that this bill will allow associations to continue to actively disseminate valuable information to their members, while safeguarding current legal protections against fraud and abuse. The goal of the Free Flow of Information Act is one that I believe I share with a majority of my colleagues—a decrease in costly litigation coupled with an increase in the flow of information between associations and their members. I urge my colleagues to cosponsor this important legislation.

Mr. President, I ask unanimous consent that an additional material be printed in the RECORD.

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

SEC. 1. SHORT TITLE. This Act may be cited as the “Trade and Professional Association Free Flow of Information Act of 1997.”

SEC. 2. FINDINGS; PURPOSES.

(a) FINDINGS. Congress finds that—

(1) trade and professional associations serve the public interest by conducting research, collecting and distributing information, and providing services to their members with regard to products and materials purchased and used by those members;

(2) in the decade preceding the date of enactment of this Act, many large class action lawsuits have been filed against manufacturers for allegedly defective products;

(3) as a result of the lawsuits referred to in paragraph (2), many members of trade and professional associations who are consumers of those products have relied increasingly on trade and professional associations for information concerning those products, including information concerning—

(A) the condition under which such a product may be repaired or replaced effectively;

(B) whether it is necessary to repair or replace such a product, and if such a repair or replacement is necessary, the appropriate means of accomplishing that repair or replacement;

and

(C) any litigation concerning such a product;

(4) trade and professional associations have, with an increasing frequency, been served broad and burdensome third-party subpoenas from litigants in product defect lawsuits, including class action lawsuits;

(5) members of trade and professional associations are seeking potentially beneficial information relating to product defects, quality, or performance from the trade and professional associations;

(6) trade and professional associations have been subject to lawsuits concerning methods of collection and dissemination of that information;

(7) the burden of responding to third-party subpoenas in product defect lawsuits and the threat of litigation have had a substantial chilling effect on the ability and willingness of trade and professional associations to disseminate information concerning—

(A) product defects described in this paragraph is information relating to a product concerning—

(i) the condition under which such a product may be repaired or replaced effectively;

(ii) the extent to which such a product is reasonably fit for its intended use;

(iii) the extent to which such a product is fit for a particular use of which the manufacturer or seller should have known;

(b) EXCLUSION. This subsection applies to—

(1) a trade or professional association that a court determines, on the basis of evidence presented to the court, that the association is exempt from liability for—

(i) conducting research for the public interest by conducting research, collecting, and distributing information to the public concerning—

(A) the condition under which such a product may be repaired or replaced effectively;

(B) whether it is necessary to repair or replace such a product, and if such a repair or replacement is necessary, the appropriate means of accomplishing that repair or replacement;

and

(C) any litigation concerning such a product;

(2) the trial court shall hear the motion to strike any claim in a civil action brought against a trade or professional association to a member of the association that a court determines, on the basis of evidence presented to the court, that the association is exempt from liability for—

(i) conducting research for the public interest by conducting research, collecting, and distributing information to the public concerning—

(A) the condition under which such a product may be repaired or replaced effectively;

(ii) the extent to which such a product is reasonably fit for its intended use;

(iii) the extent to which such a product is fit for a particular use of which the manufacturer or seller should have known;

(c) EXPRESSION OF FAITH. In determining whether the association is authorized to a member of the association, the court shall be guided by the principles set forth in subsection (b).

SEC. 3. QUALIFIED EXEMPTION FROM CIVIL LIABILITY.

(a) IN GENERAL.—

(b) APPLICABILITY.—This subsection applies with respect to civil liability under Federal or State law.

(b) EXCEPTION FOR LIABILITY.—Subsection (a) shall not apply to a claim for civil liability caused by an act of a trade or professional association that a court determines, on the basis of clear and convincing evidence, to have been caused by the trade or professional association by the provision of information described in subsection (a)(2) that the trade or professional association—

(1) knew to be false; or

(2) provided a reckless indifference to the truth or falsity of that information.

SEC. 4. SPECIAL MOTION TO STRIKE.

A trade or professional association may file a special motion to strike any claim in any judicial proceeding against the trade or professional association on the ground that the claim is based on an action with respect to which the association is exempt from liability under section 3.

SEC. 5. REQUIRED PROCEDURES REGARDING SPECIAL MOTION TO STRIKE.

(a) TREATMENT OF MOTION.—Upon the filing of any motion under section 4—

(1) to the extent consistent with this section, the motion shall be treated as a motion for summary judgment under Rule 56 of the Federal Rules of Civil Procedure (or an equivalent motion under applicable State law); and

(2) the trial court shall hear the motion within a period of time that is appropriate for preferred or expedited motions.
The bill would set up a type of privilege between a trade association and its members so that the confidentiality of documents flowing between the two would be assured.

That's vital, important, explains General Counsel Daniel Durden of the National Association of Home Builders, because the fear of litigation has a chilling effect on the industrywide mediation efforts trade associations are often ideally situated to oversee.

Take, for example, a widget installed in homes across the country. Five years later, the widget fails, doing more than $1 billion in property damage. The manufacturer of the widget gets sued, and the people who put them in their homes—our members—get sued," Durden says. "And if it's a widespread problem, our members will call us and say, 'What can we do for us?'"

"We can play a role in negotiating among the builders, manufacturers, and potentially the insurance companies in coming up with a stopgap measure, so the consumer of the widget doesn't file suit," adds Durden, whose group is actively supporting the Bono bill.

The association involved is not a party.

SEC. 7. SPECIAL MOTION TO QUASH A SUBPOENA.

A trade or professional association may file a special motion to quash a subpoena in a civil action described in subsection (b) if the party that serves the subpoena to the association to serve written objections under rule 45(c)(2)(B) of the Federal Rules of Civil Procedure, or any similar rule or procedure under applicable State law.

SEC. 8. REQUIRED PROCEDURES REGARDING SPECIAL MOTION TO QUASH.

(a) In General.—Upon the filing of any motion under section 7, the trial court shall hear the motion within the period of time that is appropriate for preferred or expedited motions.

(b) Suspension of Discovery.—Upon the filing of a motion under section 4, discovery shall be suspended pending a decision on—

(1) the motion; and

(2) any pending motions on the ruling on the motion.

(c) Burden of Proof.—The responding party shall have the burden of proof in presenting evidence that a motion filed under section 7 should be denied.

(d) Basis of Determination.—A court shall make a determination on a motion filed under section 7 on the basis of the facts contained in the pleadings and affidavits filed in accordance with this section.

(e) Effect of Denial.—The court shall grant a motion filed under section 7 and dismiss the claim, unless the responding party has produced evidence that would be sufficient for a reasonable finder of fact to conclude, on the basis of clear and convincing evidence, that the moving party is not exempt from liability for that claim under section 2.

(f) Costs.—If a moving party prevails in procuring the quashing of a claim as a result of a motion made under section 4, the court shall award that party the costs incurred by that trade or professional association the costs incurred by that trade or professional association in connection with making the motion, including reasonable attorney and expert witness fees.

SEC. 9. RIGHT TO OBJECT UNDER RULE 45 OF THE FEDERAL RULES OF CIVIL PROCEDURE TO A SUBPOENA.

Nothing in this Act may be construed to impair the right of a trade or professional association to serve written objections under rule 45(c)(2)(B) of the Federal Rules of Civil Procedure, or any similar rule or procedure under applicable State law.

SEC. 10. QUALIFIED ASSOCIATION-MEMBER PRIVILEGE.

(a) In General.—Except as provided in subsection (b), a member of a trade or professional association shall not be required to produce or disclose information described in that subsection (a) if the member has produced evidence that the information will—

(1) be used in a manner that is inappropriate for preferred or expedited motions.

(2) be used in or to support the plaintiff's case and its objections to the discovery request under section 6.

(3) be used in or to support the plaintiff's case and its objections to the discovery request under section 6.

(b) Burden of Proof.—The responding party shall have the burden of proof in presenting evidence that a motion filed under section 7 should be denied.

(c) Basis of Determination.—A court shall make a determination on a motion filed under section 7 on the basis of the facts contained in the pleadings and affidavits filed in accordance with this section.

(d) Effect of Denial.—The court shall grant a motion filed under section 7 and dismiss the claim that is the subject of the motion, unless the responding party proves, by clear and convincing evidence, that the trade or professional association that received the subpoena is not exempt from responsibility for the information sought.

(e) Costs.—If a trade or professional association prevails in procuring the quashing of a subpoena as a result of a motion made under section 7, the court shall award the costs incurred by that trade or professional association in connection with making the motion, including reasonable attorney and expert witness fees.

SEC. 11. ELECTION OF STATE REGARDING NONAPPLICABILITY.

This Act applies to any civil action that is pending on or after the date of enactment of this Act.
Mr. DURBIN. Mr. President, I rise today to introduce the Employee Health Insurance Accountability Act of 1997. This measure will hold employer-sponsored health maintenance organizations accountable for patient injuries that arise from poor design decisions regarding a patient’s medical care.

Due to a loophole in the Employer Retirement Income Security Act of 1974 [ERISA], employer-sponsored health plans can escape responsibility for the effect their treatment decisions have on their patients’ health. Many courts have held that ERISA preempts State lawsuits against the entities that provide employee benefits and retirement plans. This includes medical malpractice suits against an employer-sponsored HMO.

There are two primary victims under the current system. The first victims are the patients who are injured, because they are wrongfully denied treatment services by their employer-sponsored HMO’s. Let me tell you just one story:

Due to her history of high-risk pregnancies, Ms. Florence Corcoran’s physician determined that she should be hospitalized during the waning weeks of her pregnancy. Her employer-sponsored HMO disagreed and only authorized 10 hours a day of home nursing care. While the nurse was off-duty, Ms. Corcoran’s unborn child suffered distress. Ms. Corcoran’s embryologist filed suit against her employer-sponsored HMO, but the court held that ERISA preempted her claim. Ms. Corcoran, therefore, will never obtain proper redress for the death of her unborn child and her HMO will never be held accountable. She can only sue her doctor—not her employer-sponsored HMO—even though her doctor was at fault.

Ms. Corcoran and others like her cannot bring suit in State court where they should rightfully receive redress for their losses. Instead they are forced to sue in Federal court where they can only receive the cost of the medical benefit they were denied. In
short, Ms. Corcoran’s unborn child died needlessly, and the only penalty to the HMO is the few hundred dollars it would have cost to properly hospitalize her.

As Newsweek observed, if “there’s no financial penalty [on employer-sponsored] health plans are negligent, what’s to stop these profit-driven creatures from delivering inadequate medical care?”

The other victims of the current system are the doctors who end up in court and are left holding the bag for the actions of the employer-sponsored HMO’s. To quote the Chicago Tribune, “[HMOs], which care for more than 60 million people, are telling courts across the country that they cannot be held responsible for medical malpractice in cases involving patients who receive care through an employer-sponsored health plan ** **. HMOs are shifting virtually all of the risk of patient care to physicians, even though the HMO was the one who ordered doctors to change their clinical decisions.”

Again, let me demonstrate with a real life example:

Mr. Basile Pappas was suffering from numbness in his hands, arms and legs; he was unable to walk. So he sought treatment at a local community hospital at 11 a.m. The emergency room doctor on staff made a difficult diagnosis and determined that Mr. Pappas had a cerebral epidural abscess, a condition that was compatible with spinal cord injury. The initial emergency room doctor correctly concluded that unless Mr. Pappas was treated immediately by a spinal cord trauma unit he could suffer severe paralysis.

At 12:30 p.m. the emergency room doctor made arrangements to transfer Mr. Pappas to a local university hospital, the only hospital in the area with such a trauma unit. Mr. Pappas’ employer-sponsored HMO, however, would not allow Mr. Pappas to be transferred to the university hospital because it was not part of his service plan. Even after the emergency room doctor explained to the employer-sponsored HMO the urgency of the situation, the HMO refused. Indeed, the employer-sponsored HMO’s physician who denied the treatment request refused to even speak to the emergency room doctor.

The emergency room doctor expeditiously made other arrangements to transfer Mr. Pappas to a hospital with the appropriate facilities that could admit Mr. Pappas. Nonetheless, Mr. Pappas was not treated until 3:30 p.m. and now suffers from permanent quadriplegia resulting from compression of his spine by the abscess. A court determined that the employer-sponsored HMO was immune from liability due to ERISA, but the hospital and Mr. Pappas’ physicians were left paying for Mr. Pappas’ injuries although they had little to no culpability.

Congress clearly never intended ERISA to remove all consumer protection nor for it to be used as a tool by employer-sponsored HMO’s to shirk their responsibilities. My bill, therefore, amends section 514(b) of ERISA to clarify that State medical malpractice suits against an employer-sponsored HMO are not preempted by Federal law.

The Employee Health Insurance Accountability Act resolves the current problem by doing three things:

First, the measure holds employer-sponsored health insurance plans accountable for the consequences of their treatment rules and coverage determinations. This will increase patient protection, and create a powerful incentive for employer-sponsored HMO’s to provide necessary care.

Second, the measure provides patients with legal redress when their employer-sponsored HMO’s treatment rules and coverage determinations cause them harm. Victims like Ms. Corcoran will no longer be left without the opportunity to seek just reparation for their injuries.

Finally, the measure reduces the likelihood that doctors will be sued for coverage determinations beyond their control. They will no longer face lawsuits simply because injured patients cannot properly hold their employer-sponsored HMO accountable.

Thank you Mr. President for the opportunity to introduce this important initiative. I hope my colleagues will join with me and support the Employee Health Insurance Accountability Act in order to hold employer-sponsored HMO’s accountable.

Mr. President, I ask unanimous consent that a copy of the legislation be printed in the RECORD.

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

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

SEC. 1. SHORT TITLE. This Act may be cited as the “Employee Health Insurance Accountability Act of 1997.”

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) employer-sponsored health insurers’ treatment rules and coverage determinations affect patients’ receipt of health care by restricting the health services that are available to patients;

(2) physicians’ behavior is affected by employer-sponsored health insurers’ payment of medical care providers;

(3) medical malpractice is almost exclusively within the jurisdiction of the States;

(4) section 514(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(a) (“ERISA”)) generally preempts State lawsuits against the entities that provide employee benefits and retirement plans while allowing lawsuits against physicians;

(5) there is a split among the United States Courts of Appeals on whether ERISA preempts medical malpractice suits against employer-sponsored health insurers;

(6) in the jurisdictions in which the Courts of Appeals have held that ERISA preempts medical malpractice suits against employer-sponsored health insurers, patients who may have been injured due to their employer-sponsored health insurers’ treatment and coverage determinations have been left without a right of action under which to bring a lawsuit to seek just redress for their injuries.

(7) it is, therefore, necessary to amend ERISA to clarify that State medical malpractice insurers against an employer-sponsored health insurer are not preempted by Federal law.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To restore accountability to employer-sponsored health insurers for the impact of their treatment rules and coverage determinations on patients’ health.

(2) To provide a mechanism for redress from adverse effects on their health due to their employer-sponsored health insurers’ treatment rules and coverage determinations.

(3) To provide patients with legal redress when their employer-sponsored health insurers’ treatment rules and coverage determinations cause them harm.

(4) To provide more equitable assignment of liability among health care decision-makers so that plaintiffs are not forced to attempt to hold physicians liable for the treatment rules and coverage determinations of employer-sponsored health insurers.

SEC. 3. ERISA PREEMPTION NOT TO APPLY TO CERTAIN ACTIONS INVOLVING HEALTH INSURANCE POLICY-HOLDERS.

(a) IN GENERAL.—Section 514(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)) is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following paragraph:

“(9) Subsection (a) shall not be construed to preempt any cause of action under State law to recover damages for medical malpractice insurers that arise out of the provision of care to any such entity that arises out of the provision of service to any such entity that arises out of the provision of care to any such entity.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to causes of action arising on or after the date of enactment of this Act.

By Mr. DURBIN:

S. 1137. A bill to amend section 258 of the Communications Act of 1934 to establish additional protections against the unauthorized change of subscribers from one telecommunications carrier to another; to the Committee on Commerce, Science, and Transportation.

Mr. DURBIN. Mr. President, I rise today to introduce the Slaming Protection Act of 1997. This measure enables long-distance telephone consumers and the States to strike back at the grave and growing practice of changing a telephone customer’s long-distance carrier without the customer’s knowledge or consent.

Slaming is the Federal Communications Commission’s largest source of complaint. The customer’s complaint. The customer’s complaint. In 1995, more than a third of the consumer complaints filed with the FCC’s Common Carrier Bureau involved slamming. Last year, 16,000 long-distance telephone consumers filed slamming complaints with the FCC. Since 1994, the number of slamming complaints has tripled. Yet, this is only the tip of the iceberg. Moreover, the Los Angeles Times reports that more than 1 million

American telephone consumers have been slammed in the last 2 years. Slamming is not merely an inconvenience or a nuisance. It is an act of fraud that costs long-distance telephone consumers millions of dollars a year.

Let me give you an example. This January, Ms. Geryl Kramer, a small business owner in Chicago, was surprised to open her phone bill and find it noticeably more expensive than usual. After one call she discovered that without her knowledge or consent, her long-distance carrier had been changed—she had been slammed. Her long-distance telephone service became a ping-pong ball bounced among various long-distance carriers for their profit and at her expense.

Ms. Kramer spent countless hours attempting to resolve the situation, going back and forth between four different long-distance carriers who were involved in the slamming which had quadrupled her small business’ long-distance bills. Although she was slammed in November last year, she still has not been able to track down how she was slammed or who was responsible.

Ms. Kramer was understandably upset and frustrated. Beyond being exasperated by the audacity of the slammer, Ms. Kramer was left feeling powerless by her inability to hold the slammer accountable for its fraudulent actions. Having explored every other avenue, Ms. Kramer came to me seeking a solution to the problem of slamming. I believe the Slaming Protection Act is that solution.

The current protections against slamming are simply inadequate. Although long-distance telephone consumers can currently bring an action in Federal court or file a complaint with the FCC, these measures have been largely ineffective in reducing slamming or compensating damages suffered by consumers. These substantial penalties are designed to make slamming too risky and too expensive for the practice to remain profitable.

Over the last 2 years, the FCC processed roughly 13,000 slamming complaints. This is only a fraction of the number of slamming incidents. And only rarely do the FCC’s efforts result in changes in industry practice.

Since the FCC began investigating slamming in 1994, it has only moved against seven long-distance carriers and has only entered into consent decrees with eight long-distance carriers accused of slamming. Moreover, any fine or settlement agreement achieved by the FCC is paid to the U.S. Treasury, not to the telephone consumer who was slammed—not to the party who was harmed.

Mr. President, we need tougher laws on the books. Long-distance telephone consumers should be able to stand up for themselves and fight back against slammers to let them know that their actions will not pay.

The Slaming Protection Act will help stamp out slamming by providing individual long-distance telephone consumers with the power to strike back against individual slammers and by establishing penalties that will make slamming too risky and too expensive for the practice to remain profitable.

This measure will help end slamming in three ways:

First, it creates a right of action for long-distance telephone consumers to sue the slammer in State or Federal court. The Slaming Protection Act establishes a minimum statutory damages of $2,000—or $6,000 if the slamming was done willfully and knowingly. These substantial penalties are designed to have a significant deterrent effect and to be large enough to encourage consumers to bring such actions.

Second, the Slaming Protection Act provides State attorneys general with the right to bring suit against slammers on behalf of the citizens of the States. Currently, in some jurisdictions the States are virtually helpless in their fight against interstate slammers. There is no existing Federal right of action to allow the States to hold slammers accountable. And a number of courts have held that similar State laws are preempted by Federal law. Some States, therefore, are left without recourse to prevent their citizens from being injured by slammers; and

Finally, the Slaming Protection Act creates criminal fines and jail time for repeat and willful slammers. Slaming takes choices away from consumers without their knowledge and distorts the long-distance competitive market by rewarding companies that engage in misleading marketing practices. The Slaming Protection Act’s criminal penalties will guarantee that slammers can no longer act with impunity.

Thank you Mr. President for the opportunity to introduce this important initiative. I hope my colleagues will join with me and support The Slaming Protection Act in order to help long-distance telephone consumers and the States to fight back against deceptive and fraudulent slammers.

Mr. President, I ask unanimous consent that a copy of the legislation be printed in the Record.

By the end of the month, the bill was ordered to be printed in the RECORD, as follows:

SEC. 1. SHORT TITLE. This Act may be cited as the “Slaming Protection Act”.

SEC. 2. ADDITIONAL PROTECTIONS AGAINST UNAUTHORIZED CHANGES OF PROVIDERS OF TELEPHONE SERVICE. Section 256 of the Communications Act of 1934 (47 U.S.C. 256) is amended by adding at the end the following:

“(c) Criminal Penalties.—

“(1) PERSONS.—Any person who executes a change in a provider of telephone exchange service or telephone toll service in willful violation of the procedures prescribed under subsection (a) shall be fined not more than $1,000, imprisoned not more than 30 days, or both, for the first offense; and

“(B) shall be fined not more than $10,000, imprisoned not more than 9 months, or both, for any subsequent offense.

“(2) TELECOMMUNICATIONS CARRIERS.—Any telecommunications carrier who executes a change in a provider of telephone exchange service or telephone toll service in willful violation of the procedures prescribed under subsection (a) shall be fined not more than $500,000 for the first offense and shall be fined not more than $100,000 for any subsequent offense.

“(3) PRIVATE RIGHT OF ACTION.—

“(1) IN GENERAL.—A subscriber whose provider of telephone exchange service or telephone toll service is changed in violation of the procedures prescribed under subsection (a) may, within one year after discovery of the change, bring in an appropriate court an action—

“(A) for an order to revoke the change;

“(B) for an award of damages in an amount equal to the greater of—

“(i) the actual monetary loss resulting from the change; or

“(ii) an amount not to exceed $2,000; or

“(C) for relief under both subparagraphs (A) and (B).

“(2) INCREASED AWARD.—If the court finds that the defendant executed the change in willful and knowing violation of the procedures prescribed under subsection (a), the court may, in its discretion, increase the amount of the award under paragraph (1) to an amount equal to not more than three times the maximum amount allowable under subparagraph (B) of that paragraph.

“(3) AUTHORITY OF STATES.—Whenever the attorney general of a State, or an official or agency designated by a State, has reason to believe that any person has engaged or is engaging in a pattern or practice of unauthorihzed changes in providers of telephone exchange service or telephone toll service of residents in such State in violation of the procedures prescribed under subsection (a), the State may bring a civil action on behalf of such residents to enjoin such practices, to recover damages equal to the actual monetary loss suffered by such residents, or both. If the court finds the defendant executed the change in willful and knowing violation of such procedures, the court may, in its discretion, increase the amount of the award.
to an amount equal to not more than three times the amount awarable under the preceding sentence.

(2) EXCLUSIVE JURISDICTION OF FEDERAL COURTS. The district courts of the United States shall have exclusive jurisdiction over all civil actions brought under this subsection. Upon proper application, such courts shall have jurisdiction to award declaratory relief, or orders affording like relief, commanding the defendant to comply with the procedures prescribed under subsection (a). Unlawfully, a permanent or temporary injunction or restraining order shall be granted without bond.

(3) NOTICE TO COMMISSION. A State shall serve prior written notice of any civil action under this subsection upon the Commission with a copy of its complaint, except in any case where prior notice is not feasible, in which case the State shall serve such notice immediately after instituting such action.

(4) RIGHTS OF COMMISSION. Upon receiving notice of an action under this subsection, the Commission shall have the right—

(a) to intervene in the action;

(b) upon so intervening, to be heard on all matters arising therein; and

(c) to file, or join in filing, a pleading or motion in the action.

(5) VENUE; SERVICE OF PROCESS. Any civil action under this subsection may be brought in any district in which the defendant is found or in which any substantial part of the acts of omission or commission occurred, and process in such cases may be served on the basis of an alleged violation of any civil or criminal statute of such State.

(6) EFFECT ON STATE COURT PROCEEDINGS. Nothing contained in this subsection shall be construed to prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal statute of such State.

(7) Class Actions. For any class action brought with respect to the violation of the procedures prescribed under subsection (a), the total damages awarded may not exceed an amount equal to three times the total actual damages suffered by the members of the class, irrespective of the minimum damages provided for in subsection (d).

(8) No Preemption of State Law. Nothing in this section shall preempt the availability of State law for unauthorized changes of providers of intrastate telephone exchange service or telephone toll service.

By Mr. HELMS (for himself, Mr. BROWNBACK, Mr. BURNS, Mr. HAGEL, and Mr. ROBERTS):

S. 1138 A bill to reform the coastwise, intercoastal, and noncontiguous trade shipping laws, and for other purposes, to the Committee on Commerce, Science, and Transportation.

THE FREEDOM TO SHIP ACT OF 1997

Mr. HECKSCHER. Mr. President, since 1920 there has been a Federal law on the books that, while perhaps well intentioned, nonetheless forbids a vast segment of the farming community in North Carolina and other States from obtaining needed grain from the Midwest. It has long prevented Midwestern grain producers from delivering much needed grain to grain deficit states which experience difficulty in feeding their livestock.


Mr. President, the Jones Act, as it is commonly called, prevents a large sector of the Agricultural community in North Carolina from obtaining grain from the Midwest. Furthermore, it is preventing grain suppliers in the Midwest from supplying grain deficit states, such as North Carolina, with grain needed for their livestock.

Under the present system, a few waterborne carriers have a monopoly on shipping, and my folks in North Carolina tell me that those shippers have no certified Jones Act ships to meet their demands.

My poultry and pork farmers tell me they can't get enough grain for their farms to feed their animals. My State cannot, and will never be able, to produce enough grain for the poultry and pork producers in North Carolina; so, as a result, they must, I repeat, they must have grain shipped in from the Midwest. They tell me the railroads can't guarantee enough rail cars to get the supplies of grain needed from the Midwest. And the costs of these shipments that are available are very high. The increased transportation costs coupled with the price of grain leads to higher overhead for my farmers. This shortage of grains and shortage of trains means higher costs and higher prices which threatens the jobs of many farmers.

According to the 1996 North Carolina Department of Agriculture report, North Carolina was first in the nation in turkey production with 59.5 million heads; our State was number two in hog production, exceeded by Iowa, at 9.8 million heads; and in commercial broilers North Carolina was fourth with 681 million heads, exceeded by Arkansas, Georgia, and Alabama.

While we slightly dropped off in turkey production in 1996, we increased hog production by 1.5 million head and increased commercial broiler production by 37 million heads over the last statistical reporting period. That is a tremendous number of poultry and livestock to feed, and that's just the tip of the iceberg.

Dependence on one mode of transportation, the railroads, is not good. In times of severe weather, such as heavy snows in Winter and flooding from heavy rains, railroads can't get through mountain passes or flooded areas of the country. We've seen quite a few severe winters and floods in the past few years. Even a delay of one day can be critical to farmers.

Mr. President, the problem is that the Jones Act restricts shipping between ports in the United States. It requires that merchandise being transported by water between U.S. points be shipped on U.S.-flagged, U.S.-manned, and U.S.-citizen owned vessels that are documented by the Coast Guard for such carriage. The problem is that there are not enough Jones Act certified vessels to transport grain to North Carolina farmers. As a matter of fact, my farmers are now faced with being forced to go to foreign sources of feed grain.

According to a report in the September 12, 1995, Journal of Commerce, Murphy Family Farms brought in a cargo of 1 million bushels of Canadian wheat to the port of Wilmington, North Carolina on Canada Steamship Lines. The President, the Jones Act is not fair to grain producers in the Midwest. It penalizes them for being American farmers.

Those that would protest this legislation would say that it would destroy America's shipping. If we maintain the status quo, my farmers will have no choice but to buy foreign grain from countries like Canada and Argentina and it will be transported on non-U.S. flagged vessels.

Many reasons for this, this legislation requires any non-U.S. flag shipping company that wishes to do regularly scheduled business in the coastwise trades to: set up a United States Corporation, comply with all state, labor, union, and federal law and—for those of us who are worried about the budget deficit—pay state and Federal Taxes. More importantly, it would create more long shore jobs. The more ships you have in the trade the more you have to load and unload, hence you need more workers.

According to a report, issued in December of 1995, by the United States International Trade Commission, "The economic wide effect of removing the Jones Act is a U.S. economic welfare gain of approximately $2.8 billion. This figure can also be interpreted as the annual reduction in real national income imposed by the Jones Act. A primary reason for the large gain in welfare is a decline of approximately 26 percent in the price of shipping services formerly restricted by the Jones Act."

It is strange circumstance where we are the breadbasket of the world and there is a lid on the basket of the domestic market placed by the Jones Act.

Mr. President, the Jones Act placing restrictions on shipments of a whole host of other non-agricultural goods and commodities, such as coal, fuel oil, steel, kaolin clay, in the United States. Our legislation would help lower shipping costs for many other industries as well.

So I urge my colleagues to join us in correcting this inequity to allow American grain to be shipped unhindered to those grain deficit states that are in need of it; and all other non-agricultural goods to be shipped by water at reasonable costs where they are needed.

I urge my colleagues to support this legislation and ask unanimous consent that the text of my bill be printed in the Record.

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

S. 1138

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 “Freedom to Trade Act of 1997.”

SEC. 2. MISCELLANEOUS AMENDMENTS TO DEFINITIONS IN TITLE 46, UNITED STATES CODE.

Section 2101 of title 46, United States Code, is amended—

(1) in each of paragraphs (1) through (45), by striking the period at the end and inserting a semicolon;

(2) in paragraph (46), by striking the period at the end and inserting “;”;

(3) by striking paragraph (3a) and inserting the following:

“(A) the United States of its—

“(i) a national of the United States, as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

“(ii) a corporation established under the laws of the United States or under the laws of a State, territory, district, or possession of the United States; or

“(A) a president or other chief executive officer and chairman of the board of directors of that corporation who are citizens of the United States;

“(B) a board of directors, on which two-thirds of the number of directors necessary to constitute a quorum are citizens of the United States;

“(iii) a partnership existing under the laws of a State, territory, district, or possession of the United States that has at least two-thirds of the general partners who are citizens of the United States;

“(iv) a trust that has at least two-thirds of the trustees who are citizens of the United States; or

“(B) an association, joint venture, limited liability company or partnership, or other entity that has at least two-thirds of the members who are citizens of the United States; but

“(8) such term does not include—

“(i) with respect to a person or entity under clause (ii), (iii), or (v) of subparagraph (A), any parent corporation, partnership, or other person (other than an individual or entity that is a member of the second-tier owner (as that term is defined by the Secretary) of the person or entity involved; or

“(ii) with respect to a person or entity under clause (iv), any beneficiary of the trust;”;

(4) by inserting after paragraph (4) the following new paragraph:

“(C) COASTWISE TRADE—

“(A) subject to subparagraph (B), means the transportation by water of merchandise or passengers, the towing of a vessel by a towing vessel, or dredging operations embraced within the coastwise laws of the United States—

“(i) between points in the United States (including any territory, or possession of the United States);

“(ii) on the Great Lakes (including any tributary or connecting waters of the Great Lakes and the Saint Lawrence Seaway);

“(iii) on the subjacent waters of the Outer Continental Shelf subject to the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.);

“(iv) in the noncontiguous trade; and

“(B) does not include the activities specified in subparagraph (A) on the navigable waters of the United States in the same manner as any foreign vessel engaged in,
"(B) A vessel of foreign registry—

"(i) if the vessel is subject to a demise or bareboat charter, for the duration of that charter, to a person or entity that would be eligible to own a vessel that has if the person or entity were the owner of the vessel; or

"(ii) that engages irregularly in the coastwise trade of the United States,

"(2) a vessel (other than a vessel documented with a coastwise endorsement under section 12106(a) of title 46, United States Code; or

"(B) a vessel that has been issued a coastwise certification under section 12106(b) of title 46, United States Code, that is in effect for engaging in the transportation of merchandise; and

"(i) in the coastwise trade, in any vessel other than—

"(A) a vessel documented with a coastwise endorsement under section 12106 of title 46, United States Code; or

"(B) a vessel that has been issued a coastwise certification under section 12106(b) of title 46, United States Code, that is in effect for engaging in the transportation of merchandise; and

"(2) in the inland waterways trade, in any vessel other than—

"(A) a vessel documented with a coastwise endorsement under section 12106 of title 46, United States Code; or

"(B) a vessel that has been issued a coastwise certification under section 12106(b) of title 46, United States Code, that is in effect for engaging in the transportation of merchandise; and

"(B) a vessel with respect to which the last documentation was made under the laws of the United States;

"(2) operate a vessel referred to in paragraph (1) under the authority of a foreign government;

"(3) scrap or transfer for scrapping a vessel referred to in paragraph (1) in a foreign country—

"(A) in violation of this section and knowing that that placement, operation, scrapping, or transfer for scrapping is a violation of this section; or

"(B) otherwise in violation of this section shall each be liable to the United States Government for a civil penalty of not more than $10,000 for each violation.

"(2) a vessel registered in a foreign country; or

"(2) in the inland waterways trade, by any vessel other than a vessel documented with an inland waterways endorsement under section 12107 of title 46, United States Code.

"(C) in addition to the penalty specified in subparagraph (A), the offending vessel shall be liable to the United States Government for a civil penalty of not more than $250 for each violation, and that vessel shall not be granted clearance until that penalty is paid.

"(D) a vessel with respect to which the last documentation was made under the laws of the United States; or

"(C) a vessel documented with a coastwise endorsement under section 12106 of title 46, United States Code; or

"(B) a vessel with a certificate of documentation endorsed under section 12106 of title 46, United States Code; or

"(A) a vessel documented with a coastwise endorsement under section 12106 of title 46, United States Code; or

"(C) a vessel engaged irregularly in the transportation of merchandise.

"(B) a vessel with respect to which the last documentation was made under the laws of the United States; or

"(C) a vessel engaged irregularly in the transportation of merchandise.

"(B) a vessel with respect to which the last documentation was made under the laws of the United States; or

"(C) a vessel engaged irregularly in the transportation of merchandise.

"(B) a vessel that is eligible for documentation.

"(C) a vessel that is eligible for documentation.

"(B) a vessel that has been issued a coastwise certification under section 12106(b) of title 46, United States Code, that is in effect for engaging in the transportation of merchandise; and

"(C) a vessel engaged irregularly in the transportation of merchandise to be transported by water in the coastal waters of that country; or

"(D) a vessel registered in a foreign country; or

"(B) a vessel that has been issued a coastwise certification under section 12106(b) of title 46, United States Code, that is in effect for engaging in the transportation of merchandise; and

"(C) a vessel engaged irregularly in the transportation of merchandise.

"(B) a vessel that has been issued a coastwise certification under section 12106(b) of title 46, United States Code, that is in effect for engaging in the transportation of merchandise; and

"(C) a vessel engaged irregularly in the transportation of merchandise.

"(B) a vessel that has been issued a coastwise certification under section 12106(b) of title 46, United States Code, that is in effect for engaging in the transportation of merchandise; and

"(C) a vessel engaged irregularly in the transportation of merchandise.

"(B) a vessel that has been issued a coastwise certification under section 12106(b) of title 46, United States Code, that is in effect for engaging in the transportation of merchandise; and

"(C) a vessel engaged irregularly in the transportation of merchandise.

"(B) a vessel that has been issued a coastwise certification under section 12106(b) of title 46, United States Code, that is in effect for engaging in the transportation of merchandise; and

"(C) a vessel engaged irregularly in the transportation of merchandise.

"(B) a vessel that has been issued a coastwise certification under section 12106(b) of title 46, United States Code, that is in effect for engaging in the transportation of merchandise; and

"(C) a vessel engaged irregularly in the transportation of merchandise.

"(B) a vessel that has been issued a coastwise certification under section 12106(b) of title 46, United States Code, that is in effect for engaging in the transportation of merchandise; and

"(C) a vessel engaged irregularly in the transportation of merchandise.

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"(C) a vessel engaged irregularly in the transportation of merchandise.

"(B) a vessel that has been issued a coastwise certification under section 12106(b) of title 46, United States Code, that is in effect for engaging in the transportation of merchandise; and

"(C) a vessel engaged irregularly in the transportation of merchandise.

"(B) a vessel that has been issued a coastwise certification under section 12106(b) of title 46, United States Code, that is in effect for engaging in the transportation of merchandise; and

"(C) a vessel engaged irregularly in the transportation of merchandise.

"(B) a vessel that has been issued a coastwise certification under section 12106(b) of title 46, United States Code, that is in effect for engaging in the transportation of merchandise; and

"(C) a vessel engaged irregularly in the transportation of merchandise.
"(i) may, at the election of the employer, participate in an authorized compensation plan under the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 901 et seq.); and

"(ii) if the employer makes a election under clause (i), notwithstanding section 231(G) of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 902(3)(G)), shall be subject to that Act.

"(B) If an employer makes an election, in accordance with subparagraph (A), to participate in an authorized compensation plan under the Longshore and Harbor Workers' Compensation Act—

"(i) a master or crew member employed by that employer shall be considered to be an employee for the purposes of that Act; and

"(ii) the liability of that employer under that Act to the master or crew member, or to any person otherwise entitled to recover damages from the employer based on the injury, disability, or death of the master or crew member, shall be exclusive and in lieu of all other liability.

(b) Minimum Requirements.—All vessels, whether documented in the United States or not, operating in the coastwise trade of the United States shall be subject to minimum international labor standards for seafarers under international agreements in force for the United States as determined by the Secretary of Transportation on the advice of the Secretaries of Labor and Defense.

SEC. 9. REGULATIONS REGARDING VESSELS.

(a) Applicable Minimum Requirements.—Except as provided in paragraph (2), the minimum requirements for vessels engaging in the transportation of cargo or merchandise in the United States coastwise trade shall be the minimum international standards in force for the United States as determined by the Secretary of the department in which the Coast Guard is operating, in consultation with the appropriate international agencies or entities.

(b) Consistency in Application of Standards.—In any case in which any minimum requirement for vessels referred to in paragraph (1) is inconsistent with a minimum that is applicable to vessels that are documented in a foreign country and that are permitted to engage in the transportation of cargo or merchandise in the United States coastwise trade, as determined by the Secretary of Transportation in accordance with subparagraph (A), the minimum requirements for vessels engaging in the United States coastwise trade shall be the applicable international standards.

(c) Minimum Requirements for Vessels.—As used in this subsection, the term "minimum requirements for vessels" means, with respect to vessels (including United States documented vessels and foreign documented vessels), all safety, manning, inspection, construction, and equipment requirements applicable to those vessels in United States coastwise passenger trade, to the extent that those requirements are consistent with applicable international law and treaties to which the United States is a signatory.

SEC. 10. ENVIRONMENT.

All vessels, whether documented under the laws of the United States or not, regularly engaging in United States coastwise trade shall comply with all applicable State and Federal environmental statutes.

SEC. 11. GENERAL REQUIREMENTS.

Each person or entity that is not a citizen of the United States, as defined in section 201(3a) of title 46, United States Code, that owns or operates vessels that regularly engage in the United States domestic coastwise trade shall—

"(1) establish a corporation or other corporate entity and qualify under the laws of that State where the corporation or corporate entity is established to do business in the United States;

"(2) name an officer of the corporation or corporate entity upon whom process may be served;

"(3) abide by all applicable laws of the United States and the State where the corporation or corporate entity is established; and

"(4) post evidence of—

"(A) financial responsibility in amounts as considered necessary by the Secretary of Transportation for the business activities of the corporation or corporate entity; and

"(B) compliance with all applicable United States laws.

ADDITIONAL COSPONSORS

S. 9  At the request of Mr. Nickles, the name of the Senator from Kansas [Mr.完工], was added as a cosponsor of S. 9, a bill to protect individuals from having their money involuntarily collected and used for politics by a corporation or labor organization.

S. 100  At the request of Mr. Kerry, the name of the Senator from Iowa [Mr. HARKIN], was added as a cosponsor of S. 100, a bill to amend title 49, United States Code, to provide protection for airline employees who provide certain air safety information, and for other purposes.

S. 358  At the request of Mr. DeWine, the names of the Senator from Hawaii [Mr. INOUYE], the Senator from Rhode Island [Mr. CHAFEE], and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of S. 358, a bill to provide for compassionate payments to individuals who have blood clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products, and for other purposes.

S. 412  At the request of Mr. Lautenberg, the name of the Senator from Illinois [Mr. DURBIN] was added as a cosponsor of S. 412, a bill to provide for a national standard to prohibit the operation of motor vehicles by intoxicated individuals.

S. 428  At the request of Mr. Kohl, the names of the Senator from California [Mrs. FEINSTEIN] and the Senator from Iowa [Mr. HARKIN] were added as cosponsors of S. 428, a bill to amend chapter 44 of title 18, United States Code, to improve the safety of handguns.

S. 474  At the request of Mr. Kyl, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 474, a bill to amend sections 1031 and 1034 of title 18, United States Code.

S. 507  At the request of Mr. Hatch, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 507, a bill to establish the United States Patent and Trademark Organization as a Government corporation, to amend the provisions of title 35, United States Code, relating to procedures for patent applications, commercial use of patents, reexamination reform, and for other purposes.

S. 617  At the request of Mr. Johnson, the name of the Senator from Utah [Mr. Hatch] was added as a cosponsor of S. 617, a bill to amend the Federal Meat Inspection Act to require that imported meat, and meat food products containing imported meat, bear a label identifying the country of origin.

S. 625  At the request of Mr. McConnell, the name of the Senator from Oklahoma [Mr. Nickles] was added as a cosponsor of S. 625, a bill to provide for competition between forms of motor vehicle insurance, to permit an owner of a motor vehicle to choose the most appropriate form of insurance for that person, to guarantee affordable premiums, to provide for more adequate and timely compensation for accident victims, and for other purposes.

S. 852  At the request of Mr. Lott, the name of the Senator from Tennessee [Mr. Frist] was added as a cosponsor of S. 852, a bill to establish nationally uniform requirements regarding the titling and registration of salvage, nonrepairable, and rebuilt vehicles.

S. 892  At the request of Mr. Graham, the name of the Senator from Maine [Ms. Collins] was added as a cosponsor of S. 892, a bill to amend title VII of the Public Health Service Act to revise and extend the area health education center program.

S. 1042  At the request of Mr. Craig, the name of the Senator from Florida [Mr. Mack] was added as a cosponsor of S. 1042, a bill to require country of origin labeling of perishable agricultural commodities imported into the United States and to establish penalties for violations of the labeling requirements.

S. 1065  At the request of Mr. Daschle, the name of the Senator from Louisiana [Ms. Landrieu] was added as a cosponsor of S. 1045, a bill to prohibit discrimination in employment on the basis of genetic information, and for other purposes.

S. 1096  At the request of Mr. Burns, the name of the Senator from Illinois [Mr. Durbin] was added as a cosponsor of S. 1056, a bill to provide for farm-related exemptions from certain hazardous materials transportation requirements.

S. 1062  At the request of Mr. D'Amato, the names of the Senator from New York [Mrs. Mikulski] and the Senator from Wisconsin [Mr. Kohl], the Senator from Maryland [Ms. Mikulski], the Senator from Rhode Island [Mr. Reed], the Senator from Delaware [Mr. Biden], the
At the request of Mr. LUGAR, the names of the Senator from Iowa [Mr. GRASSLEY], the Senator from New Jersey [Mr. ROCKEFELLER] submitted the following concurrent resolution, which was referred to the Committee on Foreign Relations:

**CONCURRENT RESOLUTION 47—RELATIVE TO EXPO 2000**

Whereas Germany has invited nations, international and nongovernmental organizations, and individuals from around the world to participate in EXPO 2000, a global town hall meeting to be hosted in the year 2000, in Hannover, Germany, for the purpose of providing a forum for worldwide dialogue on the challenges, goals, and solutions for the sustainable development of mankind in the 21st century;

Whereas the theme of EXPO 2000 is “Human-kind-Nature-Technology”; and

Whereas EXPO 2000 placed the place in the heart of the newly unified, free, and democratic Europe;

Whereas Germany has established a stable democracy and a pluralistic society in the heart of Europe;

Whereas more than 40,000,000 people in the United States can trace their ancestry to Germany and in 1989 Germany celebrated the Tri-Centennial of immigration of Germans into the United States;

Whereas Germany has been a close political and military ally of the United States for nearly five decades and has been a driving force with respect to the political, monetary, and economic integration of Europe;

Whereas the United States, as a leading political, intellectual, and economic power, maintains a strong interest in the worldwide strengthening of political freedom and human rights, open market economies, and technological advancement throughout the world; and

Whereas the United States is eager to share with the global community the vast and promising public and private efforts being made to prepare for the next century: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that the United States Government—

(1) should fully participate in EXPO 2000, a global town hall meeting to be hosted in the year 2000, in Hannover, Germany, for the purpose of providing a forum for worldwide dialogue on the challenges, goals, and solutions for the sustainable development of mankind in the 21st century; and

(2) should encourage the academic community and the private sector in the United States to support this worthwhile undertaking.

Mr. LUGAR. Mr. President, I rise today to submit a concurrent resolution on behalf of myself and Senator ROCKEFELLER.

This concurrent resolution expresses the sense of the Congress that the United States Government should fully participate in EXPO 2000 in the year 2000, in Hannover, Germany. It further states that the United States should encourage the academic community and the private sector in the United States assistance for programs for projects of the International Atomic Energy Agency in Cuba, and for other purposes.

The United States military assistance and arms transfers to foreign governments that are undemocratic, do not adequately protect human rights, are engaged in acts of armed aggression, or are not fully participating in the United Nations Register of Conventional Arms.

The United States should fully participate in EXPO 2000, a global town hall meeting to be hosted in the year 2000, in Hannover, Germany, for the purpose of providing a forum for worldwide dialogue on the challenges, goals, and solutions for the sustainable development of mankind in the 21st century; and

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that the United States Government—

(1) should fully participate in EXPO 2000, a global town hall meeting to be hosted in the year 2000, in Hannover, Germany, for the purpose of providing a forum for worldwide dialogue on the challenges, goals, and solutions for the sustainable development of mankind in the 21st century; and

(2) should encourage the academic community and the private sector in the United States to support this worthwhile undertaking.

Mr. LUGAR. Mr. President, I rise today to submit a concurrent resolution on behalf of myself and Senator ROCKEFELLER.

This concurrent resolution expresses the sense of the Congress that the United States Government should fully participate in EXPO 2000 in the year 2000, in Hannover, Germany. It further states that the United States should encourage the academic community and the private sector in the United States...
Congressional Record - Senate

July 31, 1997

(2) if the Russian response is inadequate, the United States should impose sanctions on the responsible Russian entities in accordance with Executive Order 12938 on the proliferation of Weapons of Mass Destruction, and reassess cooperative activities with Russia; and

(3) the threshold under current law allowing for the waiver of the prohibition on the release of foreign assistance to Russia should be raised; and

(4) our European allies should be encouraged to take steps in accordance with their own laws to stop such proliferation.

Mr. KYL. Mr. President, I rise today to submit a Concurrent Resolution which expresses the sense of the Congress that the Russian government should refrain from providing additional missile assistance to Iran, and calls for the imposition of sanctions should Russia fail to stop.

A broad, bipartisan consensus exists among leaders in the Congress and the administration that the proliferation of weapons of mass destruction (WMD) and ballistic missiles used to deliver them is one of the key national security challenges facing the United States today. In fact, in 1994, President Clinton issued Executive Order 12938 declaring that the proliferation of weapons of mass destruction and the means of delivering them constitutes "an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States," and that he had therefore decided to impose emergency measures to deal with that threat. The President reaffirmed this Executive Order in 1995 and 1996.

The Concurrent Resolution that I have submitted today has bipartisan, bicameral support. Over the past few weeks I have enjoyed working with Representatives JANE HARMAN, the principal sponsor of the resolution in the House of Representatives, and I am pleased to announce that Senators FEINSTEIN, D'AMATO, INHOFE, ALLARD, BURNS, and BICKETT, the original cosponsors of the legislation.

This resolution is important because Iran's ballistic missile program—in concert with its nuclear, biological, and chemical weapons programs—poses a grave threat to the United States and our allies in the region.

Iran is a state-sponsor of terrorism led by a regime which is hostile to the United States.

Its chemical and biological weapons programs, which began in the early 1980's, are now capable of producing a wide variety of highly lethal chemical and biological agents, and Tehran has an aggressive program to develop nuclear weapons.

In addition, Iran currently possesses Scud-B and Scud-C ballistic missiles, and with Russian assistance, is working to develop longer-range missiles.

Russia has stated that it recognizes the danger posed by Iran's missile program. At the Helsinki summit in March, 1997, President Yeltsin reaffirmed that it was not Moscow's policy to assist Iran's missile program, since such missiles could be used to threaten Russia in the future. In addition, Russia is a member of the Missile Technology Control Regime (MTCR), which regulates the sale of missile technology to non-member nations, and has signed a bilateral agreement with the United States pledging not to transfer additional arms contracts with Iran.

Despite Russia's assurances and bilateral and international commitments, recent press articles indicate that Russian entities have engaged in missile cooperation with Iran. On February 12, 1997, the Los Angeles Times reported that Russia had recently transferred SS-4 missile technology to Iran. The transfer reportedly involved detailed instructions on how to build the missile and some unspecified components. This transfer is of particular concern since the SS-4 has a range of 2,000 km—more than three times greater than any missile currently in Iran's arsenal.

In addition to the transfer of SS-4 technology, Russia appears to be selling Iran a wide variety of other equipment and material useful in the design and manufacture of ballistic missiles. According to a Washington Times article published on March 3, Russian entities signed numerous missile-related contracts with Iran's Defense Industries Organization in 1996. The contracts reportedly included deals worth over $100,000 for projects such as the construction of a wind tunnel facility, missile design, manufacture of missile models, and the sale of missile design software. Construction of the wind tunnel alone is expected to cost several million dollars.

These press reports are corroborated by an unclassified report to Congress, prepared by the CIA and coordinated throughout the Intelligence Community, that was released in June. The report titled, "The Acquisition of Technology Relating to Mass Destruction and Advanced Conventional Munitions," states that, "Russia supplied a variety of ballistic missile-related goods to foreign countries [in 1996], especially Iran." The report also noted that Russia and China continued to be the primary suppliers of missile technology and were "key to any future efforts to stem the flow of dual-use goods and modern weapons to countries of concern."

This Concurrent Resolution expresses the sense of the Congress that the President should demand that the Russian government take concrete actions to stop governmental and nongovernmental entities from providing missile assistance to Iran. If Russia fails to respond, the United States concerns, the Resolution calls on the President to impose sanctions on the responsible Russian entities in accordance with existing United States law. This resolution is a reasonable response to an important problem.

I am pleased that Russian President Yeltsin has clearly stated that it is not Russia's policy to assist Iran's missile
Resolved, That the Senate—
(1) designates the week beginning September 14, 1997, as “National Historically Black Colleges and Universities Week”; and
(2) requests that the President of the United States issue a proclamation calling on the people of the United States and interested groups to appropriate ceremonies, activities, and programs to demonstrate support for historically black colleges and universities in the United States.

Mr. THURMOND. Mr. President, I am pleased to today submit a Senate resolution which authorizes and requests the President to designate the week beginning September 14, 1997, as “National Historically Black Colleges and Universities Week”.

It is my privilege to sponsor this legislation for the 12th time—I repeat, the 12th time—honoring the historically black colleges of our country.

Eight of the one hundred and sixteen historically black colleges, namely Allen University, Benedict College, Claflin College, South Carolina State University, Morris College, Voorhees College, Denmark Technical College, and Clifton J unior College, are located in my home State. These colleges are distinguished institutions with a long and distinguished history of providing the training, education, and experience necessary for participation in a democratic form of government, inculcating in their students a respect for the rule of law and the democratic processes in our country; and

(3) reaffirms its support for constitutional government, the rule of law, human rights, and democratic processes in the Republic of Congo and calls upon regional African states to support the efforts of the Republic of Congo to establish a democratic political system in the country;

(4) declares that the removal of the democratically elected Government of the Republic of Congo by other than democratic means would severely restrict the bilateral relationship between the United States and the Republic of Congo, suspends the provision of most bilateral assistance from the United States to the Republic of Congo; and

(5) encourages the United States Government to publicly express its support for a democratic government in the Republic of Congo and the peaceful transfer of power in that country.

Mr. ASHCROFT. Mr. President, I send a resolution to the desk concerning recent fighting in the Republic of Congo. Senator FEINGOLD is joining me as an original cosponsor of this resolution, and I greatly appreciate his support in this effort and his help as the Ranking Member on the Subcommittee on African Affairs of the Foreign Relations Committee.

The Republic of Congo—not to be confused with the neighboring Democratic Republic of Congo, formerly known as Zaire—has been embroiled in domestic unrest since early 1997 when hostilities erupted between the forces of the former military dictator Denis Sassou-Nguesso and troops loyal to the current Congolese leader, President Pascal Lissouba.

President Lissouba defeated Sassou in national elections in 1992. Recent hostilities between the two leaders pose a threat to the nascent democracy that the Republic of Congo has tried to cultivate over the last 5 years.

The Republic of Congo has made significant steps to embrace democracy since the late 1980’s. After the collapse of the Soviet Union, the people of the Republic of Congo pressed for democratic change in their own country. Their struggle against political repression was rewarded with the convening of a national conference in 1991 and the adoption of a multiparty constitution.

Whereas the Republic of Congo held its first free and fair democratic elections in 1992, in which Pascal Lissouba won the presidency, and in which young people developed skills and knowledge of curricula and programs through which young people develop skills and talents, thereby expanding opportunities for continued social progress.

Mr. President, through adoption of this Senate resolution Congress can reaffirm its support for historically black colleges, and appropriately recognize their important contributions to our Nation. I look forward to the speedy adoption of this resolution.
thrusts to their emerging democracy. Indeed, factional infighting between rival political groups has taken the lives of several thousand people since 1993.

The most recent outbreak of fighting poses yet another challenge to the people of the Republic of Congo and against the violence which threatens the peace and transfer of power in a country struggling to embrace democracy.

United States foreign policy in Central Africa has failed miserably in restraining the forces of violence which have plagued Rwanda and Burundi, the former Zaire, and now the Republic of Congo. The Clinton administration must address more forcefully the chain of events in Central Africa before the region spirals out of control. A good place to start would be to speak out forcefully in support of democracy in the Republic of Congo and against the violence which threatens the country’s stability.

Mr. President, it is time to take a public stand in support of the fragile democracy which has been restored in the Republic of Congo, which is why I am submitting this resolution today. I hope at the appropriate time my colleagues will vote to condemn the violence now threatening the prospects for constitutional government and the rule of law in the Republic of Congo.

SENATE RESOLUTION 113—CONGRATULATING THE PEOPLE OF JAMAICA

Whereas on August 6, 1962, the people of Jamaica were granted their independence from Great Britain;

Whereas the people of Jamaica will celebrate their 35th anniversary of independence during a four-day “Emancipation Day” celebration from August 1 to August 4, 1997;

Whereas the people of Jamaica have practiced a representative democracy for 53 years since the establishment of internal self-government by Prime Ministers Michael Manley and PJ Patterson, Jamaica has played a leadership role in stimulating trade-based economic development, promoting democracy, fighting the illicit narcotics trade, and fostering the observance of human rights in the Caribbean region;

Whereas more than 2,000,000 Americans are of Jamaican descent, and Jamaican-Americans have made a rich contribution to our society;

Whereas Jamaica and the United States benefit from a healthy commercial relationship that in 1996 exceeded $2,300,000,000 and Whereas Jamaica and the United States enjoy strong cultural and social links: Now, therefore, be it

Resolved. That the Senate—

(1) congratulates the people of Jamaica on the occasion of the 35th anniversary of Jamaica’s independence from Great Britain;

(2) celebrates the strong, entrenched tradition of democratic governance in Jamaica;

(3) recognizes the richness of the contributions to United States of economic, political, social, and cultural life by Americans of Jamaican descent;

(4) commends the Government of Jamaica for its efforts to promote stability and economic growth in the Caribbean region; and

(5) looks forward to the continuance of strong relations and cooperation between the United States and Jamaica.

Mr. GRAHAM. Mr. President, it will be 35 years ago this coming Wednesday, August 6, 1997, that the people of Jamaica were granted their independence from Great Britain. This significant event for the people of Jamaica is cause for great celebration by the citizens of Jamaica as well as all of us who cherish democracy. The United States and Jamaica have been partners working together helping to bring democracy throughout the world. The government of the United States was the first of our allies joining our efforts to come to the aid of its neighbor Haiti. Jamaican American citizens contribute to the richness of our nation’s cultural heritage. They strengthen the rich cultural and social ties between our nations.

It is therefore fitting that we take this opportunity to congratulate the people of Jamaica during their four-day “Emancipation Day” celebration August 1, to August 4, 1997.

SENATE RESOLUTION 114—RELATIVE TO TAIWAN

Mr. TORRICELLI (for himself and Mr. BROWNBACK) submitted the following resolution; which was referred to the Committee on Foreign Relations:

Whereas Hong Kong was acquired by the United Kingdom in 1898 and leased from China for 99 years;

(1) congratulates the people of Taiwan on the occasion of the 35th anniversary of the peaceful and democratic transition to Republic of China, The Republic of China does not alter the current or future status of Taiwan.

(2) recognizes the richness of the contributions to United States of economic, political, social, and cultural life by Americans of Chinese descent;

(3) the United States should assist in the defense of Taiwan in case of threats to its security.

That it is the sense of the Senate that—

(1) the transfer of Hong Kong to the People’s Republic of China does not alter the current and future status of Taiwan;

(2) the future of Taiwan should be determined by peaceful means through a democratic process in accordance with the principle of self-determination, as outlined in the Charter of the United Nations; and

(3) the United States should assist in the defense of Taiwan in case of threats to its security.

Mr. TORRICELLI. Mr. President, I rise today to join with my colleague, Senator BROWNBACK, in submitting a Sense of Senate Resolution on the Current and Future Status of Taiwan.

This legislation expresses the sense of the Senate that the situation of Hong Kong is similar to that of Taiwan.

The formula of “one country, two systems” applied to Hong Kong has no relevance to Taiwan.

China continues to renounce the use of force against Taiwan and as recently as 1996 held military exercises in the Taiwan Strait in an attempt to intimidate the people of Taiwan.

The Taiwan Relations Act makes it the policy of the United States to “consider any effort to determine the future status of Taiwan by other than peaceful means, including by boycotts or embargoes, a threat to the peace and security of the Western Pacific area and of grave concern to the United States.”

Based on these differences, our resolution expresses the sense of the Senate that—

First, the transfer of Hong Kong to the People’s Republic of China does not alter the current and future status of Taiwan;

Second, the future of Taiwan should be determined by peaceful means through a democratic process in accordance with the principle of self-determination, as outlined in the Charter of the United Nations; and

Third, the United States should assist in the defense of Taiwan in case of
threats or military attack by the People's Republic of China against Taiwan.

SENATE RESOLUTION 115—EXPRESSING SUPPORT FOR A NATIONAL DAY OF UNITY

Mrs. BOXER (for herself and Mr. JOHNSON) submitted the following resolution; which was referred to the Committee on Judiciary.

S. RES. 115

Whereas the President has called for a national dialogue on race;

Whereas an appropriate way to meet the President's challenge is to establish a National Day of Unity when all Americans can celebrate their common heritage and shared destiny;

Whereas such a day would be a means to build a bridge that would finally cross the racial and other divides of our Nation and to achieve the unity our Nation desires and needs; and

Whereas no particular day can close all divisions within our Nation, but by coming together on a National Day of Unity, we can focus the dialogue the President seeks, and that to declare unity is to declare war. Now, therefore, be it

Resolved, That a National Day of Unity should be established in order to facilitate a national dialogue to encourage Americans to renew our devotion to liberty and justice for all and to celebrate our unity.

Mr. JOHNSON. Mr. President, I want to take this opportunity to express my strong support for the Senate Resolution calling for a National Day of Unity submitted by Senator BOXER. This Resolution is a direct response to the President's call for a national dialogue on race, and I applaud the timeliness and the intent of Senator BOXER's efforts.

The challenges associated with race relations that we have faced as a nation are apparent throughout our collective history. In my rural state, Native Americans are the largest minority, comprising nearly 8% of the population. Spurred by deep-rooted tensions between Native Americans and non-Native Americans in South Dakota, the late Governor George Mickelson had the foresight to declare 1990 a Year of Reconciliation on race relations. In his communications with me after this declaration, Mickelson wrote, "...our successes reached beyond anyone's imagination. I do not suggest we have even scraped the surface of all that we have too, but I do suggest that there is a new awareness among the citizens of South Dakota for a need to reconcile, a need to learn about and understand one another's cultures, and a need to put aside old prejudices."

At the request of the Governor, South Dakota's tribal leaders, and the people of South Dakota, I introduced legislation in the House of Representatives in 1992, calling for a National Year of Reconciliation to focus on healing the breach between Native Americans and non-Indians nationwide. That legislation was signed into law by President Bush in May of 1992. Native Americans are a significant, culturally unique and often insular racial minority. In order to understand the history and the future of race relations, we must understand the position of Native Americans and the scope of this country's oldest race relationships. The 1992 National Year of Reconciliation legislation was dedicated to the task of addressing racial tensions and the impact of race relations on every American. The first meeting of the Race Relations Board held in San Diego, California, indicated that the Board's task is indeed daunting, and that a dialogue on race is potentially divisive. It is that very divisiveness which makes the President's initiative so vital. We are all aware that racism and prejudice persist in our country. A national dialogue must be encouraged, and an opportunity for full participation by every American of all ethnicities must be provided.

Senator BOXER's Resolution calls on the Congress to follow the President's lead in expanding the dialogue and including every voice. If we are to move forward as a nation, we must address the forces that divide us, not only to recognize these forces honestly for what they are, but to strengthen our determination that such forces can be overcome. The Senate has been given a unique opportunity today to express our full support for the mission of the Race Relations Board, and requests the participation of the entire country.

Mr. President, this nation's racial problems cannot be solved by a few people, no matter how well-intentioned. That is why I join Senator BOXER today in asking the country to express its dedication to solving these problems by observing a National Day of Unity.

SENATE RESOLUTION 116—IGNITING AMERICA RECYCLES DAY

Mr. LEVIN (for himself and Mr. JEFFORDS) submitted the following resolution; which was referred to the Committee on the Judiciary.

S. RES. 116

Whereas citizens in the United States generate approximately 208,000,000 tons of municipal solid waste a year or 4.3 pounds per person per day;

Whereas the average worker generated between 120 and 150 pounds of recoverable white office paper a year;

Whereas the Environmental Protection Agency recently estimated that the recycling rate in the United States has reached 27 percent;

Whereas making products from recycled materials allows us to get the most use of every tree, every gallon of oil, every pound of mineral, every drop of water, and every kilowatt of energy that goes into products we buy;

Whereas manufacturing from recycled materials creates less waste and fewer emissions;

Whereas recycling saves energy, reducing the need to deplete nonrenewable energy resources;

Whereas it is estimated that 9 jobs are created for every 15,000 tons of solid waste recycled into a new product,

Whereas recycling is completed only when recovered materials are returned to the retailer as new products, and then purchased by consumers;

Whereas buying recycled products conserves resources and energy, reduces waste and pollution and creates jobs;

Whereas more than 4,500 recycled products are available to consumers; and

Whereas Americans support recycling, but need a regular reminder of the importance of buying recycled content products and the availability of recycled content products and instructions on how to recycle. Now, therefore, be it

Resolved, That the Senate—

(1) designates November 15, 1997, and November 15, 1998, as ‘America Recycles Day’; and

(2) requests that the President issue a proclamation calling on the people of the United States to observe ‘America Recycles Day’ with appropriate ceremonies and activities.

AMENDMENT SUBMITTED

THE ENVIRONMENTAL POLICY AND CONFLICT RESOLUTION ACT OF 1997

McCAIN AMENDMENT NO. 1047

(Ordered to lie on the table.)

Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill (S. 399) to amend the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 to establish the U.S. Institute for Environmental Conflict Resolution to conduct environmental conflict resolution and training, and for other purposes; as follows:

Beginning on page 14, strike line 17 and all that follows through page 15, line 3, and insert the following:

SEC. 6. ENVIRONMENTAL DISPUTE RESOLUTION FUND.

(a) REDESIGNATION.—Sections 10 and 11 of the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20 U.S.C. 5608, 5609) are redesignated as sections 12 and 13 of that Act, respectively.

(b) ENVIRONMENTAL DISPUTE RESOLUTION FUND.—The Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20 U.S.C. 5601 et seq.) (as amended by section 13 of this Act) is amended by inserting after section 9 the following:

"SEC. 10. ENVIRONMENTAL DISPUTE RESOLUTION FUND.

"(a) ESTABLISHMENT.—There is established in the Treasury of the United States an Environmental Dispute Resolution Fund to be administered by the Board.

"(b) AMOUNTS.—The Fund shall consist of amounts appropriated to the Fund under section 13(b) and amounts paid into the Fund under section 11.

"(c) EXPENDITURES.—The Board shall expend from the Fund such sums as the Board determines are necessary to establish and operate the Institute, including such
amounts as are necessary for salaries, administration, the provision of mediation and other services, and such other expenses as the Board determines are necessary.

(12) A CQUISITION OF OBLIGATIONS.—For the purpose of investments under paragraph (1), obligations may be acquired—

(A) on original issue at the issue price; or

(B) by purchase of outstanding obligations at the market price.

(13) Sale OF OBLIGATIONS.—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

(14) CREDS TO FUND.—The interest on, and the proceeds from the sale of or redemption of, any obligation in the Fund shall be credited to and form a part of the Fund.

SEC. 7.

USE OF THE INSTITUTE BY A FEDERAL AGENCY.

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

(1) The mission of the New Mexico Hispanic Cultural Center is to create a greater understanding of the Hispanic culture and the contributions of individuals to the society in New Mexico.

(2) The New Mexico Hispanic Cultural Center will serve as a local, regional, national, and international center for the study and advancement of Hispanic culture, expressing both the rich history and the forward-looking aspirations of Hispanics throughout the world.

(3) The New Mexico Hispanic Cultural Center will be a Hispanic arts and humanities showcase to display the works of national and international artists, and to provide a venue for educators, scholars, artists, children, elders, and the general public.

(b) Principal purposes of the Hispanic Cultural Center shall include: (1) a performing arts center (containing a film/video theater), a 150-seat black box theater, an education programs, including programs related to visual arts, performing arts, visual arts, culinary arts, and language arts.

(c) The New Mexico Hispanic Cultural Center will be a living tribute to the Hispanic experience and will provide all citizens of New Mexico, the Southwestern United States, and the world, an opportunity to learn about, participate in, and enjoy the unique Hispanic culture, and the New Mexico Hispanic Cultural Center will assure that this 400-year old culture is preserved.

(d) It is appropriate for the Federal Government to share in the cost of constructing the New Mexico Hispanic Cultural Center because Congress recognizes that the New Mexico Hispanic Cultural Center has the potential to be a premier facility for performing arts and a national repository for Hispanic arts and culture.

Definition.—In this section:

CENTER.—The term ‘Center’ means the Center for Performing Arts, within the complex known as the New Mexico Hispanic Cultural Center, which Center for Performing Arts is a central facility in Phase II of the New Mexico Hispanic Cultural Center complex.

B: The term ‘Hispanic Cultural Division’ means the Hispanic Cultural Division of the Office of Cultural Affairs of the State of New Mexico.

C: The term ‘Secretary’ means the Secretary of the Interior.

D: The term ‘Construction of Center’ means the construction, furnishing, and equipment of the Center for Performing Arts that will be located at a site to be determined by the Hispanic Cultural Division, within the complex known as the New Mexico Hispanic Cultural Center.

G: The term ‘Grant requirements’ means the requirement that a grant to New Mexico to pay for the Federal share of the costs of the design, construction, furnishing, and equipment of the Center for Performing Arts that will be located at a site to be determined by the Hispanic Cultural Division, within the complex known as the New Mexico Hispanic Cultural Center.

The New Mexico Hispanic Cultural Center complex is scheduled to be completed by August of 1998 and is planned to consist of an art gallery with exhibition space and a museum, administrative offices, a restaurant, a ballroom, a gift shop, an amphitheater, a research and literary arts center, and other components.

Phase II of the New Mexico Hispanic Cultural Center complex is planned to include a performing arts center (containing a 700-seat theater, a state house, and a 300-seat fine arts theater), an art studio building, a culinary arts building, and a research and literary arts building.

It is appropriate for the Federal Government to share in the cost of constructing the New Mexico Hispanic Cultural Center because Congress recognizes that the New Mexico Hispanic Cultural Center has the potential to be a premier facility for performing arts and a national repository for Hispanic arts and culture.

The New Mexico Hispanic Cultural Center complex is to create a greater understanding of the Hispanic culture and the contributions of individuals to the society in New Mexico.

The New Mexico Hispanic Cultural Center will serve as a local, regional, national, and international center for the study and advancement of Hispanic culture, expressing both the rich history and the forward-looking aspirations of Hispanics throughout the world.

The New Mexico Hispanic Cultural Center complex is scheduled to be completed by August of 1998 and is planned to consist of an art gallery with exhibition space and a museum, administrative offices, a restaurant, a ballroom, a gift shop, an amphitheater, a research and literary arts center, and other components.

It is appropriate for the Federal Government to share in the cost of constructing the New Mexico Hispanic Cultural Center because Congress recognizes that the New Mexico Hispanic Cultural Center has the potential to be a premier facility for performing arts and a national repository for Hispanic arts and culture.

The New Mexico Hispanic Cultural Center complex is scheduled to be completed by August of 1998 and is planned to consist of an art gallery with exhibition space and a museum, administrative offices, a restaurant, a ballroom, a gift shop, an amphitheater, a research and literary arts center, and other components.

It is appropriate for the Federal Government to share in the cost of constructing the New Mexico Hispanic Cultural Center because Congress recognizes that the New Mexico Hispanic Cultural Center has the potential to be a premier facility for performing arts and a national repository for Hispanic arts and culture.

The New Mexico Hispanic Cultural Center complex is scheduled to be completed by August of 1998 and is planned to consist of an art gallery with exhibition space and a museum, administrative offices, a restaurant, a ballroom, a gift shop, an amphitheater, a research and literary arts center, and other components.

It is appropriate for the Federal Government to share in the cost of constructing the New Mexico Hispanic Cultural Center because Congress recognizes that the New Mexico Hispanic Cultural Center has the potential to be a premier facility for performing arts and a national repository for Hispanic arts and culture.

The New Mexico Hispanic Cultural Center complex is scheduled to be completed by August of 1998 and is planned to consist of an art gallery with exhibition space and a museum, administrative offices, a restaurant, a ballroom, a gift shop, an amphitheater, a research and literary arts center, and other components.

It is appropriate for the Federal Government to share in the cost of constructing the New Mexico Hispanic Cultural Center because Congress recognizes that the New Mexico Hispanic Cultural Center has the potential to be a premier facility for performing arts and a national repository for Hispanic arts and culture.
(A) the date of completion of the construction of the Center;
(B) that Antoine Predock, an internationally recognized architect, shall be the supervising architect for the construction of the Center;
(C) that the Director of the Hispanic Cultural Division shall award the contract for architectural engineering and design services in accordance with the New Mexico Procurement Code; and
(D) that the contract for the construction of the Center—
   (i) shall be awarded pursuant to a competitive bidding process; and
   (ii) shall be awarded not later than 3 months after the solicitation for bids for the construction of the Center;
   (3) FEDERAL SHARE.—The Federal share of the costs described in subsection (c) shall be 50 percent.
   (4) NON-FEDERAL SHARE.—The non-Federal share of the costs described in subsection (c) shall be in cash or in kind fairly evaluated, including plant, equipment, or services. The non-Federal share shall include any contribution received by New Mexico from any private source for the design, construction, furnishing, or equipping of Phase I or Phase II of the New Mexico Hispanic Cultural Center complex prior to the date of enactment of this section. The non-Federal share of the costs described in subsection (c) shall include the following:
   (A) $16,410,000 that was appropriated by the New Mexico legislature since January 1, 1993, for the planning, property acquisition, design, construction, furnishing, and equipping of the New Mexico Hispanic Cultural Center complex.
   (B) $116,000 that was appropriated by the New Mexico legislature for fiscal year 1995 for the startup and operating expenses of the New Mexico Hispanic Cultural Center.
   (C) $226,000 that was appropriated by the New Mexico legislature for fiscal year 1996 for the startup and operating expenses of the New Mexico Hispanic Cultural Center.
   (D) $442,000 that was appropriated by the New Mexico legislature for fiscal year 1997 for the startup and operating expenses of the New Mexico Hispanic Cultural Center.
   (E) $551,000 that was appropriated by the New Mexico legislature for fiscal year 1998 for the startup and operating expenses of the New Mexico Hispanic Cultural Center.
   (F) $280,000 with a historic 22,000 square foot building donated by the Mayor and City Council of Albuquerque, New Mexico, to New Mexico for the New Mexico Hispanic Cultural Center.
   (G) 12 acres of "Bosque" land adjacent to the New Mexico Hispanic Cultural Center complex for use by the New Mexico Hispanic Cultural Center.
   (H) The $30,000 donation by the Sandia National Laboratories and Lockheed Martin Corporation to support the New Mexico Hispanic Cultural Center and the program activities of the New Mexico Hispanic Cultural Center.
   (e) USE OF FUNDS FOR DESIGN, CONSTRUCTION, FURNISHING, AND EQUIPMENT.—The funds received under a grant awarded under subsection (c) shall be used only for the design, construction, furnishing, and equipment of the Center.
   (f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Smithsonian Institution to carry out this section a total of $17,800,000 for fiscal year 1996 and succeeding fiscal years. Funds appropriated pursuant to the authority of the preceding sentence shall remain available until expended.
   (g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $3,000,000, to remain available until expended.

AMENDMENT NO. 1052
At the end of the bill add the following new section:

SEC. 5. ENVIRONMENTAL RESEARCH CENTER.
(a) IN GENERAL.—The Secretary of the Interior shall award a grant to Univera College for the construction of an environmental research facilities and structures at Raystown Lake, Pennsylvania.
(b) COORDINATION.—As a condition to receipt of the grant authorized in subsection (a), officials of Juniata College shall coordinate with the Baltimore District of the Army Corps of Engineers.
(c) APPROPRIATIONS AUTHORIZED.—There is authorized to be appropriated $5,000,000 to carry out this section.

BAUCUS AMENDMENT NO. 1053
Mr. DOMENICI (for Mr. BAUCUS) proposed an amendment to the bill, S. 797, supra; as follows:

At the end of the bill add the following new section:

SEC. 6. FORT PECK DAM INTERPRETIVE CENTER.
SEC. 6. FORT PECK DAM INTERPRETIVE CENTER
(a) IN GENERAL.—The Secretary of the Interior shall design, construct, furnish and equip an interpretive center to develop an educational program of the history and culture of the Fort Peck Dam area for the public.
(b) COORDINATION.—In carrying out subsection (a), the Secretary of the Interior shall coordinate with officials of the Bureau of Reclamation, Bureau of Land Management, U.S. Army Corps of Engineers and the Fort Peck Dam Interpretive Center and Museum.
(c) APPROPRIATIONS AUTHORIZED.—There is authorized to be appropriated to carry out this section a total of $10,000,000. Funds appropriated are available until expended.

THE EARTHQUAKE HAZARDS REDUCTION ACT APPROPRIATIONS AUTHORIZATION ACT
FRIST AMENDMENT NO. 1054
Mr. WARNER (for Mr. FRIST) proposed an amendment to the bill (S. 910) to authorize appropriations for carrying out the Earthquake Hazards Reduction Act of 1977 for fiscal years 1998 and 1999, and for other purposes; as follows:

On page 9, line 22, strike "$52,676,000" and insert "$52,565,000".
On page 9, line 22, strike "$52,676,000" and insert "$54,032,000".

THE U.S. DISTRICT COURTS APPROPRIATIONS AUTHORIZATION ACT
BIDEN AMENDMENT NO. 1055
Mr. WARNER (for Mr. BIDEN) proposed an amendment to the bill (S. 996) to provide for the authorization of appropriations in each fiscal year for appropriation to the United States district courts; as follows:

At the end of the bill, add the following new section:

SEC. 7. DISTRICT COURT APPROPRIATIONS.
(a) IN GENERAL.—There is authorized to be appropriated to the Federal courts for the support of the Federal courts a total amount of $2,911,000,000, of which—
   (1) [specify amounts for specific courts or programs].
be authorized to meet on Thursday, July 31, 1997, at 9:30 a.m. on S. 268—National Parks Overflights.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. ROTH. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, July 31, for purposes of conducting a full committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this oversight hearing is to receive testimony from the Forest Service on their organizational structure, staffing, and budget for the Alaska Region.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. ROTH. Mr. President, I ask unanimous consent that the Committee on the Judiciary, be authorized to hold an executive business meeting during the session of the Senate on Thursday, July 31, 1997, at 10:00 a.m., in room 226 of the Senate Dirksen Office Building.

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

COMMITTEE ON RULES AND ADMINISTRATION

Mr. ROTH. Mr. President, I ask unanimous consent that the Committee on Rules and Administration hold a business meeting at 2:30 p.m. on Thursday, July 31, 1997 in Russell 301, on the status of the investigation into the contested Senate election in Louisiana at which the Committee could consider and vote upon a resolution, or resolutions, prescribing the future course of action to be taken by the Committee.

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

SUBCOMMITTEE ON IMMIGRATION

Mr. ROTH. Mr. President, I ask unanimous consent that the Subcommittee on Immigration, of the Senate Committee on the Judiciary, be authorized to meet during the session of the Senate on Thursday, July 31, 1997, at 2:00 p.m. to hold a hearing in room 226, Senate Dirksen Building, on: “Annual Refugee Consultation.”

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

ADDITIONAL STATEMENTS

INTERNATIONAL DOLPHIN CONSERVATION ACT

Mr. SMITH of New Hampshire. Mr. President, I would like to comment briefly on yesterday's unanimous passage of S. 39, the International Dolphin Conservation Act after the Senate had adopted a compromise amendment.

I joined with my colleagues in supporting this effort to bridge the gap between the two sides because I believe that it was the result of sincere movement by both sides, a true compromise. As originally written, S. 39 would have permitted tuna caught by chasing dolphins and encircling them in purse-seine nets to be labeled dolphin-safe. The compromise amendment adopted by the Senate yesterday preserves the existing dolphin-safe label until the Secretary of Commerce is given the opportunity to review a study of the effects of encirclement on endangered dolphin populations. This means that the label change will take place no sooner than March 1997.

I must admit that the need for such a study is not entirely clear to me. I think that any method of fishing for tuna that involves chasing schools of dolphins through miles of ocean and encircling them—in nets a mile wide and as deep as a football field—is long—cannot honestly be described as safe for dolphins. I only hope that the studies that will be conducted will be anchored in common sense. If they are, I am confident that the label change will not take place.

Unfortunately, common sense may take a back seat to pressures from foreign governments, the same pressures that gave rise to S. 39 in the first place. It’s no secret that the countries that pursue dolphin-safe fishing would like to have access to the American tuna market—the world's largest—even if it means that our consumer standards have to be gutted in the process. I regret that too many in Congress and in the administration have failed to resist this pressure and defend our country's laws.

In that connection, I would like to associate myself with the remarks of Senator Boxer, a valued colleague but one with whom I do not typically find myself in agreement. Before the Senate voted on this issue, Senator BOXER said: “American laws should be made by Americans * * * American laws should not be made by other countries.” Senator BOXER has it exactly right. This issue has aroused the passionate interest of humane groups others concerned with dolphin welfare, but it should also be of concern to anyone concerned about the integrity of our governing institutions and the preservation of the sovereign right of the American people to make their laws through those institutions. I trust that we will have the opportunity to revisit this question.

Finally, I would like to take this opportunity to say that Senator BOXER has done a tremendous job of standing up for what is right on this issue and I salute her efforts and those of the others who brought the sponsors of S. 39 to the table. Without Senator BOXER’s steadfast efforts, this compromise and the opportunity to preserve the dolphin-safe label it provides would not have been possible.
STUDENT SUPPORT SERVICES

- Mr. ROCKEFELLER, Mr. President, I would like to take this opportunity to recognize two students of Potomac State College in West Virginia who have accomplished great feats through the assistance of our Federal TRIO programs. These programs were implemented in the early 1970s to provide educational assistance to students for more than 30 years to overcome financial barriers to education.

Paul Kesner was a participant in the student support services program at Potomac State from 1977 to 1979. This section of the TRIO programs helps students to stay in college until they earn their baccalaureate degree by providing tutoring, counseling, and financial assistance. Not only was Paul able to earn his BA, he went on to obtain an MS in counseling psychology from Frostburg State University, and is currently working on his dissertation to earn a Ph.D. from West Virginia University. Paul is currently the Dean of Student Affairs at Potomac State College.

Paul was recently elected to be president of the West Virginia Association of Student Personnel Administrators. Paul is also very active in Rotary International and various other local civic organizations in his community. Paul, who grew up on a farm in Mineral County, WV, notes that, “I am grateful for the impact and change TRIO had on my life. Without it, I certainly would not be in a situation to help others progress toward their own educational goals.”

Michelle Francis participated in the student support services program at Potomac State from 1989 to 1990. This Federal program helped Michelle to graduate from college and to make the career choices that she wanted to make. After earning an associate’s degree from Potomac State, Michelle went on to earn her BA from Frostburg State University.

Michelle is presently the day treatment coordinator at the developmental center & workshop in Keyser. Like Paul, Michelle is also very active in her community, serving in the Ladies Auxiliary of the American Legion, and as a mentor at the Mountainaire Challenge Academy. Michelle was also awarded the 1996 West Virginia TRIO achievement award.

As the fine results of these two West Virginia students demonstrate, the TRIO programs are clearly helping Americans to overcome financial, social, academic and cultural barriers to earn their college degrees. Since 1965, when the Federal TRIO programs began receiving funding under Title IV of the Higher Education Act, the facts have shown that students who participate in the TRIO student support services program are more than twice as likely to remain in college than those students from similar backgrounds who did not participate in the program.

Paul and Michelle have joined the ranks of many West Virginians who have achieved outstanding feats after participating in the TRIO programs. Thirty years ago, the TRIO programs were founded on the basis that all Americans deserved the opportunity to achieve a college education regardless of race, ethnic background, or economic circumstances. Today, the town of Keyser, WV, in which Paul has chosen to live because of the contributions of Paul Kesner and Michelle Francis to the community. Because the TRIO programs were there for Michelle and Paul, they have been able to be there for the benefit of other West Virginians.

I know that the TRIO programs will continue to help future West Virginia students to obtain a college degree, and because of this, these future students will be able to benefit their respected communities in much the same way that Paul and Michelle help the city of Keyser, WV. The TRIO programs don’t just create a real society of opportunity for everyone, they result in better cities and communities throughout the State of West Virginia and nationwide.

RECOGNITION OF ALASKA QUARTERLY REVIEW

- Mr. MURKOWSKI, Mr. President, I rise today to recognize a significant achievement for the literary arts in Alaska and for the University of Alaska system, in general, and the University of Alaska Anchorage, in particular. Last month, on June 8, 1997, the spring and summer 1997 edition of the Alaska Quarterly Review was recognized in the Washington Post book review section, Book World, as “one of the nation’s best literary magazines.” That is high praise indeed coming from the Eastern press, and justified, if not long overdue recognition, of the literary prowess of the publication.

In the 15 years since its inception at the University of Alaska Anchorage, the Alaska Quarterly Review (AQR) has served as an instrument to give voice to Alaska writers and poets, while also publishing the best of material from non-Alaskan authors. While the AQR is firmly rooted in Alaska, it maintains a national perspective—bridging the distance between the literary centers and Alaska, while also sharing an Alaskan perspective. This balanced presentation of views has earned AQR local, regional and national recognition over the years. It is nice that recognition now also has come from a publication in the Nation’s Capital.

“Congratulations for publishing one of the best among the literary magazines,” said Carl Houch Smith, vice president and editor of W.W. Norton, in comments made in May 1994.

“AQR is highly recommended and deserves applause,” said Bill Katz in the Library Journal.

“It is an impressive publication, comprising as diverse and rewarding an aggregation of work as a reader is likely to find in any literary journal,” added Pat Park in the Literary Magazine Review.

“The Magazine has a wonderful sense of place about it, and it conveys Alaska without being parochial. It’s not pushing a particular agenda. There’s no collection of writers in the editor’s friends. The work is original and fresh,” says contributing editor Stuart Dybek in explaining the publication’s success.

The review, for example, won the 1996 Alaska Governor’s Award for the Arts—Alaska’s highest award in the arts. Recent works in the review have been selected for or won:

- 1996 Best American Poetry (Scribner)
- 1996 Best American Essays (Houghton Mifflin)
- 1995 Andres Berger Award (Northwest Writers Inc.)
- The Pushcart Prize (1995-96 Pushcart Prize XX and 1996-97 Pushcart Prize XXI: The Best of the Small Presses)
- UAA’s 1995 Chancellor’s Group Award for Excellence in research and creative activity
- 1994 Special Recognition Award from the Alaska Center for the Book
- And numerous mentions in the Chronicle of Higher Education, the Small Press Review, Best American Essay, Novel and Short Story Writers Market, and in a host of other publications.

I rise today to honor the publication, not just because of its many awards, but because many Alaskans do not understand or appreciate the breadth and scope of the publication and how important it has become as a gateway for Alaskan authors to winning recognition from a wider literary audience. And also how it has helped to improve the literary quality of the works of Alaskan writers. I hope by these words, Alaskans will recognize how fortunate Alaska’s university system has been to support the publication. I want to thank the University of Alaska Board of Regents and the leadership of the University of Alaska Anchorage for supporting the publication. University of Alaska system has been facing difficult economic times because of falling Alaska State revenues. It has taken a tremendous commitment to academic excellence to continue the funding necessary to permit the review to be a quality publication and artistic success. The University deserves great credit for its efforts at promoting the publications in these difficult financial times. It is because of the need for more revenues for the University to permit it to reach the highest level of greatness possible that I have introduced legislation to help the University fully gain the land-grant entitlement it should have received at its founding. I hope that this Congress will look favorably on my bill, S. 660. The
University of Alaska Land grant bill, to help the University gain the economic means to support such important endeavors. But more on that in the future, following committee review of the legislation, likely this fall.

I also took the opportunity to publicly recognize the work of Ronald Spatz, the executive editor and founding editor of view all of his efforts on its behalf. Mr. Spatz, currently professor and chair of the University of Alaska Anchorage's Department of Creative Writing and Literary Arts and director of UAA's honors program, has been a member of the faculty since 1980. A professor, who has been recognized with commendations for "Outstanding Leadership" by the University's Board of Regents and the President of the statewide system, Mr. Spatz is the former chair of the University of Alaska Statewide Assembly, president of the UAA Assembly and the vice president of the Faculty Senate. He is the winner of two university-wide teaching awards: The Chancellor's Award for Excellence in Teaching and the Distinguished Teacher of the Year Award presented by the UAA Alumni Association.

Mr. Spatz, who is a film maker and writer, besides editor, has produced, directed, photographed and edited a range of short subject and expressionist documentary films for children and adults. Several of the films are in national distribution; his film, "For the Love of Ben," was broadcast nationally on public television and his stories and articles have appeared in a host of publications. He has received a total of more than 35 individual and project grants for his work.

For the future, due to a grant from the National Endowment for the Arts, which has provided three major awards (grants) to the publication, AQR this fall will be issuing a special anthology, "Intimate Voice, Ordinary Lives: Stories of Art and Fiction." Mr. President, Alaska, in fact all of America, is far richer artistically because of the review's presence over the past 15 years. It truly is a window for Americans to view society in Alaska at the close of the 20th century, and a worthy stage for the serious works of all writers. I commend it and its contributors for its many achievements, and I know all members of the U.S. Senate join me in wishing it continued literary success.

**WOMEN'S BUSINESS DEVELOPMENT CENTER**

**Mr. DURBIN.** Mr. President, I rise today to commend the Women's Business Development Center for the vital role it has played in accelerating women's business ownership and strengthening the impact that women have made on our economy.

The Women's Business Development Center is a nationally-recognized not-for-profit center devoted to providing services and programs that support and increase women's business ownership. Founded in 1986, more than 30,000 business owners in six States, including my home State of Illinois, have benefited from the program. The services range from counseling to workshops to entrepreneurship.

Today, thanks to efforts by organizations such as the Women's Business Development Center, there are over 7.7 million women-owned businesses in the United States, generating $2.3 trillion in sales. Women business owners now employ 9.4 million people. Clearly, women are today's key workers. There is no doubt that women in business today are playing a prominent role in stimulating economic growth both at home and abroad.

On September 12 of this year the Women's Business Development Center will celebrate its 11th anniversary. As the Center moves into its second decade of service to women business owners, I am proud to recognize its impressive achievements.

**ARMY SGT. KELLY S. YARDE**

**Mr. LUGAR.** Mr. President, I rise today in recognition of Army Sgt. Kelly S. Yarde, who hails from Evansville, Ill., and currently serving with Operation Joint Guard, was moved by the sadness he saw in the faces of Bosnia's children each time he went on patrol. In response, he appealed to the people of his hometown and surrounding areas, asking for donations of school supplies, toys and sporting goods that he could give to these children.

Local media helped to publicize Sergeant Yarde's plea, and the community responded in magnificent fashion.

Hundreds of donations have already poured in, and are continuing to arrive at collection bins set up at local businesses. Some of the gifts have already been shipped to Bosnia, and Sergeant Yarde has, on his own time, taken them to orphanages and refugee centers.

Americans are, by their nature, very generous people. The fact that we can not solve every problem in the world should not prevent us from solving at least some of them. I am pleased and proud that Sergeant Yarde had the foresight to identify a problem that he could help to solve, and had the faith in his community to ask for help in solving it. I am equally pleased that the people of Evansville and the surrounding area responded so generously to Sergeant Yarde's plea on behalf of the children of Bosnia.

**RECOGNITION OF SOUTH DAKOTA SOYBEAN GROWERS ON THE DEVELOPMENT OF SOYGOLD**

**Mr. J. JOHNSON.** Mr. President, I want to take this opportunity today to recognize the important achievements of SD soybean growers in creating new uses for their agricultural products.

Freeman Coop Oil/Fertilizer in Free-
man, SD, recently became the first retail marketer of petroleum to offer SoyGold, a new lubricity additive in premium diesel fuel. SoyGold is a low blend of soybean methyl esters manufactured from 100 percent soybean oil for both on-farm and commercial use. The additive was developed with the use of check-off dollars, which allow farmers to work with their cooperatives to develop new uses for their products. The soybean growers have also worked to test soydiesel for mass transit bus systems, underground mining, and other innovative possibilities.

SoyGold was developed by Ag Processors, Inc. in Omaha, NE, and will be promoted and marketed throughout seven Midwestern States initially. Bill Pape, the general manager of Freeman Coop Oil/Fertilizer, is the first to offer the product to his customers. Dennis Hardy, the chairman of the South Dakota Soybean Council, worked hard to bring this new product to the market.

All of these individuals, and many more, deserve credit for their efforts to make SoyGold a reality.

SoyGold is an outstanding example of the way that South Dakota's soybean farmers and their various associations can cooperate and communicate to create an exciting new product that will be of benefit to farmers. Such products demonstrate the way that farmers are adapting to the changing agricultural marketplace, and I congratulate them on their foresight, their enthusiasm, and, of course, their wise investment. Moreover, SoyGold is not only good for South Dakota farmers, but it also benefits us all by reducing harmful emissions.

Mr. President, there are few industries working as hard to create new products and new markets as agriculture. The South Dakota soybean growers whose efforts created SoyGold are to be commended, and I ask you to join me in congratulating them on their success.

**DR. EUGENE SHOEMAKER**

**Mr. MCCAIN.** Mr. President, I would like to honor the passing of one of the world's most renowned scientists. Eugene Shoemaker and his wife Carolyn, both residents of Flagstaff, AZ, were involved in a tragic car accident in Central Australia on July 18, 1997. Gene was fatally injured; Carolyn survived the accident sustaining broken ribs, a fractured clavicle and a dislocated shoulder. They were in the field pursuing their lifelong passion of geologic studies to help understand impact craters.

"Gene" is credited with having almost single-handedly created planetary science as a discipline distinct from astronomy. He brought together and applied geologic principles to the mapping of planets, which resulted in more than three decades of discoveries about the planets and asteroids of our solar system. He went on to receive the most prestigious scientific honor bestowed by the President of the United States, then George Bush.
ANNIE CAMPBELL, A 79-YEAR-OLD NURSE VOLUNTEER FOR MANNA MEAL

- Mr. ROCKEFELLER. Mr. President, I would like to take this moment to praise a citizen of West Virginia, Annie Campbell, who recently received the J.C. Penney Golden Rule award for her outstanding volunteer community service.

Annie has been volunteering her time for Manna Meal for the past 20 years, and has seen it expand considerably. Even though she is nearing 80 years old, Annie pursues her service with confidence and generosity. She drives food and donations. Annie has watched Manna Meal expand from a tiny soup kitchen serving 40 to large service providing for 300. Volunteer service is vital to West Virginia and America because it is done on a personal and national level. It is comforting to hear that there are people who willingly dedicate their lives to helping those in need. West Virginia is extremely lucky to have Annie in the State, and I am proud to make this statement regarding her award today.

The J.C. Penney Golden Rule award had several other recipients in different categories. The other local winners included Sue Meadows, Ernest Matthews, and the Volunteers of PRO-KIDS. They are now going to step up to the National Golden Rule Pipe Awards, and are eligible for a $10,000 donation to their organization. All of these volunteers need to be congratulated for their effort and generosity, and I wish them luck in the next round of competition.

COSPONSORSHIP OF AMENDMENT 885 TO S. 955

- Mr. ABRAHAM. Mr. President, I rise today to offer my support as a cosponsor of Amendment 885 to S. 955, the Foreign Operations Appropriations Act. This amendment restores the $2.1 billion earmark for assistance to Egypt.

Ever since the signing of the Camp David Accords, Egypt has been a key ally of the United States in the Middle East. The first Arab country to make peace with Israel, Egypt has been a steadfast leader and supporter of peace in the Middle East. Indeed, I feel it is safe to say that because of Egypt I signed the peace agreement with Israel in 1979 that there has not been an Arab-Israeli War since. What is more, since 1979 both Israel and Egypt have experienced significant economic growth. Peace between these two nations has brought success and prosperity that has benefitted the entire region.

The chairman of the Subcommittee has stated his reasons for not including the earmark to Egypt in the Foreign Operations bill in either the subcommittee nor committee. He believed the relationship between Egypt and the United States has suffered over the past year. Thus, the message he wished to send to Egypt was clear disappoint-ment with Egypt’s actions and policies in connection with the stalled peace process in the Middle East.

I do not believe, however, that it is either productive or responsible to send such a message at this stage in the Middle East peace process. The peace process is at its most critical stage. Along with the United States, Egypt is a key player in convincing parties to that process to come back to the negotiating table. Egypt has played a key role in securing agreements reached between Israel and Jordan and the Palestinians. It is in the best interest of the United States to keep our key allies in the Middle East engaged in a process needed to produce a just and lasting peace—a goal which will benefit America’s strategic, economic and political interests.

Equally important, Egypt is a strateg-ical ally of the United States irrespective of the peace process. We all recognize that Egypt needed the leadership needed to form the American/ Arab coalition that liberated Kuwait. No other country in the Arab World could have done that. Moreover, more than 35,000 Egyptian soldiers fought alongside our troops. Without access to the Suez Canal and to Egyptian air-space and facilities, supporting our troops in the Gulf would have been significantly more difficult and much more costly.

Egypt’s strategic importance should not be underestimated. With the Suez Canal and its location on both the Red Sea and the Mediterranean Sea, Egypt is the gateway to Africa, the Near East and Southwest Asia. Our strategic interests in all three regions are furthered significantly by Egypt’s willing cooperation.

Egypt’s cooperation with our mili-tary has a global impact. As our strate-gical ally, Egypt routinely cooperates with our armed forces at hundreds of overflight and transit rights for U.S. military logistics aircraft sup-porting American forces in the region. Our naval vessels travel through the Suez Canal—a practice critical to our ability to protect U.S. vital interests in the region. Without the ability to use the Suez routinely, an advantage we now enjoy, our Navy’s operating costs and personnel operating require-ments would soon rise unsustainably.

I agree with the Chairman of the Subcommittee that foreign aid is not an entitlement. It is my sincere hope that one day in the near future Egypt will find that U.S. aid is not necessary. Signs of this are already apparent within Egypt’s booming economy and burgeoning private sector. We in the United States should encourage this path of independence, growing capitalism and economic reform. But until Egypt becomes self-sufficient, we should continue to live up to our promises as dictated in the Camp David Accords. Any future reduction of assistance should follow consultations
H.R. 1171, the Intermodal Surface Transportation Efficiency Act. The legislation is designed to improve the flow of goods across state lines, which has become increasingly challenging as states seek to manage their own waste flows.

INTERSTATE TRANSPORTATION AND FLOW OF SOLID WASTE

Mr. LEVIN. Mr. President, I ask that the text of a letter from the Governors of Michigan, Ohio, New Jersey, Indiana, and Pennsylvania, to the Chairman of the House Commerce Committee, be printed in the Record. The letter follows:

The letter is as follows:

JULY 9, 1997.

Hon. Thomas J. Biliey, Jr.,
Chairman, The House Commerce Committee,
Rayburn House Office Building, Washington, DC.

Dear Chairman Biliey: We are writing to urge you to move a comprehensive interstate waste and flow control bill this year. In recent conversations with Governor Voinovich, you encouraged our five states to reach an agreement on the waste provisions in order to move comprehensive legislation that will help both importing and exporting states.

We strongly believe that the lack of federal interstate waste and flow control legislation undermines states' abilities to implement environmentally sound waste disposal plans and to protect our own natural resources. Without federal authority to place reasonable limits on the amount of out-of-state waste, states like Ohio, Pennsylvania, Indiana and Michigan have become dumping grounds for trash from other states. Without flow control, states like New Jersey are limited in their ability to manage effectively the disposal of municipal solid waste within their own borders, and would face an enormous financial liability.

In Pennsylvania, Indiana, Michigan and Ohio, where out-of-state waste imports are continuously and unexpectedly high, citizens are encouraged to comment on draft regulations that will be issued in the coming months. Governor Voinovich has indicated that the state is prepared to move quickly to implement a comprehensive set of waste management regulations. Through the leadership of Governor Voinovich and other state officials, we are making significant progress towards enacting effective waste management legislation.

We urge you to move forward on comprehensive interstate waste control legislation this year. I look forward to working with you to ensure that our five states and the many other Members who have expressed interest in this important issue will be able to pass comprehensive legislation.

Sincerely,

George V. Voinovich,
Governor of Ohio.

John Engler,
Governor of Michigan.

Tom Ridge,
Governor of Pennsylvania.

Christine Todd Whitman,
Governor of New Jersey.
CONGRESSIONAL RECORD — SENATE
July 31, 1997

S620

predictive information be used against me or my family? Particularly when I am currently healthy and, in fact, may never develop the illness? I think the American public has answered quite clearly, "no."

As a physician I believe in preventive medicine to avert illness for patients. Similarly, as a policymaker, I believe in "preventive legislation" in this case—to avert widespread discrimination by stepping in now—before genetic information is used in certain health insurance practices and before genetic technologies are used in routine medical practice.

Finally, I believe that, in order to fully address genetic discrimination, we must tackle comprehensive legislation on the confidentiality of medical records—legislation that encompasses all of our health information. We must examine who should have access to sensitive health information and to whom it should be disclosed. As this important bill moves out of conference in the 105th Congress, I am committed to ensuring that we craft legislation that protects patient confidentiality, fosters medical research, and maintains a dynamic health care system.

Only with these measures can we ensure that knowledge about our genetic heritage will be used to improve our health—and not force us to hide in fear that this information will cause us harm.

I encourage my Senate colleagues to join me in examining these issues and moving forward in the coming months on these critical pieces of legislation.

TRIBUTE TO CAPT. FREDRIC G. LEEDER, USN—PUBLIC AFFAIRS OFFICER

Mr. GLENN. Mr. President, I rise today to commend Capt. Frederic G. Leeder, USN, upon his retirement from the United States Navy after 28 years of distinguished and dedicated service to our nation.

Captain Leeder is a native son of Ohio and graduated from Ohio State University with a degree in journalism. Following his graduation from college, Captain Leeder was commissioned as an Ensign. After his graduation from the officers' program at the Defense Department's Information School, he then assumed a variety of public-affairs assignments overseas and stateside. His tours of duty included a North Atlantic Treaty Organization staff assignment and four joint-service assignments.

Most recently, Captain Leeder served as Staff Director for Public Affairs at Headquarters, Defense Logistics Agency (DLA) in Alexandria, Virginia. During his three years at DLA as principal spokesperson, Captain Leeder demonstrated unbounded stamina, keen insight, and exemplary professionalism. Possessing exceptional skill, foresight and composure, Captain Leeder dealt with representatives of the print and electronic media, engaging them on his terms. In just one example, last fall he competently worked with investigative reporters from a prominent news magazine and a major television network to ensure accuracy and fairness of nation-wide reporting on a sensitive issue having serious implications. With his intelligent foresight and strong voice of reason, Captain Leeder, advised three different DLA directors, each from a different service I might add, on how to navigate through the often perilous waters of media and community relations.

Captain Leeder succeeded in striking that delicate balance of ensuring the American public's right to know and protecting the public interest throughout his career. An accomplished communicator, he truly has earned the gratitude of thousands of military families that have found comfort and reassurance in his words when loved ones serving on distant seas and shores have been in harm's way. Captain Leeder has served his country for 28 years with valor, loyalty, and integrity, winning the personal and professional respect of all who come in contact with him. Captain Fred Leeder is a master of his craft.

On the occasion of Captain Leeder's retirement from the U.S. Navy, I offer my congratulations and thanks to this esteemed son of the Buckeye state, and wish him well in his future pursuits.

TRIBUTE TO ROBERT A. STARR

Mr. JEFFORDS. Mr. President, I rise today to pay tribute to Robert A. Starr, Chair of the Vermont House Agriculture Committee and true Vermonter. I pay this tribute in recognition of Mr. Starr's unyielding support for the Northeast Dairy Compact, which on August 20, 1997, provides the first over-order payments so desperately needed by Vermont's dairy farmers.

"Bobby", as he is known far and wide throughout Vermont, has given lifelong public service to the Vermont agricultural community. Raised on a dairy farm during and after the Second World War, knowledge of hard times and a capacity for hard-bitten labor were ingrained in Bobby, traits which continue to distinguish the character of our hill farmers. After schooling at Vermont Technical College, Bobby followed the lead of his grandfather and became a member of the Vermont House of Representatives in 1979.

Bobby became a member of the House Agriculture Committee his first year, and has been there ever since. He became Chair in 1987, and has sponsored and provided leadership on a host of initiatives to promote the interests of Vermont agriculture. Bobby has lent his leadership to the variety of Vermont's agricultural pursuits, but it is the dairy industry which has remained at the heart of his vision. Certainly Bobby's upbringing and his strong dairy farm constituency provide the foundation of his knowledge and commitment to the interests of the State's dairy farmers. Yet his vision is broader than just his home district, and indeed has expanded beyond the boarders of Vermont to all of New England.

It is this unique expansive vision which has spawned the dairy compact. Many of us in this body are intimately familiar with the dairy compact, yet few of us may know that the dairy compact was originally sponsored by Bobby Starr in the Vermont Legislature in 1989.

Several initiatives in my memory have sparked such a vigorous policy debate as the dairy compact. I am proud to have sponsored the compact on behalf of all by colleagues from the New England delegation. Adoption of the compact could not have happened without their hard work here in Congress, and without the years of dedicated work of a veritable army of compact supporters from throughout New England.

In all, the compact reflects the true spirit of active committee work by Vermont dairy farmers. The compact's first payment is a tribute to the hard work and the tireless commitment of Bobby Starr.

WV AMERICORPS PROJECTS

Mr. ROCKEFELLER. Mr. President, I rise today to congratulate the West Virginia Americorps Program for their outstanding service and accomplishments. Currently, 500 Americorps members work at nearly 100 sites throughout West Virginia. Americorps programs strive to extend and promote education for children of all socio-economic backgrounds and to fulfill basic needs, such as, food, shelter, and health care, for West Virginians. By working together with the community, the members of Americorps search for solutions to improve the quality of life and expand opportunities for individuals who are less fortunate.

The Vermont Dairy Compact could not have happened without the commitment of Bobby Starr. Mr. Starr has expanded beyond the boarders of Vermont to all of New England.
fortunate enough to have organizations like the Southern Appalachian Labor School, Fayette Environmentally Safe Housing, and Americorps volunteers to repair and remodel homes for low income families. With project partners and community support, West Virginia families may live in a safe, clean environment.

Another Americorps program, Project HEALTH [Health Education Associates Learning to Teach Health], encourages healthy diets and lifestyles while increasing public awareness on health issues. Through a learn and serve america higher education grant, Project HEALTH and Americorps volunteers have a profound impact on rural communities. As a result of their hard work, communities have reduced illnesses and injuries, increased immunizations for children, improved the diets for high risk individuals, and reduced the number of low birth weight babies.

While working class families struggle to find adequate child care and affordable health insurance, the cost of living rises. Parents must provide more than the basic needs for their families. However, with the aid of the Regional Family Resource Network and the West Virginia Coalition Against Domestic Violence, these services become a reality. Immunizations, developmental screening, and after school services are available to families in Kanawha, Clay, and Boone counties in West Virginia. Preventive medicine, medical attention, and a safe environment for children after school are vital to raising healthy children.

To help victims of domestic violence, the West Virginia Coalition Against Domestic Violence provides food and shelter, legal assistance, support, and counseling. With the assistance of Americorps volunteers, there are programs in Beckley, Charleston, Elkins, Huntington, Keyser, Lewisburg, Morgantown, Sutton, Welch, Wheeling, and William County hot lines, resources, and counseling services are offered by the coalition also. Educating women about the warning signals and teaching them ways to avoid violent situations can prevent abusive behavior and possibly death. In West Virginia, there are twelve shelters providing services to victims.

Finally, I’d like to thank all the volunteers and employees who dedicate their lives to public service, and I’d like to thank the community for their support and involvement in Americorps projects. Your time and effort are greatly appreciated by all. With your help, our state has been able to improve the quality of life for West Virginians and increase the opportunities for them in the future.

RETIREMENT OF DR. RICHARD LESHER FROM THE U.S. CHAMBER OF COMMERCE

- Mr. BROWNBACK. Mr. President, I rise today to pay tribute to Dr. Richard Lesher the retiring president of the U.S. Chamber of Commerce. Dr. Lesher, who was chosen as president of the Chamber in 1975 as served the Chamber with both pride and dignity for over 21 years. His service to the business community will be remembered.

During his tenure, Dr. Lesher helped the Chamber’s membership to grow to include 215,000 business members, 3,000 local chambers of commerce and 1,200 trade and professional organizations. His work on behalf of the business community in promoting common sense reforms and tax cuts has benefitted the entire country.

Dr. Lesher has served the business community with true integrity.

I would like to take this opportunity to wish Dr. Lesher great success in his future endeavors. I know that he will continue to contribute his time and talent to his fellow man even in his retirement.●

SONY FEST '97

- Mrs. BOXER. Mr. President, I want to commend the Sony Technology Center as it celebrates 25 years of success and partnerships with thousands of people.

In honor of this milestone, Sony is holding a four-day gala, Sony Fest '97. Scheduled events include the grand opening of the Technology Center’s newest building (nicknamed "genie tower"), a keynote address by Sony’s Corporation President, Nobuyuki Idei, business and technical symposiums, even carnival activities for children and families. Sony Fest '97 promises to be quite a party!

Sony began in San Diego by constructing a color television assembly plant in 1972, making it the first Japanese electronics company to establish television production in the United States. Sony has been going full steam ahead in San Diego ever since. Today, 25 million television picture tubes, 14 million “Made in San Diego” television visions, and almost $500 million in capital investments later, Sony continues to explore new horizons. It now manufactures a variety of electronic products from its trademark Trinitron television visions to computer picture tubes and peripherals. In fact, Sony San Diego is currently the only U.S. manufacturer of Computer cathode ray tubes or CRTs.

Although an international company, Sony takes pride in its efforts to respond to local and national concerns. Where possible, Sony buys and sells domestically, if not locally. For example, Sony estimates that 90 percent of the materials used in their television picture tubes come from domestic sources, and that 80 percent of finished Trinitron sets manufactured in North America are sold in the U.S. Sony San Diego is also very active in the community and in the fight for more environmentally friendly business practices.

I think all in San Diego would agree: Sony is a great neighbor. For 25 years its presence has helped make San Diego a better place to live, work and conduct business. It is a pleasure to come to the Senate today and wish all involved a very enjoyable Sony Fest '97.●

TRIBUTE TO OUTSTANDING SENATE STAFFER BYRA KITE

- Mr. THOMAS. Mr. President, I rise today to pay tribute to a man who has dedicated his time, efforts and immeasurable talents to Wyoming politics. I am speaking of Byra Kite, whom I have known and respected for many years, and have had the pleasure of having as a member of my staff since I joined the Senate in 1994.

Byra is retiring, and I would like to take this time to publicly thank him for all his hard work. He has served Wyoming well, and I am not alone in saying he is one of our State's finest sons.

In 1965, Byra came to the Cowboy State from California to play football for the University of Wyoming. During that time, he was an All-Conference and All-American member of three conference champion teams, including the undefeated 1967 Cowboy team that played in the Sugar Bowl. Later this year, that team will be inducted into the University of Wyoming Hall of Fame. Following graduation he decided to stay in Wyoming. In Laramie he found his home, and his passion for politics.

He made his first foray into the national political arena in 1976 when he managed Malcolm Wallop's initial run for the Senate. Malcolm won, defeating a three term incumbent senator, and Byra began a 20 year career of helping Wyoming Republicans shape their campaigns and win elections. His tireless work, dedication and vision broke new ground in terms of modern campaigning.

In 1977 Byra began 18 years of service as Senator Wallop's State Director. During that time he helped hundreds of Wyoming folks in their dealings with the federal government. Following Malcolm's retirement, Byra joined our staff, and continued his outstanding brand of public service to Wyoming people. He, and his talents, will truly be missed.

And so, Mr. President, I am joined by Senators Wallop, Simpson, Enzi and Representative BARBARA CUBIN—all of whom have been touched by Byra's hard work and dedication—in saying not only thank you, but good luck to a trusted advisor and friend.●

TRIBUTE TO WALT DIBBLE

- Mr. DODD. Mr. President, for most Americans, mornings are a time of routines. People like to eat the same thing for breakfast, drink their coffee with the right amount of cream and sugar, and duck out the door at the same time every day. Over the past 40 years, a central part of the morning routine for thousands of Connecticut
CONGRESSIONAL RECORD – SENATE

July 31, 1997

residents has been the voice of Walt Dibble reading the news over the radio. During this time of the day where so many people are rushing around, Walt Dibble's calm presence served as a soothing influence that made each morning more pleasant. Sadly, the mornings in Connecticut will never be the same, as Mr. Walt Dibble died last week at the age of 65.

A lifelong Connecticut resident, Walt Dibble was loved by all of the people in the state, and to him, it didn't matter if they worked as a school teacher in Manchester, in the Invention Control Division of Pratt & Whitney, or as a financial analyst in Hartford, all of Walt Dibble's listeners felt that he was a man whom they could relate to and whom they could trust.

Walt Dibble was an institution in Connecticut radio. For the past 20 years, Mr. Dibble was the voice of WTIC news in Hartford, where he was the News Director and Managing Editor. He was familiar with Walt Dibble even before he came to WTIC, since he had worked for 10 years at Hartford's WDRC radio station. Before coming to Hartford, Walt had been the radio voice of the news in New Haven and Bridgeport.

Throughout his career he was always quick to pick up a microphone and hit the street to cover a breaking news story. And it was in these situations that Walt Dibble flourished. His colleagues always marveled at his ability to deliver extended live coverage of major news events without any script as a safety net. Whether it was covering the collapse of the Hartford Civic Center roof, Hurricane Gloria, or the debate over the state income tax in 1991, he always kept his cool and offered a professional news report that, in many cases, he made up as he went along.

People may have wondered why Walt Dibble always seemed more sincere than other newscasters. The reason probably stems from the fact that Walt Dibble loved his profession, and he was a father figure for hundreds of Connecticut broadcasters. He treated the interns at the radio station with the same respect as lifelong colleagues, and he would always encourage them to embark on a career in radio. Walt Dibble brought a similar approach to the classes he taught at the Connecticut School of Broadcasting and Southern Connecticut State University. He did not need to teach, but he did so because he wanted to pass the torch on to future broadcasters.

In this day and age where most people get their news from television, and more and more radio stations are broadcasting nationally syndicated radio shows, Walt Dibble brought a similar approach to radio voice of the news in New Haven and Bridgeport. He was a father figure for hundreds of Connecticut broadcasters. He treated the interns at the radio station with the same respect as lifelong colleagues, and he would always encourage them to embark on a career in radio. Walt Dibble brought a similar approach to the classes he taught at the Connecticut School of Broadcasting and Southern Connecticut State University. He did not need to teach, but he did so because he wanted to pass the torch on to future broadcasters.

In the days since the Roma closed, the local newspapers have been filled with eulogies for the writer and tribute to the writer for making the Roma such a special place. I wish all of them well, and I thank them for all of the wonderful memories they have provided me and so many others.

CONGRATULATIONS ON THE 150TH ANNIVERSARY OF CLEVELAND-CLIFFS, INC.

Mr. ABRAHAM. Mr. President, I rise today to offer my congratulations to Mr. John Squitero and the Cleveland-Cliffs, Inc. and its outstanding employees on behalf of the company’s 150th anniversary. I am honored to join them in celebrating this significant milestone.

For over a century now Cleveland-Cliffs has been a leader in North American mining operations and has served as a model for other companies to emulate. It comes as no surprise that this mining company has survived in a market where competition is fierce and the work extraordinarily difficult. Since 1847 when its founders first began mining iron ore in Michigan’s Upper Peninsula, the company has relied upon one
CONGRESSIONAL RECORD — SENATE

July 31, 1997

S8623

basic ingredient for success—fostering good relationships with its employees and local communities. I am particularly proud of the relationship Cleveland-Cliffs has built with the State of Michigan. The Marquette Iron Range located in the Upper Peninsula has been a tremendous boost to the area’s economy and Cleveland-Cliffs has continually demonstrated its community activity by infusing funds into the surrounding area. For example, the company generously provides “Legacy Grants” to local organizations and schools. These charitable acts offer just one example of the many ways in which Cleveland-Cliffs cares for the local community. I applaud their efforts and encourage other companies to follow their exemplary lead.

Mr. President, this sesquicentennial celebration of Cleveland-Cliffs, Inc. founding marks a remarkable achievement that takes the opportunity to congratulate Mr. Moore and the employees of Cleveland-Cliffs on celebrating this auspicious occasion and extend my best wishes for much continued success.

IN RECOGNITION OF THE 50TH ANNIVERSARY OF INDIA'S INDEPENDENCE

Mr. LEVIN. Mr. President, I rise today to pay tribute to the people of India, as they prepare to commemorate the 50th anniversary of their nation’s independence from Britain. Led by Mahatma Gandhi, whose philosophy and practice of civil disobedience was the cornerstone of the people of India’s campaign, their long struggle for self-rule came to a triumphant end on August 15, 1947. The victory won by the people of India served as a model for American civil rights leaders, like Rev. Dr. Martin Luther King, Jr., and inspired oppressed and disenfranchised people throughout the world. For these and many other reasons, I am pleased to be an original co-sponsor of the Senate resolution 100, which designates August 15, 1997, as “Indian Independence Day: A National Day of Celebration of Indian and American Democracy.”

The Golden Anniversary of India’s independence provides people of Indian descent with an opportunity to celebrate the inexpressible achievements they have made in their homeland and in countries throughout the world. The Indian-American community is one of the leading ethnic groups in my home State, and its members have made important contributions to the local, state and national culture. In Michigan, Indian-Americans are professionals who play key roles in sectors like the automotive industry and the field of medicine. Many others are entrepreneurs, and Indian-Americans in Michigan own more than 600 businesses with thousands of employees.

Indian-Americans are justifiably proud of the tremendous strides their homeland has made in the last 50 years. India is the world’s largest democracy, with nearly 1 billion people. With a middle class of approximately 250 million, India is an increasingly important market for American goods. In fact, India’s economy has been advancing rapidly, with a large stock market and strong high-tech enterprises like aircraft and automobile manufacturing, a computer industry, and its own space program.

Mr. President, the 50th anniversary of India’s independence provides an opportunity to express our gratitude and appreciation to the Indian-American community. I know my colleagues join me in recognizing the profound contributions Indian-Americans have made to American society, and in offering congratulations to the people of India and their descendants throughout the world who are celebrating this important date in history.

THE 50TH ANNIVERSARY OF THE INDEPENDENCE OF INDIA

Mr. DURBIN. Mr. President, I rise today to honor the people of India on the occasion of the fiftieth anniversary of India’s independence. Independence days, like birthdays, are for celebrating. And we have much to celebrate in United States-India relations. The friendship between the Indian and American people today is stronger and more deeply rooted than ever—deeply rooted because it is based on shared values, and strong because it is shared by more Indians and more Americans than ever before.

The friendship between the United States and India is a friendship that goes back to the beginnings of the American Nation. In fact, the first Asian Indian-American is said to have come to the United States 200 years ago.

It is a friendship that was strengthened when the United States supported Indian independence in 1947. It was strengthened again when Dr. Martin Luther King, Jr. was inspired by Mahatma Gandhi during the American civil rights movement. And it was strengthened most recently when India embarked on its bold strategy of economic openness.

It is a friendship based on mutual respect and understanding—understanding that the problems we face are mutual problems. In a shrinking world, India’s problems and Indian solutions are also those of the United States. Because radicalism and terrorism threaten all civilized countries, especially democracies. Because in a world economy, one nation cannot long prosper while the others stagnate.

India and the United States stand on the threshold of a new era. In just the past few years, India has flung open its doors to the world, and emerged as a rising star on the world scene. We should commit ourselves to continue the progress of recent years.

We have a great advantage in this effort. It is the Indian-American community who are the magnet that will keep India and the United States moving closer together, making our friendship worthy of the world’s largest and oldest democracies.

Mr. President, I am a proud cosponsor of a resolution designating August 15, 1997 as “Indian Independence Day: A National Day of Celebration of Indian and American Democracy.” This resolution reaffirms the democratic principles on which the United States and India were established and asks the President to issue a proclamation calling upon the people of the United States to observe the day with appropriate ceremonies and activities.

I urge my colleagues to support this resolution. And to the people of India, Indian-Americans, and all those who support the ideals of liberty and democracy, I wish you a happy independence day!

VOTE JUSTIFICATION—AGRICULTURE APPROPRIATIONS FISCAL YEAR 1998

Mr. ABRAHAM. Mr. President, I rise today to explain my vote on the fiscal year 1998 appropriations bill. This legislation, which is every bit as important as the Farm bill passed by Congress in 1996, was acted upon and quickly passed last week.

The first amendment considered by the Senate was an effort by Senator DURBIN to deny crop insurance to tobacco growers. This legislation also prohibited payments for tobacco under the Non-Insured Disaster Assistance Program.

Mr. President, in fiscal year 1996, the federal government spent $69 million for net losses on tobacco crop insurance. The dangers of this commodity have become abundantly clear in recent years, and while I understand that crop insurance is an invaluable tool for today’s farmers, I am troubled by the government support of a product which is responsible for thousands of deaths every year. For that reason, I voted against the motion to table the DURBIN amendment. Unfortunately, the amendment was tabled on a 53-47 vote.

After this vote, the Senate turned to consideration of a Helms amendment to increase the tax on ethanol by 3 cents per gallon. The funds raised from this tax were to be set aside to fund an anti-smoking trust fund. Regardless of the ultimate destination, this account was to be funded by a substantial tax increase on fuel. At a time when Americans are already fighting to keep every dollar they earn, I refuse to support another tax increase. Therefore, I supported the motion to table the Helms amendment and it was overwhelmingly defeated by a 76-24 margin.

Shortly after disposing of the Helms amendment, a DURBIN amendment to increase funding by $29 million for enforcement efforts to prevent kids from smoking was debated. The amendment would have fully funded a program...
which was established to punish establishments that sell tobacco to individuals under 18 years of age. While I support efforts to curb underage smoking, this amendment sought to impose a new, $34 million dollar tax on smokers. In light of this tax increase, and the fact that already adopted in the budget agreement, and considering the penalties expected in the tobacco settlement, I believe Senator Harkin's additional tax was excessive and I voted to support the 58-41 tabling vote.

The next amendment considered was a Bryan amendment to reduce the amount of funds appropriated to the Market Access Program [MAP]. Identical to the one offered on the fiscal year 1997 appropriations bill, the Bryan amendment would have eliminated funding of MAP if the aggregate amount of funds and value of commodities under the program exceeded $70,000,000. Formerly known as the Market Promotion Program, MAP has provided funding for large, lucrative corporations. I believe the Market Access Program is a clear example of corporate welfare, and I have consistently supported elimination or reduction of this unnecessary government subsidy. I supported Senator Bryan's amendment which was tabled by a vote of 59-40.

A vote on a Grams amendment to complete a comprehensive economic evaluation of the Northeast Dairy Compact was scheduled to follow the Bryan amendment, but was inadvisedly adopted by unanimous consent. The compact allows dairy producers in the Northeast to artificially set minimum prices for dairy products within the region. I have consistently opposed the new bureaucracy established by the Compact and was pleased to be a co-sponsor of the Grams amendment.

Following disposition of these three amendments, the 1998 Agriculture appropriations bill was passed, with my support, by a vote of 99-0. I urge my colleagues to act quickly to finalize this legislation and once again demonstrate America's commitment to its farmers.

HONORING CONNECTICUT'S BLUE RIBBON SCHOOLS

Mr. DODD. Mr. President, I rise today to pay tribute to six elementary schools from my home state of Connecticut whose achievements have earned them the distinction of being blue ribbon schools. The blue ribbon schools program was established in 1982 to honor the best elementary and secondary schools in the country. This program promotes excellence in education by providing national recognition to a diverse group of schools that display an uncommon ability to help their students to reach their potential.

These blue ribbon schools, with their varied socioeconomic, geographic, and educational needs, prove that, with the right tools, all of our schools can be successful. They display the qualities of excellence that are necessary to prepare our young children for the challenges of the next century. Their formula for success is no secret. Each has strong leadership, a sense of mission, parental involvement, high quality teaching, and high standards and high expectations for each and every student.

It is important that we make every child in this country believe in themselves, and blue ribbon schools are challenging our students to try harder and demand more from themselves.

Of the 16,000 elementary schools across the country, only 263 are honored as blue ribbon schools, and I am proud of the fact that all six nominated schools from Connecticut were chosen to be honored. These six schools from Connecticut are Ellen B. Hubble Elementary School in Bristol, Highland Elementary School in Cheshire, East Farms School in Farmington, the Center School in Litchfield, the Peck Place School in Litchfield, and West District School in Unionville. Each is different, but they hold in common a commitment to helping all their students achieve high standards. I would like to briefly mention some of the unique accomplishments of each of these schools.

Ellen P. Hubble School in Bristol is a center for innovation in education, where learning is fun. The school brings excitement to learning by developing building-wide themes. In the past, the school has transformed a circus tent, a farm, and a forest, and the children have responded by bringing uncommon enthusiasm to their schoolwork. The students of Ellen P. Hubble have also been very active in their community. Through the random acts of kindness and make a difference day program, students have worked on activities ranging from supporting a shelter for battered women to providing help for Bosnian refugees.

Highland Elementary School is a reflection of the town of Cheshire's dedication to provide each young person with a nurturing, motivating, and enjoyable learning environment. Highland Elementary has formed a collaborative intervention team, composed of teachers, staff, and parents, whose role is to identify and address the complex needs of each individual student. The teachers set high standards for their students, but the results have shown that great teaching inspires academic excellence. Highland is a member of the national network of Partnership 2000 schools, which fosters home-school partnerships.

The East Farms School in Farmington is centered around the belief that all children are capable of becoming skillful, lifelong learners. The staff works within collaborative teams which develop an engaging inter-disciplinary curriculum. East Farms is the first school in Connecticut to establish its own publishing center. For 3 years, parents and volunteers assisted children and teachers in the publication of over 1,000 original books each year. This effort has not only brought students, parents, and teachers together in a learning exercise, it has also reinforced the value and importance of written work.

At the Center School in Litchfield, lessons are planned around student interests and strengths. The school has been at the forefront of instructional reform, and the school's thematically arranged, interdisciplinary units of instruction have been hailed as exemplary by local, state, and national educators. The Center School was the first elementary school in Connecticut to be accredited by the New England Association of Schools and Colleges, and they recently received the Connecticut Award for Excellence. The Center School is the center of efforts to provide children with a quality education at the Peck Place School in Orange. This school has invested in highly-qualified staff with 92 percent of the staff holding advanced degrees. Beyond excellent traditional elementary school curriculum, Peck Place also offers both French and Spanish to its students. Students and parents are enthusiastic partners in this effort. The Peck Place School proves a strong learning environment which improves the performance of students. Connecticut mastery test scores have shown significant improvement in every grade, and grade four scores have jumped from 25 percent meeting or exceeding the State goals in 1993 to 74 percent in 1996.

West District School in Unionville is a true neighborhood school where nearly half of the students walk to school every day, and many of them are the children of former students. West District is committed to the belief that all students are capable of learning at a high level if you nurture each student's special strengths. West District has formed a school development council, made up of teachers, staff, and parents, to work on ways to improve the school and to develop priorities for each school year. Last year the school chose to focus its efforts on addressing the needs of low-performing students, and the school worked diligently to bridge the gap between successful students and those who struggle with their classwork. The results have been successful as the vast majority of students are now performing at the high levels. West District boasts some of the highest Connecticut Mastery scores in the State, with 84 percent of sixth graders and 80 percent of fourth graders reaching the excellent level on the Connecticut mastery test in math. In addition, 80 percent of sixth graders achieved excellence in reading and 75 percent of fourth graders reached the excellence level in writing.

Once again I would like to congratulate these six schools for being honored...
as blue ribbon schools. I believe that they all serve as models for other schools and communities seeking to provide young students with a nurturing environment that will enable each child to develop into a life-long learner.

TRIBUTE TO CAPT. CARLTON A. SIMMONS, JR., USN (RET.)

Mr. MCCAIN. Mr. President, I rise today with the sad mission of reporting the loss of a truly outstanding naval officer, Capt. Carlton A. Simmons, Jr. He passed away on July 14 after a long illness and was laid to rest at Arlington National Cemetery on July 22.

A native of North Dighton, MA, and a 1974 graduate of the University of Massachusetts at Amherst, Captain Simmons was commissioned an ensign in 1975. Following designation as a naval aviator in 1977 and qualification in the A-7E Corsair, he served with Attack Squadron 22, completing two deployments to the western Pacific.

Following tours of duty included an exchange assignment with the Air Force, flying F-16 Falcons with the 42d Tactical Fighter Squadron; and duty as a first lieutenant to the attaché for naval attaché to the command, Middle East Force in Manama, Bahrain. Later, after training in the F/A-18 Hornet, he served with Strike Fighter Squadron 113.

A superb leader, the Navy entrusted Captain Simmons with three command assignments—the Strike Fighter Weapons School, Pacific Fleet; Strike Fighter Squadron 25; and the F/A-18 Fleet Readiness Squadron, Strike Fighter Squadron 125. While commanding officer of VFA-125, the squadron earned the Chief of Naval Operations Aviation Safety Award for surpassing 70,000 accident-free flight hours; and Personal Excellence Partnership Program awards from the Chief of Naval Operations and the State of California.

Captain Simmons also served a 22-month tenure in Washington as the Strike Warfare and Naval Aviation Programs Congressional Liaison officer in the Navy Office of Legislative Affairs. In this capacity, Captain Simmons provided members of the Senate Armed Services Committee, the professional and personal staffs, and many of you, with timely support regarding Navy plans and programs. His contributions to the Navy's efforts to get the Nation's armed forces ready to meet the global security challenges of today, and his commitment to the Nation's safety and security, were recognized when he was awarded the Navy Distinguished Service Medal, the Navy Commendation Medal with Gold Star, and the Navy Distinguished Service Medal with Gold Star.

Mr. President, Captain Simmons, his wife, Michelle, and his children, Erin and Stacey, made many sacrifices during his long career. It is indeed tragic that he has been taken from his family, the Navy, and the Nation he so selflessly served. His courage and fortitude marked him as a great patriot. He will be sorely missed.

TRIBUTE TO TRUMBULL, CONN.-NICATION'S WE THE PEOPLE TEAM

Mr. DODD. Mr. President, I rise today to extend my sincere congratulations to the students of Trumbull High School, who recently won an award at the “We the People * * * The Citizen and the Constitution” national finals in Washington, DC.

The “We the People * * *” program includes a comprehensive curriculum on the history and principles of American constitutional democracy. It culminates in a competition testing student teams’ knowledge of the Constitution, structured as a congressional hearing with students testifying as constitutional experts. This innovative approach has received critical acclaim from educators and scholars alike, and the curriculum stands as a model for future educational programs. Students involved in the “We the People * * *” program not only gain an understanding of constitutional history, but many of them have the opportunity to strengthen their commitment to democratic principles and feel more involved in the political process.

The students from Trumbull High School were recognized for their expertise on the “We the People * * *” program by the New York State Constitution Commission. The students’ work includes a comprehensive curriculum, structured as a congressional hearing with students testifying as constitutional experts. This innovative approach has received critical acclaim from educators and scholars alike, and the curriculum stands as a model for future educational programs. Students involved in the “We the People * * *” program not only gain an understanding of constitutional history, but many of them have the opportunity to strengthen their commitment to democratic principles and feel more involved in the political process.

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In February 1963, President John F. Kennedy said that “the future promise of any nation can be directly measured by the present prospect of its youth.” Frighteningly low voter turnout has recently raised concerns about public frustration with our political system. And yet, when I had the opportunity to meet with these Trumbull high schoolers, I was struck by the students’ optimism and thoughtfulness about our great constitutional democracy. Their strong sense of civic responsibility provides me with great hope for our future.

TRIBUTE TO PVT. WALTER C. WETZEL

Mr. ABRAHAM. Mr. President, I rise today to join in the Radio Control Club of Detroit and the Radio Control Club of Macomb County in remembering one of the many true American patriots who made the ultimate sacrifice to protect our freedom.

TRIBUTE TO DAVID L. CINI

Mr. DODD. Mr. President, any town in America can find somebody to run their local government. But few cities ever have a leader whose courage, hope, and humor serve to inspire others to expect more from themselves and their community. East Lyme was fortunate enough to know one of these leaders—David L. Cini. Mr. Cini served as East Lyme’s first selectman since 1989 and, sadly, he died earlier this month at the age of 60.

Eight years ago, I attended a political rally for David Cini that was held in a vacant lot behind a beauty salon in the small town of Niantic, CT, which is part of East Lyme. Also in attendance at this rally, I asked the Senate to join this organization in remembering one of the many true American patriots who made the ultimate sacrifice to protect our freedom.
in Niantic?" David Cini quickly stood up and responded, "Because Niantic is the center of the universe, and I am going to be the first selectman."

For David Cini, Niantic and East Lyme was the center of the universe, and he often worried that people could never understand the importance of this town and its people. One time, David cut short a week-long vacation in Florida to come back to East Lyme. He said that East Lyme was the best place to live and work so why leave? Mr. Cini loved the city of East Lyme and he believed that as first selectman was improving the quality of life for these people.

But while David Cini was completely committed to the people of East Lyme, he also recognized that the interests of one town are often connected to the interests of neighboring communities. He worked tirelessly to see that the towns in southeastern Connecticut worked together to preserve prosperity in the region. Mr. Cini was instrumental in the formation of the Council of Governments, which is comprised of the chief executive officers of 20 southeastern Connecticut towns, and he served as the council's first chairman. Throughout his tenure as East Lyme's top official, Mr. Cini had to overcome various health problems, but he always maintained a positive attitude, and you never saw him without a smile on his face. David was always too concerned with the welfare of others to dwell on personal issues.

When you ask his friends what they will remember most about David Cini, they all mention his sense of humor. He was frequently seen joking with workers at Town Hall, and with his modest and unassuming manner, he could always make people laugh and put them at ease.

His humor will be missed in Town Hall, and so will his leadership. David Cini was known and respected by his colleagues in politics, but, more important, he was admired by the people that he was elected to represent.

He is survived by his wife Sally, seven siblings, five children, and four grandchildren. I extend my heartfelt condolences to them all.

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**CLIMATE SCIENCE**

- Mr. MURKOWSKI. Mr. President, today our negotiators are gathering in Bonn on how to coal ine negotiations toward a new climate treaty, so it is appropriate to address the Senate on this issue.

- My comments today will focus on the issue of climate change, scientific certainty, and scientific honesty.

- During the Senate's debate on Friday there were some general and specific comments made about climate science that were simply wrong, and I'd like to begin by addressing some of the general misunderstandings that may exist.

- First, some of our colleagues seem to have it in their minds that there is scientific certainty and consensus over the issue of whether or not human activities are causing global warming. This is simply not true.

- While it is true that Undersecretary of State Tim Wirth said that "the science is settled," it is clear that there is not a broad scientific consensus that human activities are causing global warming.

- Don't take my word for it: The prestigious journal Science, in its issue of May 18th, says that climate experts are a long way from proclaiming that human activities are heating up the earth.

- Even Benjamin Santer, lead author of chapter 8 of the Intergovernmental Panel on Climate Change (IPCC) report admits as much.

- Here is what Dr. Santer says: We say quite clearly that few scientists would say the attribution issue was a done deal.

- Indeed, the search for the "human fingerprint" is far from over with many scientists saying that a clear resolution is far away.

- Even the Chairman of the U.N. Intergovernmental Panel on Climate Change, Dr. Bert Bolin, says that the science is not settled. When told that Undersecretary of State Tim Wirth had said the science was settled, Dr. Bolin replied: "I've spoken to [Tim Wirth], I know he doesn't mean it."

- Mr. President, the science is not settled. We continue to spend over $2 billion on the U.S. Global Climate Change Research Program for the simple reason that the science is not settled.

- We know human activities result in carbon emissions. We also know that land-based records indicate that some warming has occurred. We do not know that one has caused the other.

- Let me now turn to some specific statements that were made during the debate last Friday that simply don't agree with the latest scientific literature.

- My good friend, Senator KERRY, said (on page S8118 of the CONGRESSIONAL RECORD) that the "global average temperature has changed by less than a degree Celsius up or down for 10,000 years—[and that] the projected warming is expected to exceed any climate change that has occurred during the history of civilization."

- Unfortunately, the facts simply don't match up with Senator Kerry's statement. According to data from the Woods Hole Oceanographic Institution in Woods Hole, Massachusetts, temperatures were up to 3°C higher than present values some 2500–3000 years ago. (Reference: L. Keigwin, Science, volume 274, page 1504-1508, 1996.)

- In addition, independent studies using a different set of data indicate abrupt worldwide changes in temperature about 8000 years ago. (Reference: Stager and Mayewski, Science, volume 276, page 1834, 1997.)

- Another statement made by Senator KERRY (on page S8137 of the CONGRESSIONAL RECORD) claims that "... we are living in the midst of the most significant increase that we have seen in 130 years, and the evidence of the prognosis of our best scientists is that it is going to continue at a rate that is greater than anything we have known since humankind, since civilization has existed, civilization within the last 8,000 to 10,000 years on this planet."

- While the facts are somewhat different. The most significant temperature increase in the last 130 years occurred between 1900 and 1940, and is generally believed to be a natural warming, a recovery from the Little Ice Age.

- In pointing these facts out, it is not my contention that Senator KERRY is trying to mislead anyone. He is merely repeating some of the information that has been provided to him by his staff or others, and I know he believes them to be correct.

- But they are not correct. I believe this makes my point that there is a great deal of misunderstanding about this issue, in addition to the lack of scientific certainty I alluded to earlier.

- I'd like to briefly turn my attention to a few statements made by others outside the Senate about the science of Climate Change.

- When I opened the newspaper on Saturday I was amused to see the level of "spin control" that some were attempting with respect to the Senate's actions of Friday.

- Indeed, on page A11 of Saturday's Washington Post, in an article by Helen Dewar, I read that Phillip Clapp, the President of the Environmental Information Center, said the Byrd resolution "endorse the science on global warming..."

- Well, I hope the public and the press will follow the wise counsel of Senator BYRD and allow the resolution to speak for itself.

- Indeed, the resolution does not say anything about endorsing the science of global warming.

- If it had, it would not have passed the Senate at all... much less than by a vote of 95-0.

- Special interest groups will, I suppose, do their best to advance their special interests. But we should demand a certain level of integrity and scientific honesty in our public debate of this issue.

- This brings me to the final issue that I wish to address today—the issue of scientific honesty and integrity.

- As pointed out above, there is a great deal of scientific uncertainty about climate change. Well respected, highly qualified scientific experts disagree over this issue.

- The hearings held before the Energy Committee, the Foreign Relations Committee, and the Environment and Public Works Committee have all featured solid, respected scientists—some whom question the link between human activities and a warming planet.

- Before the Energy and Natural Resources Committee which I chair, Dr.
Sallie Baliunas of the Harvard-Smithsonian Center for astrophysics questioned the link between human activities and climate change.

Before the Environment and Public Works Committee, Dr. Richard S. Lindzen, the Alfred P. Sloan Professor of Meteorology at the Massachusetts Institute of Technology, pointed out problems with the General Circulation Models that are the basis for the predictions of warming.

My Committee also heard from Dr. V. Ram Ramanathan of the Scripps Institute of Oceanography, about the role of water vapor as a confounding factor in these models.

In the Environment and Public Works Committee, Dr. John R. Christy of the Earth System Science Laboratory at the University of Alabama in Huntsville discussed the satellite temperature records that conflict with ground-based data.

Before the Foreign Relations Committee, Dr. Patrick Michaels, professor of Environmental Sciences at the University of Virginia, directly challenged the links between human activities and observed warming.

They are all respected scientists. They are not crackpots, nay-sayers, or as some press accounts have branded them, a "small and noisy band of skeptics."

Instead, they are scientists, doing what scientists do. Consistent with the scientific method, they are challenging the findings of other scientists, in an open, intellectually honest manner, using all the data and analysis that they can bring to bear.

That is how the system is supposed to work.

Unfortunately, the proponents of the view that we must take extreme actions now to address climate change have been attacking the credibility and the reputations of some scientists who do not share their view.

Instead of attacking their science, they attack the scientist.

They claim that scientists who disagree with the so-called consensus view of climate change are part of some kind of anti-science conspiracy, funded by big oil and big coal to deliberately mislead the American public.

That sounds silly, doesn't it?

Yet, on the Diane Rehm radio program which aired locally on WAMU-FM on July 21, a prominent guest made some pretty remarkable assertions. Let me quote from the transcript of this radio interview:

"Un-American." These are serious charges. Who was the guest who was making these charges of a conspiracy designed to deliberately mislead the American people?

Was this guest calling Dr. Lindzen a pseudo scientist? Or Dr. Baliunas? Or any of the others I mentioned?

Are they part of this conspiracy?

Sadly, a member of the President's Cabinet—the Secretary of the Interior—was responsible for these remarks.

Here is a political appointee who appears to be making judgments about the scientific integrity of others.

Those were unfortunate remarks, Mr. President. And they are the sort of remarks I hope that the Senate will avoid as we continue the debate on climate change.

Let us keep to the high road.

Let us appreciate the fact that scientists, and indeed, all Americans, are free to disagree and to challenge the views of others in honest, public debate.

There will be disagreements. Just as I challenged the scientific understanding of Senator Kennedy on several issues, others will surely challenge my understanding of the science at some point in the debate.

And in the process, we will all learn. That is the way it should be.

But there will be some, Mr. President, who will attack the scientist instead of the science.

There will be some who say that you must agree with me, or you must be part of some conspiracy that is trying to mislead the American people.

That, to use Secretary Babbitt's words, strikes me as un-American.

Let's not fear a healthy scientific debate. Instead, let's depend on it.

HONG KONG

Mr. MUKOWSKI. Mr. President, 1 month ago, Hong Kong reverted to the control of the People's Republic of China, ending over 150 years of colonial rule. This was a historic and unprecedented event in Chinese history. I was honored to serve as the chairman of the official Senate delegation that attended the handover ceremonies along with several of our colleagues from the House of Representatives, led by Congresswoman Pelosi.

I hope that when I return to Hong Kong next year, and the year after, and the year after, I will witness the same optimism that I observed during the transition from British to Chinese rule. The people of Hong Kong should be congratulated for their determination to keep Hong Kong the pearl of the Orient.

During our visit, our delegation was fortunate to meet with the new chief executive of Hong Kong, as well as his Chief Secretary, the highly respected civil servant, Anson Chan. This duo has been referred to as the dream team and the name is well deserved. It is my opinion that if C.H. Tung and Anson Chan work together they will lead Hong Kong to a brighter future. But they will face severe trials. The "one country, two systems" approach of the late Chairman Deng is untested, and I predict that there will be hurdles to its implementation, internationally and within the area of personal and political autonomy.

The purpose of the Senate Delegation to Hong Kong was to demonstrate our continued commitment to support the people of Hong Kong and to protect United States interests. And Congress will continue to monitor events in Hong Kong.

The key events that I think will determine whether this experiment will work are the following:

Whether the elections C.H. Tung has called for May of 1998 are free and fair and allow broad participation.

Whether the Court of Final Appeal functions as the final word, or whether the PRC's People's Congress uses the fig leaf of "national security" to step in and usurp Hong Kong's legal system.

How the PRC Government handles Martin Lee, and other democrats. Thus far, democratic protests have continued without intervention.

What happens to the first paper to publish a Pro-Taiwan or Pro-Tibet editorial.

Whether Chief Secretary Anson Chan stays in her post after 1998, and whether there is an exodus of other civil servants.

But I also urge restraint by my colleagues. We should not assume the worst for Hong Kong. Specifically, we should not alter trade laws that assume that Hong Kong cannot enforce her borders and her laws. If Hong Kong cannot live up to her commitments in this regard, then the United States should act, but we should not act prematurely.

In conclusion, Mr. President, I would like to extend my commitment to the people of Hong Kong to support their efforts. I hope on my next trip to Hong Kong I can say that Hong Kong remains the vibrant, successful, energetic engine of Asia.

NIH RESEARCH ON CHILD ABUSE AND NEGLECT: CURRENT STATUS AND FUTURE PLANS

Mr. JEFFORDS. Mr. President, I rise today to bring to your attention an important report on child abuse and neglect. This report, released in April of this year, examines current research being conducted or supported by the National Institutes of Health (NIH) into the area of child abuse and neglect. The report proposes groundbreaking recommendations for improving the coordination of child maltreatment research across the NIH, with other divisions within the Department of Health and Human Services, and with other federal agencies. In addition, the report addresses the current gaps in research, identified in the National Research Council's 1993 report,
"Understanding Child Abuse and Neglect: " The April, 1997, report by NIH emphasizes the need to provide more attention to training new research in the field and disseminating research results to the agencies and practitioners who will use the findings.

We are all concerned about the prevalence of child abuse and neglect. According to a 1995 state-by-state survey conducted by the National Committee to Prevent Child Abuse, over 3.1 million children were reported to have been physically abused or neglected. Child abuse fatalities have increased by 39 percent from 1985 to 1995. The Department of Health and Human Services Third National Incidence Study of Child Abuse and Neglect, released in September, 1996, estimated that the number of child abuse and neglect cases in this country doubled between 1986 and 1993.

One critical and necessary step to stop child maltreatment is to support research that will enhance our understanding of the underlying causes of child abuse and neglect. This research also will improve our ability to identify and define abuse and neglect, and discover which intervention techniques are most successful in preventing and treating child maltreatment.

The proposals for future NIH activities contained in the report give new meaning to the concept of knowledge translation and research application. The most important characteristics of the proposals are the efforts to move scientific knowledge from the research lab and demonstration site into professional practice. Parents, child welfare agencies, and practitioners will all benefit from this information and technology transfer. In the exchange, NIH researchers will benefit from the lessons learned by practitioners and be better able to target their research.

Everyone will benefit from the increased coordination that is integral to the future initiatives. The most important gains will be fewer children who suffer from abuse and neglect, once marriage between the research and practice is accomplished. This is a goal upon which we can all agree.

I want to commend Dr. Harold Varmus, Director of NIH, for his leadership in this critical area. Under the direction of Dr. Varmus, Dr. Peter Jensen, Chief-Child and Adolescent Disorders Branch, at the National Institutes of Mental Health established the trans-NIH Working Group on child abuse and neglect. I would also like to thank the organizations which brought this issue to my attention and encouraged the formation of the Working Group—the National Association of Social Workers, National Child Abuse Coalition, Institute for the Advancement of Social Work Research, and the American Psychological Society.

The Working Group has developed a bold proposal to the Senate Governmental Affairs Committee and the Appropriations Committee. The proposal details a plan to make the optimum use of federal dollars through better coordination of NIH research activities and dissemination of research results to those who can make a difference in children's lives.

Mr. SANTORUM. Mr. President, I would like to engage the Chairman of the Subcommittee on Commerce, Justice, State Appropriations in a brief colloquy concerning funding for the National Education Center for Women in Business at Seton Hill College.

Mr. President, in the decade between 1982 and 1992, women-owners businesses grew substantially, increasing by over 55 percent between 1987 and 1992 alone. The Commonwealth of Pennsylvania's women business owners helped make this happen, as my state ranks sixth in the nation in the number of firms owned by women. These firms contributed over 290,000 jobs to my state's economy. The Center conducts collaborative research, provides educational programs and curriculum development, and serves as an information clearinghouse for women entrepreneurs. I have heard only good things about the Center's work in the promotion of women in business ownership, both in the Commonwealth and across the nation. Mr. SPECTER. Mr. President, I must echo the comments of my colleague from Pennsylvania with respect to the Women's Education and Training in Business, which provides invaluable services to women from all over this country to encourage the establishment and growth of businesses. The Center's programs are truly in the national interest and as a member of the Appropriations Committee I have been pleased to work with my colleague, Senator SANTORUM, and Congresswoman MASCARA in support of the Center and its funding needs. The federal funds we have sought are necessary to bring the Center to a position of self-sufficiency where it can operate solely with private funds in the future.

Mr. SANTORUM. The Center has received funds in five previous Commerce-Justice-State Appropriations Bills through the Small Business Administration's Office of Women's Business Ownership and, as originally envisioned, was to receive $5 million in federal funds over five years. The fiscal year 1997 appropriations bill for the Small Business Administration leaves $500,000 in federal funds that are needed to complete the total $5 million federal contribution to the establishment of the Center. I understand that the Small Business Administration would generally continue the program through the next cycle, even though it is not specifically listed in the bill, as the Center has been successful in its mission on behalf of women in business. Would the distinguished Chairman of the Subcommittee be willing to work with Senator SPECTER and me to examine options for allocating funds for the National Education Center for Women in Business?

Mr. GREGG. Mr. President, I thank the Senators from Pennsylvania for highlighting the work of this program and its funding history. Since the Small Business Administration funded the program in fiscal year 1997, I asked those they will wish to continue funding in fiscal year 1998 for the Center. The absence of report language should not prevent the agency from providing funding in the next fiscal year.

CHRIS YODER

Mr. MURKOWSKI. Mr. President, I want to take a moment of the Senate's time to speak today about a man whose life has been dedicated to public service—in particular, service to America's veterans: Chris Yoder.

Many of my colleagues know Chris. He has spent his entire career working for veterans. And now, Chris has decided to leave the Senate Committee on Veterans' Affairs [VA]. However, his life-long commitment to veterans will continue as he moves to the Commission on Service Members and Veterans' Transition Assistance.

I have known Chris for many years, and I have come to rely on him for his expertise.

He served in Vietnam and after he returned home, he began his career with the Veterans' Administration in 1972. He joined the Senate Committee on Veterans' Affairs in 1985 when I served as the Committee Chairman. Chris immediately demonstrated a remarkable and uncanny knowledge of veterans' issues. In 1991, when Tony Principi when Tony went to work for the Bush Administration as Deputy Secretary for the Department of Veterans' Affairs. In 1993, when I served as Vice Chairman of the Committee, Chris returned.

Over the years, I have asked Chris to examine a number of veterans' programs and I have always expected Chris to ask tough questions about these programs. We live in an era of billions of dollars on veterans' health care and benefits, and members of the Senate Veterans' Affairs Committee constantly struggle to ensure that the money is spent efficiently and in an equitable manner.

Is the veterans' health care program based on the most modern medical delivery systems, or are we sticking with an aging infrastructure that is consuming dollars that need to be redirected to the real needs of veterans? That's the type of issue that Chris has had to tackle.

Last Congress, we passed Veterans' Health Care Eligibility Reform. If you think the tax code is complicated, you should see VA's eligibility criteria before our reforms. Confused veterans, it confused Congress, and it even confused VA doctors and administrators.

Chris has chosen himself to play the leading role in drafting a reform proposal that simplified the criteria without sacrificing the quality and access to care for our Nation's veterans.
By far, this was the most important veterans' legislation passed in the 104th Congress, and one of the most difficult and complex issues I have witnessed during my 17-year tenure as a U.S. Senator.

I do not think anyone can doubt the commitment and dedication Chris has for our veterans, and I know every member of the Senate Committee on Veterans' Affairs will miss his dedication and expertise.

He is a man with the courage to tackle the difficult questions and the knowledge to find the answers. Chris Yoder will be sorely missed on the Veterans' Affairs Committee. As a friend, I wish him the best of the luck.

TRIBUTE TO HAROLD “PRINCE HAL” NEWHOUSER

Mr. ABRAHAM. Mr. President, I rise today to pay tribute to one of Michigan's greatest athletes in America's greatest pastime. Baseball was Harold “Prince Hal” Newhouse's life, and it showed every minute during the 15 years he was on the field, proudly wearing the Detroit Tigers jersey number 16. Rising to prominence during a time when athletes played for the love of the sport, Harold's story represents a fine example of the American ethic of hard work and determination.

At 14 years old, Harold listened intently to the announcer as Goose Goslin drove in the series winning run, giving the Detroit Tigers the 1935 pennant. Harold was so excited about the victory he decided his life's goal was to play for his hometown Tigers. Four months after his eighteenth birthday, as he stepped on the mound for the first time, Harold's dream came true.

Harold Newhouse was born to play baseball. Just a few years after he began pitching for the Tigers, Harold reached the coveted twenty wins in one season. In 1942, Harold was named to the All-Star team. In 1944, he earned the American League's Most Valuable Player award, and won it again the very next year. This occasion marked the only time in history a major league picture won the MVP award in back-to-back seasons.

By the time Harold Newhouse retired in 1955, he had played in six All-Star Games, won two MVP's, and earned recognition as a strikeout king with a blazing fastball. In 1992, his achievements were formally recognized through his induction into the Hall of Fame. As Harold is proud to point out, he is the first Detroit-born player to go into the Hall of Fame, and he's the first Detroit-born player to have his uniform number retired by the Tigers.

And that occasion, Mr. President, is what I rise today to commemorate. Harold was born in Detroit, grew up in Detroit, and played baseball for Detroit. This Sunday the Tigers will bestow upon him their highest honor, and on behalf of Michigan, I would like to recognize his accomplishments in the Record, and to thank him for his outstanding representation of Michigan throughout his life, both on and off the field.
Thursday, July 31, 1997

Daily Digest

HIGHLIGHTS

Senate agreed to Budget Reconciliation and Revenue Reconciliation Conference Reports.


House Committee ordered reported the Treasury, Postal Service, and General Government appropriations for fiscal year 1998.

Senate

Chamber Action

Routine Proceedings, pages S8385-S8629

Measures Introduced: Forty-Five bills and nine resolutions were introduced, as follows: S. 1094-1138, S. Res. 111-116, and S. Con. Res. 47-49.

Pages S8531-33

Measures Reported: Reports were made as follows:

S. 399, to amend the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 to establish the United States Institute for Environmental Conflict Resolution to conduct environmental conflict resolution and training, with an amendment in the nature of a substitute. (S. Rept. No. 105-60)

S. 414, to amend the Shipping Act of 1984 to encourage competition in international shipping and growth of United States imports and exports, with an amendment in the nature of a substitute. (S. Rept. No. 105-61)

S. Res. 110, A bill to permit an individual with a disability with access to the Senate floor to bring necessary supporting aids and services. Page S8531

Measures Passed:

Oklahoma City National Memorial: Senate passed S. 871, to establish the Oklahoma City National Memorial as a unit of the National Park System; to designate the Oklahoma City Memorial Trust.

Pages S8410-15

Congressional Adjournment: Senate agreed to H. Con. Res. 136, providing for an adjournment of the House of Representatives and the Senate.

Page S8481

Waiving Enrollment Requirements: Senate passed H.J. Res. 90, waiving certain enrollment requirements with respect to two specified bills of the One Hundred Fifth Congress, clearing the measure for the President.

Page S8482


Page S8482

Kennedy Center Parking Improvement Act: Senate passed S. 797, to amend the John F. Kennedy Center Act to authorize the design and construction of additions to the parking garage and certain site improvements, after agreeing to the following amendments proposed thereto:

Domenici (for Chafee) Amendment No. 1048, of a technical nature.

Domenici/Bingaman Amendment No. 1049, to provide for the design, construction, furnishing, and equipping of a Center for Performing Arts within the complex known as the New Mexico Hispanic Cultural Center.

Domenici (for Graham/Mack) Amendment No. 1050, to provide for the design, construction, furnishing and equipping of a Center for Historically Black Heritage within Florida A&M University.

Domenici (for Chafee) Amendment No. 1051, to provide for the relocation and expansion of the Haffenreffer Museum of Anthropology at Brown University in Providence, Rhode Island.

Domenici (for Chafee) Amendment No. 1052, to provide for a grant to Juniata College for the construction of environmental research facilities and structures at Raystown Lake, Pennsylvania.

Domenici (for Baucus) Amendment No. 1053, to provide for the design, construction, furnishing, and equipping of an historical, cultural and paleontological interpretive center and museum to be located at Fort Peck Dam, Montana.

President Pro Tempore Consultant: Senate passed S. 1120, to provide for a consultant for the President pro tempore.
Earthquake Hazards Reduction Act Authorization: Senate passed S. 910, to authorize appropriations for carrying out the Earthquake Hazards Reduction Act of 1977 for fiscal years 1998 and 1999, after agreeing to a committee amendment in the nature of a substitute, and the following amendment proposed thereto:


Grants Pass, Oregon Land Conveyance: Senate passed H.R. 1198, to direct the Secretary of the Interior to convey certain land to the City of Grants Pass, Oregon, clearing the measure for the President. Pages S8526

Oregon Land Exchange: Senate passed H.R. 1944, to provide for a land exchange involving the Warner Canyon Ski Area and other land in the State of Oregon, clearing the measure for the President. Pages S8526

Senate Floor Disability Access: Senate agreed to S. Res. 110, to permit an individual with a disability with access to the Senate floor to bring necessary supporting aids and services. Pages S8527

Private Relief: Senate passed H.R. 584, for the relief of John Wesley Davis, clearing the measure for the President. Pages S8527

Indian Independence Day: Committee on the Judiciary was discharged from further consideration of S. Res. 102, designating August 15, 1997, as “Indian Independence Day: A National Day of Celebration of Indian and American Democracy,” and the resolution was then agreed to. Pages S8527–28

U.S. District Courts Authorization: Committee on the Judiciary was discharged from further consideration of S. 996, to provide for the authorization of appropriations in each fiscal year for arbitration in United States district courts, and the bill was then passed, after agreeing to the following amendment proposed thereto:

Warner (for Biden) Amendment No. 1055, to provide for the reauthorization of report requirements to enhance judicial information dissemination. Pages S8528

Budget Reconciliation Conference Report: By 85 yeas to 15 nays (Vote No. 209), Senate agreed to the conference report on H.R. 2015, to provide for reconciliation pursuant to subsections (b)(1) and (c) of section 105 of the concurrent resolution on the budget for fiscal year 1998. Pages S8386–S8410

Revenue Reconciliation-Conference Report: By 92 yeas to 8 nays (Vote No. 2011), Senate agreed to the conference report on H.R. 2014, to provide for reconciliation pursuant to subsections (b)(2) and (d) of section 105 of the concurrent resolution on the budget for fiscal year 1998. Pages S8410, S8415–61, S8465–80

During consideration of this measure today, Senate also took the following action:

By 78 yeas to 22 nays (Vote No. 210), three-fifths of those Senators duly chosen and sworn having voted in the affirmative, Senate agreed to waive points of order against the Congressional Budget Act with respect to consideration of the conference report. Subsequently, a point of order that section 1604(f)(3) of the bill violates section 313(b)(1)(A) of the Congressional Budget Act was not sustained, and the point of order thus fell. Pages S8450–51

Agriculture Appropriations—Agreement: A unanimous-consent time agreement was reached providing for the consideration of H.R. 2160, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1998, on Tuesday, September 2, 1997, with one amendment to be proposed thereto.

A further consent agreement was reached providing that on Wednesday, September 3, 1997, prior to third reading of the bill, all after the enacting clause be stricken and the text of S. 1033, Senate companion measure, as passed by the Senate on July 24, 1997, be inserted in lieu thereof, the bill be read the third time and agreed to, the Senate insist on its amendment, request a conference with the House thereon, and the Chair be authorized to appoint conferees on the part of the Senate. Pages S8482

Labor/HHS Appropriations—Agreement: A unanimous-consent agreement was reached providing for the consideration of S. 1061, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1998, on Tuesday, September 2, 1997. Pages S8461

Authority for Committees: All committees were authorized to file executive and legislative reports during the adjournment of the Senate on Tuesday, August 19, 1997, from 11 a.m. to 2 p.m. Pages S8524

Removal of Injunction of Secrecy: The injunction of secrecy was removed from the following treaties:

Extradition Treaty with Barbados (Treaty Doc. 105-20); and

Extradition Treaty with Trinidad and Tobago (Treaty Doc. 105-21).

The treaties were transmitted to the Senate today, considered as having been read for the first time, and referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed. Pages S8523

Appointments:

Global Climate Change Observer Group: Pursuant to the provisions of S.Res. 98, agreed to on July 25, 1997, the following Senators were appointed to the Global Climate Change Observer Group: Senators Hagel, Chairman, Abraham, Chafee, Craig, Murkowski, Roberts, Byrd, Co-Chairman, Baucus, Bingaman, Kerry, Levin, and Lieberman. Pages S8523–24
Commission on Security and Cooperation in Europe: The Chair, on behalf of the Vice President, pursuant to Public Law 94-304, as amended by Public Law 99-7, appointed the following Senators to the Commission on Security and Cooperation in Europe: Senators Feingold, Graham, Lautenberg, and Reid.

Messages from the President: Senate received the following messages from the President of the United States: A communication from the President of the United States, transmitting, a report of the notice of the continuation of Iraqi emergency; referred to the Committee on Banking, Housing and Urban Affairs. (PM-58).

A communication from the President of the United States, transmitting, a report concerning the national emergency with respect to Iraq; referred to the Committee on Banking, Housing and Urban Affairs. (PM-59).

Nominations Confirmed: Senate confirmed the following nominations:

- Eric L. Clay, of Michigan, to be United States Circuit Judge for the Sixth Circuit.
- Arthur Gajarsa, of Maryland, to be United States Circuit Judge for the Federal Circuit.
- Thomas W. Thrash, Jr., of Georgia, to be United States District Judge for the Northern District of Georgia.
- Jose-Marie Griffiths, of Tennessee, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2001.
- Mary Ann Gooden Terrell, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years.
- Robert S. LaRusse, of Maryland, to be an Assistant Secretary of Commerce.
- James H. Atkins, of Arkansas, to be a Member of the Federal Retirement Thrift Investment Board for a term expiring September 25, 2000.
- Calvin D. Buchanan, of Mississippi, to be United States Attorney for the Northern District of Mississippi for the term of four years.
- Linda Jane Zack Tarr-Whelan, of Virginia, for the rank of Ambassador during her tenure of service as United States Representative to the Commission on the Status of Women of the Economic and Social Council of the United Nations.
- Yerker Andersson, of Maryland, to be a Member of the National Council on Disability for a term expiring September 17, 1999.
- Gina McDonald, of Kansas, to be a Member of the National Council on Disability for a term expiring September 17, 1998.
- Bonnie O'Day, of Minnesota, to be a Member of the National Council on Disability for a term expiring September 17, 1998.
- Edward William Gnehm, Jr., of Georgia, to be Director General of the Foreign Service.

Richard Sklar, of California, to be Representative of the United States of America to the United Nations for UN Management and Reform, with the Rank of Ambassador.

A. Peter Burleigh, of California, to be the Deputy Representative of the United States of America to the United Nations, with the rank and status of Ambassador Extraordinary and Plenipotentiary.

James W. Pardew, Jr., of Virginia, for the Rank of Ambassador during his tenure of service as U.S. Special Representative for Military Stabilization in the Balkans.

Stanley O. Roth, of Virginia, to be an Assistant Secretary of State.

Marc Grossman, of Virginia, to be an Assistant Secretary of State.

John Christian Kornblum, of Michigan, to be Ambassador to the Federal Republic of Germany.

David J. Scheffer, of Virginia, to be Ambassador at Large for War Crimes Issues.

James P. Rubin, of New York, to be an Assistant Secretary of State.

Paul Simon, of Illinois, to be a Member of the National Institute for Literacy Advisory Board for a term expiring September 22, 1998.

Bonnie R. Cohen, of District of Columbia, to be an Under Secretary of State.

James Franklin Collins, of Illinois, to be Ambassador to the Russian Federation.

Janice R. Lachance, of Virginia, to be Deputy Director of the Office of Personnel Management.

Patrick A. Shea, of Utah, to be Director of the Bureau of Land Management.

George A. Onas, of Mississippi, to be a Commissioner of the Postal Rate Commission for a term expiring October 14, 2000.

Jane Garvey, of Massachusetts, to be Administrator of the Federal Aviation Administration for the term of five years.

Karl Frederick Inderfurth, of North Carolina, to be Assistant Secretary of State for South Asian Affairs.

David Andrews, of California, to be Legal Adviser of the Department of State.

Ralph Frank, of Washington, to be Ambassador to the Kingdom of Nepal.

John C. Holzman, of Hawaii, to be Ambassador to the People’s Republic of Bangladesh.

Shirley Robinson Watkins, of Arkansas, to be Under Secretary of Agriculture for Food, Nutrition, and Consumer Services.

Louis Caldera, of California, to be a Managing Director of the Corporation for National and Community Service.

Rudy deLeon, of California, to be Under Secretary of Defense for Personnel and Readiness.

Robert G. Stanton, of Virginia, to be Director of the National Park Service.
Catherine E. Woteki, of the District of Columbia, to be Under Secretary of Agriculture for Food Safety.

Kneeland C. Youngblood, of Texas, to be a Member of the Board of Directors of the United States Enrichment Corporation for a term expiring February 24, 2002.

Wendy Ruth Sherman, of Maryland, to be Counselor of the Department of State, and to have the rank of Ambassador during her tenure of service.

Gordon D. Giffin, of Georgia, to be Ambassador to Canada.

Maura Harty, of Florida, to be Ambassador to the Republic of Paraguay.

James F. Mack, of Virginia, to be Ambassador to the Co-operative Republic of Guyana.

Anne Marie Sigmund, of the District of Columbia, to be Ambassador to the Kyrgyz Republic.

Keith C. Smith, of California, to be Ambassador to the Republic of Lithuania.

Daniel V. Speckhard, of Wisconsin, to be Ambassador to the Republic of Belarus.

George Munoz, of Illinois, to be President of the Overseas Private Investment Corporation.

Richard Dale Kauzlarich, of Virginia, to be Ambassador to the Republic of Bosnia and Herzegovina.

Jamie Rappaport Clark, of Maryland, to be Director of the United States Fish and Wildlife Service.

I. Miley Gonzalez, of New Mexico, to be Under Secretary of Agriculture for Research, Education, and Economics.

August Schumacher, Jr., of Massachusetts, to be Under Secretary of Agriculture for Farm and Foreign Agricultural Services.

Kathleen M. Karpan, of Wyoming, to be Director of the Office of Surface Mining Reclamation and Enforcement.

August Schumacher, Jr., of Massachusetts, to be a Member of the Board of Directors of the Commodity Credit Corporation.

Shirley Robinson Watkins, of Arkansas, to be a Member of the Board of Directors of the Commodity Credit Corporation.

Thomas E. Scott, of Florida, to be United States Attorney for the Southern District of Florida for the term of four years.

Felix George Rohatyn, of New York, to be Ambassador to France.

Philip Lader, of South Carolina, to be Ambassador to the United Kingdom of Great Britain and Northern Ireland.

1 Air Force nomination in the rank of general.

1 Army nomination in the rank of general.

1 Marine Corps nomination in the rank of general.

Routine lists in the Foreign Service.

Nominations Received: Senate received the following nominations:

Jo Ann Jay Howard, of Texas, to be Federal Insurance Administrator, Federal Emergency Management Agency.

Paul M. Igasaki, of California, to be a Member of the Equal Employment Opportunity Commission for a term expiring July 1, 2002.

Tadd Johnson, of Minnesota, to be Chairman of the National Indian Gaming Commission for the term of three years.

Ernest J. Moniz, of Massachusetts, to be Under Secretary of Energy.

A. Richard Caputo, of Pennsylvania, to be United States District Judge for the Middle District of Pennsylvania.

G. Patrick Murphy, of Illinois, to be United States District Judge for the Southern District of Illinois.

Carlos R. Moreno, of California, to be United States District Judge for the Central District of California.

Michael P. McCuskey, of Illinois, to be United States District Judge for the Central District of Illinois.

Victoria A. Roberts, of Michigan, to be United States District Judge for the Eastern District of Michigan.

Frederica A. Massiah-Jackson, of Pennsylvania, to be United States District Judge for the Eastern District of Pennsylvania.

Bruce C. Kauffman, of Pennsylvania, to be United States District Judge for the Eastern District of Pennsylvania.

John H. Bingler, Jr., of Pennsylvania, to be United States District Judge for the Western District of Pennsylvania.

James S. Gwin, of Ohio, to be United States District Judge for the Northern District of Ohio.

Jeffrey D. Colman, of Illinois, to be United States District Judge for the Northern District of Illinois.

Rebecca R. Palmeyer, of Illinois, to be United States District Judge for the Northern District of Illinois.

Dan A. Polster, of Ohio, to be United States District Judge for the Northern District of Ohio.

Algenon L. Marbley, of Ohio, to be United States District Judge for the Southern District of Ohio.

John E. Mansfield, of Virginia, to be a Member of the Defense Nuclear Facilities Safety Board for a term expiring October 18, 2001.

George Edward Moose, of Maryland, to be Representative of the United States of America to the European Office of the United Nations, with the rank of Ambassador.

Nancy Dorn, of the District of Columbia, to be a Member of the Board of Directors of the Inter-American Foundation for a term expiring June 26, 2002.

Hershel Wayne Gober, of Arkansas, to be Secretary of Veterans Affairs.
Committee on Agriculture, Nutrition, and Forestry:
Committee concluded hearings on proposed legislation to enhance African food security and increase U.S. exports by stimulating a new trade and development relationship between the United States and Africa, and on provisions of S. 778, to authorize a new trade and investment policy for sub-Saharan African countries, after receiving testimony from Lawrence H. Summers, Deputy Secretary of the Treasury; Derek Hanekom, South Africa Minister of Agriculture and Land Affairs, Pretoria; Edith G. Ssempala, Republic of Uganda Ambassador to the United States; Norman E. Borlaug, Sasakawa-Global 2000, Mexico City, Mexico; Ernie Micek, Cargill, Incorporated, Minneapolis, Minnesota; and Joseph C. Kennedy, AFRICARE, Washington, D.C.

EXPORT-IMPORT BANK
Committee on Banking, Housing, and Urban Affairs: Committee ordered favorably reported S. 1026, authorizing funds for the Export-Import Bank of the United States, with amendments.

NATIONAL PARKS OVERFLIGHTS
Committee on Commerce, Science, and Transportation: Committee held hearings on S. 268, to promote air safety and restore or preserve natural quiet in national parks by establishing minimum flight altitudes and prohibiting overflights below such minimum altitudes in any national park, receiving testimony from Senators Akaka and Allard; Representatives Mink and Gibbons; Louise E. Mallett, Acting Administrator for Policy, Planning and International Aviation, Federal Aviation Administration, Department of Transportation; Destry Jarvis, Assistant Director, External Affairs, National Park Service, Department of the Interior; Tom Robinson, Grand Canyon Trust, Flagstaff, Arizona; Phil Pearl, National Parks and Conservation Association, Washington, D.C.; James Petty, Air Vegas Airlines, Henderson, Nevada, on behalf of the United States Air Tour Association and the Grand Canyon Air Tour Council; Richard L. Larew, Era Aviation, Inc., Anchorage, Alaska; and Frank L. Jensen, Jr., Helicopter Association International, Alexandria, Virginia.

Hearings were recessed subject to call.

FOREST SERVICE ALASKA REGION
Committee on Energy and Natural Resources: Committee held oversight hearings to examine the organizational structure, staffing, and budget for implementation of the Tongass Land Management Plan and the management of programs under the jurisdiction of the Alaska region of the Forest Service, receiving testimony from Ronald E. Stewart, Acting Associate Chief, and Phil Janik, Regional Forester (Juneau, Alaska), both of the Forest Service, Department of Agriculture.

Hearings were recessed subject to call.

NOMINATIONS
Committee on Governmental Affairs: Committee ordered favorably reported the nominations of James H. Atkins, of Arkansas, to be a Member of the Federal Retirement Thrift Investment Board; Janice R. Lachance, of Virginia, to be Deputy Director of the Office of Personnel Management, and George A. Omas, of Mississippi, to be a Commissioner of the Postal Rate Commission.

CAMPAIGN FINANCING INVESTIGATION
Committee on Governmental Affairs: Committee continued hearings to examine certain matters with regard to the committee's special investigation on campaign financing, receiving testimony from Terry Lenzner and Loren Berger, both of the Investigative Group, Incorporated, Washington, D.C.; and Zhi Hua Dong, Ching Hai Meditation Society, Brooklyn, New York.

BUSINESS MEETING
Committee on the Judiciary: Committee ordered favorably reported the following business items:
S. 53, to require the general application of the antitrust laws to major league baseball, with an amendment in the nature of a substitute; and
The nominations of Frank M. Hull, of Georgia, to be United States Circuit Judge for the Eleventh Circuit, Robert Charles Chambers, to be United States District Judge for the Southern District of West Virginia, Janet C. Hall and Christopher Droney, each to be a United States District Judge for the District of Connecticut, Joseph F. Bataillon, to be United States District Judge for the District of Nebraska, Sophia H. Hall, of Illinois, to be a Member of the Board of Directors of the State Justice Institute, James Allan Hurd Jr., to be United States Attorney for the District of the Virgin Islands, and Sharon J. Zealley, to be United States Attorney for the Southern District of Ohio.

REFUGEE ADMISSIONS
Committee on the Judiciary: Subcommittee on Immigration concluded hearings to examine the President's proposed annual refugee admissions and allocation for fiscal year 1998, after receiving testimony from Phyllis Oakley, Assistant Secretary, Bureau of Population, Refugee and Migration, Department of State; Joseph Cuddihy, Acting Associate Commissioner for Field Operations, Immigration and Naturalization Service, Department of Justice; Lavinia Limon, Director of Office of Refugee Resettlement, Department of Health and Human Services; Elizabeth Ferris, Committee on Migration and Refugee Affairs/InterAction, and John Fredriksson, Immigration and Refugee Services of America/U.S. Committee for Refugees, both of Washington, D.C.; Norman D. Tilles, Hebrew Immigrant Aid Society, New York, New York; and Amela Sutovic and Khuong Le, both former refugees.

SENATE FLOOR ACCESS/SENATE ELECTION
(Correction to Page D 869)
Committee on Rules and Administration: Committee ordered favorably reported the following resolution:
S. Res. 110, to permit an individual with a disability access to the Senate floor to bring necessary supporting aids and services; and the Committee favorably adopted the following motion:
Passed by the Committee, July 31, 1997.

COMMITTEE ON RULES AND ADMINISTRATION—COMMITTEE MOTION
The Committee hereby authorizes the Chairman to continue the investigation of the 1996 election for United States Senator from Louisiana authorized by the Committee Motion of April 17, 1997;

The Committee further hereby authorizes the Chairman to request the United States Attorney General to detail to the Committee six investigative agents from the Federal Bureau of Investigation, and to hire other investigators, including retired FBI agents, as employees of the Committee;

The Committee further hereby finds that this investigation is directly related to campaign reform and authorizes the Chairman to use the majority's share of the $450,000 authorized by S. Res. 39 for the purposes of this investigation;

The Committee further hereby authorizes the Chairman, in his discretion, to cooperate with the Department of Justice, the East Baton Rouge District Attorney, and other investigative authorities;

The Committee further hereby authorizes the Chairman, in his discretion, to establish procedures permitting controlled access to Committee documents related to this investigation, ensuring that the minority's rights to access Committee documents are protected under Senate Rules;

The Committee further hereby determines that the hearings conducted as part of this investigation, during which testimony is to be taken from witnesses, shall be closed pursuant to Standing Rule 26(b)(3);

The Committee further hereby amends the Committee Motion passed on April 17:
1. By substituting the following for section A, titled "Full Committee subpoenas";
   A. Subpoenas: The Chairman is authorized to issue subpoenas, with notice to the Ranking Member, to any individual, organization, corporation, or other entity who has or is believed to have, documents or other information related to the Committee's investigation;
   2. By substituting the following for section E, titled "Full Committee depositions";
   E. Depositions: Sworn testimony shall be taken at a closed hearing, in accordance with Senate and Committee rules;
   3. By deleting the last sentence of section F, titled "Interviews and General Inquiry";

   And the Committee further hereby states that sections B, C, D, G, H and the unamended portion of section F of the Committee Motion, passed by the Committee on April 17, 1997, remain in effect regarding this investigation."
House of Representatives

Chamber Action

Bills Introduced: 57 public bills, H.R. 2316-2372; and 15 resolutions, H.J. Res. 90-93, H. Con. Res. 136-140, and H. Res. 207-212, were introduced.

Reports Filed: Reports were filed today as follows:

- H. Res. 206, waiving points of order against the conference report to accompany H.R. 2014, to provide for reconciliation pursuant to subsections (b)(2) and (d) of section 105 of the concurrent resolution on the budget for fiscal year 1998 (H. Rept. 105-221);
- H.R. 1211, a private bill, for the relief of Global Exploration and Development Corporation, Kerr-McGee Corporation, and Kerr-McGee Chemical Corporation, amended (H. Rept. 105-222);
- H.R. 998, a private bill, for the relief of Lloyd B. Gamble (H. Rept. 105-223);
- H.R. 1370, to reauthorize the Export-Import Bank of the United States, amended (H. Rept. 105-224);
- H.R. 1502, to designate the United States Courthouse located at 301 West Main Street in Benton, Illinois, as the "James L. Foreman United States Courthouse" (H. Rept. 105-225);
- H.R. 1484, to redesignate the Dublin Federal Courthouse building located in Dublin, Georgia, as the J. Roy Rowland Federal Courthouse, amended (H. Rept. 105-226);
- H.R. 1479, to designate the Federal building and United States courthouse located at 300 Northeast First Avenue in Miami, Florida, as the "David W. Dyer Federal Courthouse", amended (H. Rept. 105-227);
- H.R. 994, to designate the United States border station located in Pharr, Texas, as the "Kika de la Garza United States Border Station" (H. Rept. 105-228);
- H.R. 962, to redesignate a Federal building in Suitland, Maryland, as the "W. Edwards Deming Federal Building" (H. Rept. 105-229);
- H.R. 892, to redesignate the Federal building located at 223 Sharkey Street in Clarksdale, Mississippi, as the "Aaron Henry United States Post Office", amended (H. Rept. 105-230);
- H.R. 643, to designate the United States courthouse to be constructed at the corner of Superior and Huron Roads, in Cleveland, Ohio, as the "Carl B. Stokes United States Courthouse" (H. Rept. 105-231);
- H.R. 613, to designate the Federal building located at 100 Alabama Street N.W., in Atlanta, Georgia, as the "Sam Nunn Federal Center", amended (H. Rept. 105-232);
- H.R. 595, to designate the Federal building located at 100 Alabama Street N.W., in Atlanta, Georgia, as the "Sam Nunn Federal Center" (H. Rept. 105-233);
- H.R. 548, to designate the United States courthouse located at 500 Pearl Street in New York City, New York, as the "Ted Weiss United States Courthouse" (H. Rept. 105-234);
- H.R. 81, to designate the United States courthouse located at 401 South Michigan Street in South Bend, Indiana, as the "Robert K. Rodibaud United States Bankruptcy Courthouse" (H. Rept. 105-235); and
- H.R. 2204, to authorize appropriations for fiscal years 1998 and 1999 for the Coast Guard, amended (H. Rept. 105-236).

Guest Chaplain: The prayer was offered by the guest Chaplain, the Reverend Don Bowen of Alexandria, Virginia.

Taxpayer Relief Act of 1997: By a yea and nay vote of 389 yeas to 43 nays, Roll No. 350, the House agreed to the conference report on H.R. 2014, to provide for reconciliation pursuant to subsections (b)(2) and (d) of section 105 of the concurrent resolution on the budget for fiscal year 1998.

Agreed to H. Res. 206, the rule waiving points of order against the conference report, by a voice vote. Earlier, agreed to the Dreier amendment to the rule that increased the debate time on the bill from two and one-half hours to three hours.


Waiving Certain Enrollment Requirements: Considered by unanimous consent, the House passed H.J. Res. 90, waiving certain enrollment requirements with respect to two specified bills of the One Hundred Fifth Congress. Subsequently, H. Res. 203, the rule to provide for its consideration was laid on the table.

August District Work Period: By a yea and nay vote of 403 yeas to 16 nays, Roll No. 351, the House agreed to H. Con. Res. 136, providing for the adjournment of both Houses of Congress for the August District Work Period.

Order of Business—Labor, HHS, and Education Appropriations: Agreed by unanimous consent that (1) the Speaker may at any time, as though pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of H.R. 2264, making appropriations for the Department of Labor, Health and Human Services, and Education.
and related agencies, for the fiscal year ending September 30, 1998; (2) the first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. After general debate the bill shall be considered for amendment under the five-minute rule. (3) Points of order against provisions in the bill for failure to comply with clause 2 or 6 of rule XXI are waived except as follows: beginning with "Provided" on page 41, line 26, through "$2,245,000,000" on page 42, line 3. Where points of order are waived against part of a paragraph, points of order against a provision in another part of such paragraph may be made only against such provision and not against the entire paragraph. (4) The amendments printed in House report 105–214 may be offered only by a Member designated in the report and only at the appropriate point in the reading of the bill, shall be considered as read, shall not be subject to amendment except pro forma amendments offered for the purpose of debate, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against the amendments printed in the report are waived. (5) During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Amendments so printed shall be considered as read. (6) The chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes. (7) During consideration of the bill, points of order against amendments for failure to comply with clause 2(e) of rule XXI are waived. (8) At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. (9) Notwithstanding any other provisions of this order, it shall be in order to consider in lieu of amendments numbered 1 and 2 in House Report 105–214 the amendment read by the Clerk, and that amendment shall otherwise be considered as though printed as the amendment numbered 1 in House Report 105–214. (10) H. Res. 199, the rule to provide for its consideration, was laid on the table. Pages H6667–68, H6669

**Election of Chief Administrative Officer:** The House agreed to H. Res. 207, electing Jay Eagen of the Commonwealth of Pennsylvania Chief Administrative Officer of the House of Representatives. Subsequently, Mr. Eagen presented himself in the well and was administered the oath of office by the Speaker. Pages H6669–71

**International Dolphin Conservation Program:** The House concurred in the Senate amendment to H.R. 408, to amend the Marine Mammal Protection Act of 1972 to support the International Dolphin Conservation Program in the eastern tropical Pacific Ocean—clearing the measure for the President.

Pages H6671–77

**Honoring the Life of Betty Shabazz:** The House agreed to H. Res. 183, honoring the life of Betty Shabazz. Pages H6677–78

**Committee Resignations:** Read a letter from Representative Weygand wherein he requested a leave of absence from the Committee on Small Business and read a letter from Representative McKinney wherein she resigned from the Committee on Banking and Financial Services. Subsequently, and without objection, the resignations were accepted.

Page H6678

**Committee Election:** The House agreed to H. Res. 208, electing Representative Weygand to the Committee on Banking and Financial Services and Representative McKinney to the Committee on National Security.

Page H6678

**Late Report—Treasury Appropriations:** Committee on Appropriations received permission to have until midnight on Tuesday, August 5, 1997 to file a report on a bill making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain independent Agencies for the fiscal year ending September 30, 1998.

Page H6679

**Order of Business—Foreign Operations Appropriations Act:** Agreed by unanimous consent that during further consideration of H.R. 2159, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1998, pursuant to the order of the House of July 24, 1997, no other amendment shall be in order (except pro forma amendments offered for the purpose of debate) unless printed before August 1, 1997, in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII.

Page H6678

**India and Pakistan Independence:** The House agreed to H. Res. 157, congratulating the people of India and Pakistan on the occasion of the 50th anniversary of their nations’ independence. Pages H6679–80

**Antidumping Duties on High Fructose Corn Syrup:** The House agreed to S. Con. Res. 43, urging the United States Trade Representative immediately
to take all appropriate action with regards to Mexico's imposition of antidumping duties on United States high fructose corn syrup.  

Legislative Counsel of the House of Representatives: Read a letter from David E. Meade wherein he resigned from his position as Legislative Counsel of the House. Subsequently, the Speaker accepted the resignation and appointed M. Pope Barrow, Jr., Legislative Counsel of the House of Representatives.

Presidential Messages: Read the following messages from the President:

Continuation of Iraqi Emergency: Message wherein he transmitted his notice stating that the Iraqi emergency is to continue in effect—referred to the Committee on International Relations and ordered printed (H. Doc. 105-113); and

National Emergency Re Iraq: Message wherein he transmitted his report on the developments since February 10, 1997 concerning the national emergency with respect to Iraq—referred to the Committee on International Relations and ordered printed (H. Doc. 105-114).

Resignations—Appointments: It was made in order that notwithstanding any adjournment of the House until Wednesday, September 3, 1997, the Speaker, Majority Leader, and Minority Leader be authorized to accept resignations and to make appointments authorized by law or by the House.

Extension of Remarks: It was made in order that for today and tomorrow all members be permitted to extend their remarks and to include extraneous material in that section of the Record entitled "Extension of Remarks".

Calendar Wednesday: Agreed to dispense with Calendar Wednesday business of Wednesday, September 3, 1997.

Senate Messages: Messages received from the Senate today appear on pages H6619, H6623, H6684, and H6694.

Amendments: Amendments ordered printed pursuant to the rule appear on page H6708.

Quorum Calls—Votes: One quorum call (Roll No. 349) and two yea-and-nay votes developed during the proceedings of the House today and appear on pages H6662, H6664-65, and H6666-67.

Adjournment: Met at 10:00 a.m. and adjourned at 8:55 p.m.

Committee Meetings

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS

Committee on Appropriations: Ordered reported the Treasury, Postal Service, and General Government appropriations for fiscal year 1998.

NUCLEAR WASTE POLICY ACT


LITERACY: A REVIEW OF CURRENT FEDERAL PROGRAMS

Committee on Education and the Workforce Held a hearing on "Literacy: A Review of Current Federal Programs". Testimony was heard from public witnesses.

FEDERAL RETIREMENT—AGENCY MISTAKES

Committee on Government Reform and Oversight: Subcommittee on Civil Service held a hearing on "Agency Mistakes in Federal Retirement: Who Pays the Price?" Testimony was heard from William E. Flynn, Associate Director, Retirement and Insurance Service, OPM; Diane Disney, Deputy Assistant Secretary, Civilian Personnel, Department of Defense; from the following officials of the Department of the Treasury: Linda Oakey-Hemphill, Agency Retirement Counselor; and Sarah Hall-Ingram, Associate Chief Counsel, Employee Benefits/Exempt Organizations, IRS.

FDA OVERSIGHT

Committee on Government Reform and Oversight: Subcommittee on Human Resources held an oversight hearing on "FDA Oversight: Blood Safety and the Implications of Pool Sizes in the Manufacture of Plasma Derivatives". Testimony was heard from the following officials of the Department of Health and Human Services: David Satcher, M.D., Director, Centers for Disease Control and Prevention; Paul W. Brown, M.D., Senior Research Scientist, Laboratory of Central Nervous System Studies, National Institute of Neurological Disorders and Stroke, NIH; and Kathryn Zoon, Director, Center for Biologics Evaluation and Research, FDA; and public witnesses.

PRIVATE BILL

Committee on the Judiciary: Subcommittee on Immigration and Claims approved a motion to request a report by the Immigration and Naturalization Service on a private bill.

OVERSIGHT

Committee on Resources: Subcommittee on Energy and Mineral Resources held an oversight hearing on Royalty-In-Kind for Federal oil and gas production. Testimony was heard from Cynthia L. Quartermann, Director, Minerals Management Service, Department of the Interior; Jim Magagna, Director, Office of State Lands and Investments, Office of Federal Land Policy, State of Wyoming; Spencer Reid, Deputy Land Commissioner, General Land Office, State of Texas; David Darouse, Mineral Revenue Regional Auditor Supervisor, Department of Natural Resources, State of Louisiana; and public witnesses.
MISCELLANEOUS MEASURES

The Subcommittee also held a hearing on H.R. 1787, the Asian Elephant Conservation Act of 1997. Testimony was heard from Marshall P. Jones, Assistant Director, International Affairs, U.S. Fish and Wildlife Service, Department of the Interior; and public witnesses.

OVERSIGHT
Committee on Resources: Subcommittee on Forests and Forest Health oversight hearing on Forest Service Strategic Plan under the Government Performance and Results Act. Testimony was heard from Barry Hill, Associate Director, Energy, Resources and Science Issues, Resources, Community and Economic Development Division, GAO; and the following officials of the USDA: James R. Lyons, Under Secretary, Natural Resources and Environment; and Francis Pandolfo, Chief of Staff, Forest Service.

MISCELLANEOUS MEASURES
Committee on Resources: Subcommittee on National Parks and Public Lands approved for full Committee action amended the following bills: H.R. 1567, to provide for the designation of additional wilderness lands in the eastern United States; H.R. 136, to amend the National Parks and Recreation Act of 1978 to designate the Marjory Stoneman Douglas Wilderness and to amend the Everglades National Park Protection and Expansion Act of 1989 to designate the Ernest F. Coe Visitor Center; and H.R. 708 to require the Secretary of the Interior to conduct a study concerning grazing use of certain lands within and adjacent to Grand Teton National Park, Wyoming, and to extend temporarily certain grazing privileges.

CONFERENCE REPORT—TAXPAYER RELIEF ACT
Committee on Rules: Granted, by voice vote, a rule waiving all points of order against the conference report to accompany H.R. 2014, Taxpayer Relief Act of 1997, and against its consideration and provides that the conference report shall be considered as read. The rule provides two hours and thirty minutes of debate equally divided and controlled between the chairman and ranking minority member of the Committee on Ways and Means. Testimony was heard from Chairman Archer and Representative Rangel.

ENERGY CONSERVATION PROGRAMS EXTENSION
Committee on Science Subcommittee on Energy and Environment held a hearing on S. 417, to extend energy conservation programs under the Energy Policy and the Conservation Act through September 30, 2002. Testimony was heard from Allan R. Hoffman, Acting Deputy Assistant Secretary, Office of Utility Technologies, Department of Energy; and public witnesses.

U.S. AND FRANCE—AVIATION RELATIONS
Committee on Transportation and Infrastructure Subcommittee on Aviation held a hearing on Aviation Relations between the U.S. and France. Testimony was heard from Representative Klink; Charles Hunnicut, Assistant Secretary, Aviation and International Affairs, Department of Transportation; and public witnesses.

COMMITTEE MEETINGS FOR FRIDAY, AUGUST 1, 1997
(Committee meetings are open unless otherwise indicated)

Senate
Committee on the Judiciary, Subcommittee on Administrative Oversight and the Courts, to hold hearings to examine the negative impact of bankruptcy on local education funding, 10 a.m., SD-226.

House
No committee meetings are scheduled.

Joint Meetings
Joint Economic Committee, to hold hearings to examine the employment-unemployment situation for July, 9:30 a.m., 1334 Longworth Building.
Next Meeting of the SENATE
11 a.m., Tuesday, September 2

Senate Chamber


Next Meeting of the HOUSE OF REPRESENTATIVES
9 a.m., Friday, August 1

House Chamber

Program for Friday: No legislative business.

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